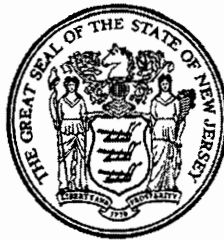


ACTS
OF THE
Second Annual Session
OF THE
Two Hundred and Twelfth Legislature
OF THE
STATE OF NEW JERSEY



2007

New Jersey State Library

CHAPTER 139

AN ACT appropriating moneys to the Department of Environmental Protection for the purpose of making zero interest loans to project sponsors to finance a portion of the costs of construction 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 of Environmental Protection from the Clean Water Fund - State Revolving Fund Accounts (hereinafter referred to as the "Clean Water State Revolving Fund Accounts") an amount equal to the Federal fiscal year 2007 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 of Environmental Protection from the "Interim Financing Program Fund" created and established by the New Jersey Environmental Infrastructure Trust 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 Accounts for the purposes of clean water project loans and providing the State match as required or will 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 of Environmental Protection from the Drinking Water State Revolving Fund an amount equal to the Federal fiscal year 2007 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 of Environmental Protection is authorized to transfer from the Clean Water State Revolving Fund Accounts 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 said maximum amount is hereby appropriated to the department for those purposes.

(4) There is appropriated to the Department of Environmental Protection 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) for the purposes of clean water project loans and providing the State match as required or will 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.

(5) Of the sums appropriated to the Department of Environmental Protection from the "Water Supply Fund" established pursuant to section 14 of the "Water Supply Bond Act of 1981" (P.L.1981, c.261) 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 such amounts as needed to the Drinking Water State Revolving Fund for the purposes of drinking water project loans and providing the State match as required or will 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.

(6) Of the sums appropriated to the Department of Environmental Protection 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) 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 therefrom in such amounts as needed to the Clean Water State Revolving Fund Accounts for the purposes of clean water project loans and providing the State match as required or will 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) Of the sums appropriated to the Department of Environmental Protection 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) pursuant to P.L.2004, c.109, the department is authorized to transfer such amounts as needed to the Clean Water State Revolving Fund Accounts for the purposes of clean water project loans and providing the State match as required or will 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 of Environmental Protection the sum of \$25,000,000 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) for the purposes of drinking water project loans and providing the State match as required or will 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.

(9) There is appropriated to the Department of Environmental Protection, from the project loans canceled pursuant to subsection a. of section 12 of this act, the sum of \$6,424,148 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 required or will 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.

(10) There is appropriated to the Department of Environmental Protection, from the repayment of loans made pursuant to P.L.1982, c.129 and P.L.1985, c.99, the sum of \$677,396 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 required or will 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.

(11) There is appropriated to the Department of Environmental Protection, from the project loans canceled pursuant to subsection b. of section 12 of this act, the sum of \$19,264,863 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 required or will 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.

(12) There is appropriated to the Department of Environmental Protection, from the repayment of loans made pursuant to P.L.1983, c.499, P.L.1985, c.99, P.L.1987, c.366 and P.L.1991, c.352, the sum of \$3,253,254 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 required or will 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 of Environmental Protection, from the project loans canceled pursuant to subsection c. of section 12 of this act, the sum of \$13,159,689 from the “Water Supply Fund” estab-

lished 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 required or will 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 of Environmental Protection, from the repayment of loans made pursuant to P.L.1982, c.131, P.L.1985, c.99, P.L.1987, c.309 and P.L.1991, c.351, the sum of \$3,699,110 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 required or will 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 of Environmental Protection the sums deposited by the New Jersey Environmental Infrastructure Trust into the "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 paragraph (6) of subsection c. of section 1 of P.L.2007, c.140, for the purposes of clean water project loans and drinking water project loans and providing the State match as required or will 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.

Any such amounts shall be for the purpose of making zero interest 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 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 Clean Water Act, and any amendatory and supplementary acts thereto, 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 Wastewater Treatment Project Bond Act of 2003," (P.L.2003, c.162), the Federal Safe Drinking Water Act, and any amendatory and supplementary acts thereto, and State law.

b. The department is authorized to make zero interest 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, and subsection b. of section 2 and subsection b. of section 3 of this act for drinking water projects, up to the individual amounts indicated and in the priority stated, except as any such amount may be reduced by the Commissioner of Environmental Protection pursuant to section 6 of this act, or if a project fails to meet the requirements of section 4 of this act.

c. The department is authorized to make zero interest 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 as 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, or sections 1 and 2 of P.L.2006, c.68, including amounts resulting from the 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, and section 6 of P.L.2006, c.68, and from any repayments of loans from the "Wastewater Treatment Fund," the "Water Supply Fund," the "1992 Wastewater Treatment Fund," the "2003 Water Resources and Wastewater Treatment Fund," or amounts deposited therein during State fiscal year 2007 pursuant to the provisions of section 16 of P.L.1985, c.329, including any Clean Water State Revolving Fund Accounts contained within the "Wastewater Treatment Fund," and from any repayment of loans from the Drinking Water State Revolving Fund.

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 Number	Project Sponsor	Estimated Allowable Loan Amount
340399-08-1	Bayonne MUA	\$750,000
340364-03-1	Gloucester Township MUA	\$143,000
340679-01/2005-01-1	Linden City	\$1,831,500
340372-26-1	Ocean County UA	<u>\$5,395,500</u>
	TOTAL	<u>\$8,120,000</u>

(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 6 of this act and the loan amounts certified by the commissioner in State fiscal years 2005, 2006 and 2007 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 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 Number	Project Sponsor	Estimated Allowable Loan Amount
0408001-009/12-1	Camden City	\$1,155,000
1904002-001/2/3-2	East Brookwood Estates POA	\$75,000
0221001-001/2-1	Garfield City	\$1,142,500
0324001-005-1	Mount Laurel Township MUA	\$3,002,000

1111001-004-1	Trenton City	<u>\$10,626,750</u>
	TOTAL	<u>\$16,001,250</u>

(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 6 of this act and the loan amounts certified by the commissioner in State fiscal years 2001, 2002, 2005, 2006 and 2007, 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 of this act.

(3) The loans authorized in this subsection shall have priority over the environmental infrastructure projects listed in subsection b. of section 3 of this act.

3. a. The following environmental infrastructure projects shall be known and may be cited as the "State Fiscal Year 2008 Clean Water Project Priority List":

Project Number	Project Sponsor	Estimated Allowable Loan Amount
340384-06	Musconetcong SA	\$997,500
340747-06	Jefferson Township	\$2,600,000
340385-04	Berkeley Heights Township	\$2,249,500
340815-09	Newark City	\$11,505,750
340259-03	Kearny Town MUA	\$5,625,000
340809-15	Atlantic County Utilities Authority	\$1,230,750
340446-08	Edgewater MUA	\$2,472,750
340750-06	Township of Ocean SA	\$3,256,500
340883-03	Asbury Park City (Asbury Partners, LLC)	\$7,041,750
340372-28	Ocean County UA	\$1,037,500
340372-29	Ocean County UA	\$4,565,500
340801-06	Somerset Raritan Valley SA	\$7,267,000
340346-03	Medford Township	\$1,217,000
340817-03	Mount Holly MUA	\$18,142,500
340111-02	New Jersey City University	\$19,578,000
343045-01	Cape May City	\$3,818,250
340815-10	Newark City	\$14,102,250

340815-08	Newark City	\$1,196,250
340928-05	Jersey City MUA	\$11,177,250
340952-09	North Hudson SA	\$5,866,500
340821-03	Rockaway Valley RSA	\$7,143,500
340942-09	Elizabeth City	\$3,000,000
343051-02	Hamilton Township	\$3,486,000
343066-02	Cherry Hill Township	\$3,972,750
343010-02	Brick Township	\$2,250,000
343021-02	Middletown Township	\$2,634,000
340110-02	Bergen County/Bergen County IA	\$3,955,000
340051-02	Bayonne Local Redevelopment Authority	\$12,794,250
340839-01	Franklin Township SA	\$6,875,000
340400-04	Stony Brook RSA	\$2,791,000
340399-21	North Bergen MUA	\$29,316,750
343071-01	Berkeley Township	\$1,938,750
343054-04	NJ Water Supply Authority (Raritan Basin)	\$3,408,750
343034-04	Readington Township	\$8,922,750
342011-01	Bellmawr Borough	\$4,345,000
340957-02	Fairfield Township	\$2,280,000
342012-01	Middlesex County UA	\$32,802,000
340656-04A	Princeton Borough (Princeton Sewer Operating Committee)	\$1,057,500
340656-04B	Princeton Township (Princeton Sewer Operating Committee)	\$1,057,500
340285-02	Magnolia Borough	\$304,000
340722-01	Stone Harbor Borough	\$1,131,000
340372-30	Ocean County UA	\$1,715,500
340372-31	Ocean County UA	\$2,144,500
340809-16	Atlantic County Utilities Authority	\$1,119,000
340809-14	Atlantic County Utilities Authority	\$2,163,000
340809-11	Atlantic County Utilities Authority	\$5,438,250
340969-05	Berkeley Township SA	\$1,809,000
340947-03	West Deptford Township	\$3,338,500
340863-02	Elmwood Park Borough	\$2,300,000
340148-02	Saddle Brook Township	\$1,265,000
340073-01	Leonora Borough	\$304,500
340446-10	Bergen County UA (Edgewater Colony)	\$950,000
340289-01	Westville Borough	\$337,500
340285-01	Magnolia Borough	\$724,500
340083-01	Seaside Park Borough	\$2,284,000
340689-11	Passaic Valley Sewerage Commissioners	\$19,360,500
340523-04	Caldwell Boro	\$8,336,500
340850-03	Paterson City	\$14,823,000
340640-09	Camden County MUA	\$21,235,500

340386-05	Bergen County UA	\$1,229,250
340806-04	Parsippany-Troy Hills Township	\$4,574,000
340689-14	Passaic Valley Sewerage Commissioners	\$571,500
340366-08	Camden City	\$2,252,250
340259-05	Kearny Town/MUA	\$4,463,250
340094-01	Hudson County Improvement Authority	\$16,529,250
343072-01	High Bridge Borough	\$6,150,000
340386-06	Bergen County UA/Edgewater MUA	\$23,083,500
340922-02	Dumont Boro	\$1,631,500
340922-03	Dumont Boro	\$370,500
340827-03	Brigantine City	\$140,500
340274-03	Pine Hill Boro MUA	\$825,000
340095-01	Linwood City	\$275,000
340479-02	Point Pleasant Beach Boro	<u>\$324,000</u>
	TOTAL	<u>\$412,481,250</u>

b. The following environmental infrastructure projects shall be known and may be cited as the "State Fiscal Year 2008 Drinking Water Project Priority List":

Project Number	Project Sponsor	Estimated Allowable Loan Amount
0601001-002	Bridgeton City	\$1,608,000
0811003-001	Continental Communities LLC	\$1,068,000
1613001-016	North Jersey DWSC	\$1,152,750
0436007-006	Winslow Township	\$1,942,000
0248001-013	Ramsey Borough	\$165,000
0248001-012	Ramsey Borough	\$165,000
0248001-011	Ramsey Borough	\$165,000
0248001-010	Ramsey Borough	\$330,000
0248001-008	Ramsey Borough	\$330,000
1712001-001	Salem City	\$4,089,500
0714001-003	Newark City	\$3,374,250
0714001-004	Newark City	\$3,374,250
0906001-002	Jersey City/Jersey City MUA	\$4,933,500
0414001-001	Gloucester City	\$4,924,000
0319001-002	Maple Shade Township	\$6,133,000
1605002-007	Passaic Valley WC	\$863,500
1605002-006	Passaic Valley WC	\$1,592,250
0906001-004	Jersey City/Jersey City MUA	\$1,501,500
0906001-003	Jersey City/Jersey City MUA	\$3,396,000
0906001-005	New Jersey City University	\$490,500

0901001-002	Bayonne MUA	\$509,250
0901001-001	Bayonne MUA	\$1,249,500
1511002-004	Jackson Township MUA	\$4,997,500
0424001-003	Merchantville-Pennsauken Water Commission	\$825,500
1527001-001	Seaside Park Borough	\$2,209,000
1215001-001	North Brunswick Township	\$9,833,500
0510001-002	Stone Harbor Borough	\$302,000
1216001-004	Perth Amboy City	\$1,226,500
0820001-002	West Deptford Township	\$527,000
0103001-008	Brigantine City	\$531,500
1511002-005	Jackson Township MUA	\$1,298,000
1111001-006	Trenton City	\$6,641,250
1505004-001	Berkeley Township MUA	\$4,401,000
1225001-010	Middlesex Water Company	\$1,925,000
1911003-001	Lake Tamarack WC	\$55,500
1530004-009/010	Stafford Township	\$228,500
1411001-001	Florham Park Boro	\$3,774,000
0108021-001	Sea Village Marina	\$65,500
1003001-001	Bloomsbury Boro	\$118,000
1530004-003/004	Stafford Township	\$7,038,000
1511002-006	Jackson Township MUA	<u>\$324,500</u>
	TOTAL	<u>\$89,678,500</u>

4. Any loan made by the Department of Environmental Protection 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 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. The loan amount shall not exceed 50% of the allowable project cost of the environmental infrastructure facility, except that for (1) projects serving a designated Urban Center or Urban Complex; (2) projects that eliminate, reduce or improve combined sewer overflows; (3) open space land acquisition projects; (4) projects serving a designated Transit Village; (5) brownfields remediation projects located in designated Brownfields Development Areas; (6) projects to repair or replace on-site septic systems through a Septic Management District; or (7) projects located within transfer of development designated receiving zones pursuant to section 3 of P.L.2004, c.2 (C.40:55D-139), the loan amount shall not exceed 75% of the allowable project cost of the environmental infrastructure facility;

c. The loan shall be repaid within a period not to exceed 23 years of the making of the loan;

d. The loan shall be conditioned upon approval of a loan from the New Jersey Environmental Infrastructure Trust pursuant to P.L.2007, c.140;

e. 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.2007, c.140, 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. The priority lists and authorization for the making of loans pursuant to sections 2 and 3 of this act shall expire on July 1, 2008, 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.

6. 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 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 original loan amount.

7. 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.329, 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 pursuant thereto, and the provisions of the Federal Clean Water Act or the Federal Safe Drinking Water Act, as appropriate.

8. The Department of Environmental Protection shall provide general technical assistance to any project sponsor requesting assistance regarding environmental infrastructure project development or applications for funds for a project.

9. a. 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, or prior to repayment to the "Water Supply Fund" pursuant to the provisions of section 15 of P.L.1981, c.261, repayments of loans made pursuant to these acts may be utilized by the New Jersey Environmental Infrastructure Trust 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, and 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.2007, c.140, 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 "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, or 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, 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 or P.L.2007, c.139 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 or P.L.2007, c.140, 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 "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," or the "Stormwater Management and Combined Sewer Overflow Abatement Fund," as appropriate, from amounts received by or on behalf of the trust from project sponsors causing any such deficiency.

10. The Commissioner of Environmental Protection is authorized to enter into capitalization grant agreements as may be required pursuant to the Federal Clean Water Act or the Federal Safe Drinking Water Act.

11. There is appropriated to the New Jersey Environmental Infrastructure Trust established pursuant to P.L.1985, c.334 (C.58:11B-1 et seq.) from repayments of loans deposited in any account, including the Clean Water State Revolving Fund Accounts contained within the "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, and from any net earnings received from the investment and reinvestment of such deposits, such sums as the chairman of the trust shall certify to the Commissioner of Environmental Protection to be necessary and appropriate for deposit into one or more reserve funds established by the trust pursuant to section 11 of P.L.1985, c.334 (C.58:11B-11).

12. a. The following State and local project loans, which were authorized but not funded from the sums appropriated to the Department of Environmental Protection from the "Water Supply Fund" established pursuant to section 14 of the "Water Supply Bond Act of 1981" (P.L.1981, c.261) pursuant to section 1 of P.L.1982, c.129 and section 1 of P.L.1985, c.99, are canceled:

- Great Notch;
- New Brunswick-South River area;
- Chatham Boro;
- Netcong Boro;
- Essex Fells Township.

The unexpended balances from the canceled loans are returned to the "Water Supply Fund."

b. The following project loans, which were authorized but not funded from the sums appropriated to the Department of Environmental Protection from the "Water Supply Fund" for remedial programs to resolve water supply contamination problems and to construct water supply facilities to replace contaminated wells as authorized pursuant to section 1 of P.L.1983, c.499, section 1 of P.L.1985, c.99, section 1 of P.L.1987, c.366 and section 1 of P.L.1991, c.352, are canceled:

Boonton Township;
Branchburg Township;
Bridgewater Township;
Deerfield Township;
East Hanover Township;
Essex Fells Township;
Lafayette Township;
Lodi Boro;
Monroe Township;
Mount Olive Township;
Stanhope Boro;
Washington Township;
Bridgeton City;
Dover Township;
Egg Harbor Township;
Franklin Boro;
Hopewell Township;
Manchester Township MUA;
Lakewood Township;
Millville City;
Pennington Boro;
Washington Township.

The unexpended balances from the canceled loans are returned to the "Water Supply Fund."

c. The following project loans, which were authorized but not funded from the sums appropriated to the Department of Environmental Protection from the "Water Supply Fund" pursuant to section 1 of P.L.1982, c.131, section 1 of P.L.1985, c.99, section 1 of P.L.1987, c.309 and section 1 of P.L.1991, c.351, are canceled:

Ringwood Boro;
Chatham Boro;
Ho-Ho-Kus Boro;
Madison Boro;

Paulsboro Boro;
Riverdale Boro;
Stockton Boro;
Tuckerton Boro MUA;
West Cape May Boro;
Brick Township MUA;
Swedesboro Boro.

The unexpended balances from the canceled loans are returned to the "Water Supply Fund."

13. This act shall take effect immediately.

Approved August 9, 2007.

CHAPTER 140

AN ACT authorizing the expenditure of funds by the New Jersey Environmental Infrastructure Trust for the purpose of making loans to eligible project sponsors to finance a portion of the cost of construction of environmental infrastructure projects, supplementing P.L.1985, c.334 (C.58:11B-1 et seq.), and making an appropriation.

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

1. a. The New Jersey Environmental Infrastructure Trust, established pursuant to P.L.1985, c.334 (C.58:11B-1 et seq.), as amended and supplemented by P.L.1997, c.224 and amended by P.L.2004, c.111, is authorized to expend the aggregate sum of up to \$319,797,002, and any unexpended 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 and section 1 of P.L.2006, c.67 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 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 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; and

(4) the amounts of the loan origination fee as provided in subsection e. of section 7 of this act.

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 Fund - State Revolving Fund Accounts (hereinafter referred to as the "Clean Water State Revolving Fund Accounts") for the purposes of issuing loans or providing the State match as required for the award of the 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 Accounts for the purpose of providing the State match as 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) 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 Accounts for the purpose of providing the State match as required for the award of the 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 Accounts for the purpose of providing the State match as 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) Of the sums appropriated to the trust from repayments of loans deposited in any account, including the Clean Water State Revolving Fund Accounts contained within the "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 and section 11 of P.L.2006, c.68 for deposit into one or more reserve funds 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 unexpended balance of all such moneys no longer utilized by the trust for reserve fund 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) "issuance expenses" means and includes, but need not be 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, and any other costs related to the issuance of trust bonds;

(3) "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);

(4) "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 Accounts; and

(5) "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.

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, and P.L.2007, c.140.

2. a. (1) The New Jersey Environmental Infrastructure 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 clean water environmental infrastructure projects:

Project Number	Project Sponsor	Estimated Allowable Loan Amount
340399-08-1	Bayonne MUA	\$250,000
340364-03-1	Gloucester Township MUA	\$143,000
340679-01/2005-01-1	Linden City	\$1,831,500
340372-26-1	Ocean County UA	<u>\$5,395,500</u>
	TOTAL	<u>\$7,620,000</u>

(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 subsection a. of section 7 of this act and the loan amounts certified by the chairman of the trust in State fiscal years 2005 and 2006, 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). 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 6 of this act.

(3) The loans authorized in 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 Number	Project Sponsor	Estimated Allowable Loan Amount
0408001-009/12-1	Camden City	\$1,155,000
1904002-001/2/3-2	East Brookwood Estates POA	\$75,000
0221001-001/2-1	Garfield City	\$1,142,500
0324001-005-1	Mount Laurel Township MUA	\$3,002,000
1111001-004-1	Trenton City	<u>\$3,542,250</u>
	TOTAL	<u>\$8,916,750</u>

(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 subsection a. of section 7 of this act and the loan amounts certified by the chairman of the trust in State fiscal years 2001, 2002, 2004, 2005 and 2006, 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). 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 6 of this act.

(3) The loans authorized in this subsection shall have priority over the environmental infrastructure projects listed in subsection b. of section 4 of this act.

3. a. The New Jersey Environmental Infrastructure Trust 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 as 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. or e. of section 7 or 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 2 and subsection b. of section 4 of this act up to the individual amounts indicated and in the priority stated, except as 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. or e. of section 7 or section 8 of this act.

4. a. The following environmental infrastructure projects shall be known and may be cited as the "State Fiscal Year 2008 Clean Water Project Priority List":

Project Number	Project Sponsor	Estimated Allowable Loan Amount
340384-06	Musconetcong SA	\$997,500
340747-06	Jefferson Township	\$2,600,000
340385-04	Berkeley Heights Township	\$2,249,500
340815-09	Newark City	\$3,835,250
340259-03	Kearny Town MUA	\$1,875,000
340809-15	Atlantic County Utilities Authority	\$410,250
340446-08	Edgewater Boro MUA	\$824,250
340750-06	Township of Ocean SA	\$3,256,500
340883-03	Asbury Park City (Asbury Partners, LLC)	\$2,347,250
340372-28	Ocean County UA	\$1,037,500
340372-29	Ocean County UA	\$4,565,500
340801-06	Somerset Raritan Valley SA	\$7,267,000
340346-03	Medford Township	\$1,217,000
340817-03	Mount Holly MUA	\$18,142,500
340111-02	New Jersey City University	\$6,526,000

343045-01	Cape May City	\$1,272,750
340815-10	Newark City	\$4,700,750
340815-08	Newark City	\$398,750
340928-05	Jersey City MUA	\$3,725,750
340952-09	North Hudson SA	\$1,955,500
340821-03	Rockaway Valley RSA	\$7,143,500
340942-09	Elizabeth City	\$1,000,000
343051-02	Hamilton Township	\$1,162,000
343066-02	Cherry Hill Township	\$1,324,250
343010-02	Brick Township	\$750,000
343021-01	Middletown Township	\$878,000
340051-02	Bayonne LRA	\$4,264,750
340110-02	Bergen County/Bergen County IA	\$3,955,000
340839-01	Franklin Township SA	\$6,875,000
340400-04	Stony Brook RSA	\$2,791,000
340399-21	North Bergen MUA	\$9,772,250
343071-01	Berkeley Township	\$646,250
343054-04	NJ Water Supply Authority (Raritan Basin)	\$1,136,250
343034-04	Readington Township	\$2,974,250
342011-01	Bellmawr Borough	\$4,345,000
340957-02	Fairfield Township	\$2,280,000
342012-01	Middlesex County UA	\$32,802,000
340656-04A	Princeton Borough	
	(Princeton Sewer Operating Committee)	\$1,057,500
340656-04B	Princeton Township	
	(Princeton Sewer Operating Committee)	\$1,057,500
340285-02	Magnolia Borough	\$304,000
340722-01	Stone Harbor Borough	\$1,131,000
340372-30	Ocean County UA	\$1,715,500
340372-31	Ocean County UA	\$2,144,500
340809-16	Atlantic County Utilities Authority	\$373,000
340809-14	Atlantic County Utilities Authority	\$2,163,000
340809-11	Atlantic County Utilities Authority	\$1,812,750
340969-05	Berkeley Township SA	\$1,809,000
340947-03	West Deptford Township	\$3,338,500
340863-02	Elmwood Park Borough	\$2,300,000
340148-02	Saddle Brook Township	\$1,265,000
340073-01	Leonora Borough	\$304,500
340446-10	Bergen County UA (Edgewater Colony)	\$1,341,000
340289-01	Westville Borough	\$337,500
340285-01	Magnolia Borough	\$724,500
340083-01	Seaside Park Borough	\$2,284,000
340689-11	Passaic Valley Sewerage Commissioners	\$6,453,500
340523-04	Caldwell Boro	\$8,336,500

340850-03	Paterson City	\$4,941,000
340640-09	Camden County MUA	\$7,078,500
340386-05	Bergen County UA	\$409,750
340806-04	Parsippany-Troy Hills Township	\$4,574,000
340689-14	Passaic Valley Sewerage Commissioners	\$190,500
340366-08	Camden City	\$750,750
340259-05	Kearny Town/MUA	\$1,487,750
340094-01	Hudson County Improvement Authority	\$5,509,750
343072-01	High Bridge Borough	\$2,050,000
340386-06	Bergen County UA/Edgewater MUA	\$7,694,500
340922-02	Dumont Boro	\$1,631,500
340922-03	Dumont Boro	\$370,500
340827-03	Brigantine City	\$140,500
340274-03	Pine Hill Boro MUA	\$825,000
340095-01	Linwood City	\$275,000
340479-02	Point Pleasant Beach Boro	<u>\$324,000</u>
	TOTAL	<u>\$231,809,750</u>

b. The following environmental infrastructure projects shall be known and may be cited as the "State Fiscal Year 2008 Drinking Water Project Priority List":

Project Number	Project Sponsor	Estimated Allowable Loan Amount
0601001-002	Bridgeton City	\$1,608,000
0811003-001	Continental Communities LLC	\$1,068,000
1613001-016	North Jersey DWSC	\$384,250
0436007-006	Winslow Township	\$1,942,000
0248001-013	Ramsey Borough	\$165,000
0248001-012	Ramsey Borough	\$165,000
0248001-011	Ramsey Borough	\$165,000
0248001-010	Ramsey Borough	\$330,000
0248001-008	Ramsey Borough	\$330,000
1712001-001	Salem City	\$4,089,500
0714001-003	Newark City	\$1,124,750
0714001-004	Newark City	\$1,124,750
0906001-002	Jersey City/Jersey City MUA	\$1,644,500
0414001-001	Gloucester City	\$4,924,000
0319001-002	Maple Shade Township	\$6,133,000
1605002-007	Passaic Valley WC	\$863,500
1605002-006	Passaic Valley WC	\$530,750
0906001-004	Jersey City/Jersey City MUA	\$500,500

0906001-003	Jersey City/Jersey City MUA	\$1,132,000
0906001-005	New Jersey City University	\$163,500
0901001-002	Bayonne MUA	\$169,750
0901001-001	Bayonne MUA	\$416,500
1511002-004	Jackson Township MUA	\$4,997,500
0424001-003	Merchantville-Pennsauken Water Commission	\$825,500
1527001-001	Seaside Park Borough	\$2,209,000
1215001-001	North Brunswick Township	\$9,833,500
0510001-002	Stone Harbor Borough	\$302,000
1216001-004	Perth Amboy City	\$1,226,500
0820001-002	West Deptford Township	\$527,000
0103001-008	Brigantine City	\$531,500
1511002-005	Jackson Township MUA	\$1,298,000
1111001-006	Trenton City	\$2,213,750
1505004-001	Berkeley Township MUA	\$4,401,000
1225001-010	Middlesex Water Company	\$1,925,000
1911003-001	Lake Tamarack WC	\$55,500
1530004-009/010	Stafford Township	\$228,500
1411001-001	Florham Park Boro	\$3,774,000
0108021-001	Sea Village Marina	\$65,500
1003001-001	Bloomsbury Boro	\$118,000
1530004-003/004	Stafford Township	\$7,038,000
1511002-006	Jackson Township MUA	\$324,500
0436007-001/002	Winslow Township	<u>\$582,002</u>
	TOTAL	<u>\$71,450,502</u>

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 and 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 Environmental Infrastructure Trust pursuant to this act shall be subject to the following requirements:

a. The chairman 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 rules and regulations adopted pursuant thereto. In making this certification, the chairman 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 approval of a zero interest loan from the Department of Environmental Protection from the "Water Supply Fund" established pursuant to section 14 of the "Water Supply Bond Act of 1981," (P.L.1981, c.261), as amended by P.L.1983, c.355 and amended and supplemented by P.L.1997, c.223, the "Wastewater Treatment Fund" established pursuant to section 15 of the "Wastewater Treatment Bond Act of 1985" (P.L.1985, c.329), 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), the "2003 Water Resources and Wastewater Treatment Fund" established pursuant to section 19 of the "Dam, Lake, Stream, Flood Control, Water Resources, and Wastewater Treatment Project Bond Act of 2003" (P.L.2003, c.162), or the Drinking Water State Revolving Fund established pursuant to section 1 of P.L.1998, c.84;

c. The loan shall be repaid within a period not to exceed 20 years of the making of the loan;

d. The loan shall not exceed the allowable project cost of the environmental infrastructure facility, exclusive of capitalized interest 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).

The priority lists and authorization for the making of loans pursuant to this act shall expire on July 1, 2008, 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 Environmental Infrastructure Trust 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 and issuance expenses allocable to each loan made by the trust pursuant to this act; provided that the increase for issuance expenses, excluding underwriters' discount, original issue discount or premiums, municipal bond insurance premiums and bond rating agency fees, shall not exceed 0.4% of the principal amount of trust bonds issued to make loans authorized by 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 paragraph (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.

8. The New Jersey Environmental Infrastructure Trust 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 or P.L.2007, c.140, 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, and the rules and regulations adopted pursuant thereto, and the provisions of the Federal Clean Water Act or the Federal Safe Drinking Water Act, as appropriate.

10. a. There is appropriated to the New Jersey Environmental Infrastructure Trust from repayments of loans deposited in any account, including the Clean Water State Revolving Fund Accounts contained within the "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, and from any net earnings received from the investment and reinvestment of such deposits, the sum of \$100,000,000 consisting of:

(1) The unexpended balance of \$100,000,000 currently on deposit in the special fund (hereinafter referred to as the "Interim 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 "In-

terim 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 12 of P.L.2004, c.109, less any Interim Financing Program Fund amounts appropriated to the Department of Environmental Protection to supplement the sums appropriated from the Clean Water State Revolving Fund Accounts for clean water projects pursuant to the Federal Clean Water Act; and

(2) such other amounts to be deposited in the Interim Financing Program Fund, provided that the amount so reappropriated and appropriated to the trust for deposit in the Interim Financing Program Fund shall be utilized by the trust to make short-term or temporary loans pursuant to the Interim Financing Program to any one or more of the project sponsors, for the respective projects thereof, identified in the interim financing project priority list (hereinafter referred to as the "Interim Financing Program Eligibility List") in the form provided to the Legislature by the Commissioner of Environmental Protection.

b. The Interim Financing Program Eligibility List shall be submitted to the Legislature on or before June 18, 2007 on a day when both Houses are meeting. The President of the Senate and the Speaker 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 Financing Program Eligibility List shall not be eligible for a short-term or temporary loan from the Interim Financing Program Fund.

11. This act shall take effect immediately.

Approved August 9, 2007.

CHAPTER 141

AN ACT concerning flammability standards for certain home furnishings, designating the act as "Matthew Albrecht Act," and supplementing chapter 27D of Title 52 of the Revised Statutes.

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

C.52:27D-198.15 Findings, declarations relative to flammability standards for mattresses and bedding.

1. The Legislature finds and declares:

a. On February 25, 2000, a residential fire in Roxbury, New Jersey, led to the death of 14-month-old toddler Matthew Albrecht. The fire started when a spark from an electrical outlet caused a mattress to ignite. Four days later, Matthew succumbed to the irreversible damage caused by smoke inhalation. This unfortunate tragedy, and many others, could have been prevented by adopting stricter flammability standards for mattresses and box springs for sale in this State.

b. Mattresses and bedding are implicated in thousands of fires each year, causing thousands of injuries, hundreds of fatalities, and millions of dollars in property damage. Residential fires involving mattresses and other bedding are in fact more aggressive and deadly than other types of residential fires. The United States Fire Administration estimates that mattress and bedding fires cause more than twice the number of injuries and deaths than other types of residential fires.

c. Federal law currently requires that mattresses sold in the United States meet the "Standards for the Flammability of Mattresses and Mattress Pads," 16 CFR Part 1632. The United States Consumer Product Safety Commission recently approved a new federal standard that also will require mattresses to resist open-flame ignitions from lighters, matches, and candles. This new federal standard will be known as the "Standard for the Flammability (Open Flame) of Mattress Sets," (16 CFR Part 1633). The new federal standard is patterned on a standard set by the State of California, codified in California Technical Bulletin 603, "Requirements and Test Procedure for Resistance of a Mattress/Box Spring Set to a Large Open-Flame."

d. The United States Consumer Product Safety Commission estimates that 16 CFR Part 1633 will prevent up to 78 percent of current addressable mattress fire-related deaths and up to 84 percent of current addressable related injuries. In its exhaustive cost-benefit analysis of this standard, the United States Consumer Product Safety Commission concluded that the societal benefits from this standard substantially outweigh its costs.

e. 16 CFR Part 1633 requires that a mattress be subjected to a specified 30-minute flammability test. During that test:

(1) the total heat release during the first 10 minutes of the test may not exceed 15 megajoules; and

(2) the peak heat release for the full 30-minute test may not exceed 200 kW.

Part 1633 also requires that a mattress undergo certain prototype testing and that the mattress producer maintain certain testing, quality assurance and manufacturing records. Part 1633 allows consumers to order non-fire-

retardant mattresses if pursuant to a doctor's order such a mattress is needed to treat or manage a person's physical illness or injury.

f. Given the national scope of the mattress manufacturing and retailing industries, it is necessary that uniform national requirements for the fire performance of mattresses be set. For this reason, New Jersey intends for the requirements in this State for the fire performance of mattresses be identical to those required in 16 CFR Part 1633.

C.52:27D-198.16 Adoption, enforcement of federal mattress flammability standard; rules, regulations.

2. a. The State of New Jersey shall adopt and enforce as a State safety requirement the federal mattress flammability standard codified at Title 16 of the Code of Federal Regulations Part 1633, as amended and supplemented.

b. The Commissioner of Community Affairs shall promulgate, not later than the first day of the sixth month next following the effective date of this act, the rules and regulations necessary to effectuate the provisions of this act, 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 on July 1, 2007, but the Commissioner of Community Affairs may take such anticipatory acts in advance of that date as may be necessary for the timely implementation of this act.

Approved August 21, 2007.

CHAPTER 142

AN ACT concerning the Delaware and Raritan Canal Commission, and amending P.L.1974, c.118.

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

1. Section 12 of P.L.1974, c.118 (C.13:13A-12) is amended to read as follows:

C.13:13A-12 Powers.

12. The commission shall have the following powers:

a. To adopt and from time to time amend and repeal suitable bylaws for the management of its affairs;

b. To maintain offices at such place or places within the State as it may designate;

c. To enter upon any building or property in order to conduct investigations, examinations, surveys, soundings, or test borings necessary to carry out the purposes of sections 13 and 14 of this act, all in accordance with due process of law;

d. To receive and accept, from any Federal or other public agency or governmental entity, grants or loans for, or aid of, the purposes of sections 13 and 14 of this act, and to enter into cooperative agreements with the Federal Government or any other public or governmental agency for the performance of such acts as may be necessary and proper for the purposes of sections 13 and 14 of this act;

e. To enter into any and all agreements or contracts, execute any and all instruments, and do and perform any and all acts or things necessary, convenient, or desirable for the purposes of the commission or to carry out any power expressly given to the commission in this act;

f. To conduct examinations and investigations, hear testimony and take proof under oath at public or private hearings, of any material matter, require attendance of witnesses and the production of books and papers and issue commissions for the examination of witnesses who are out of State, unable to attend, or excused from attendance;

g. To petition the Legislature for specific direction or appropriation to accomplish commission objectives, in the event of substantial disagreement between the commission and the department; and

h. To establish and charge, in accordance with a fee schedule to be set forth by rule or regulation adopted pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), reasonable fees for (1) the review of applications for a proposed governmental, public or private project and other applications filed with or otherwise brought before the commission, and (2) 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 the "Delaware and Raritan Canal State Park Law of 1974," P.L.1974, c.118 (C.13:13A-1 et seq.), and any rules or regulations adopted pursuant thereto.

2. Section 14 of P.L.1974, c.118 (C.13:13A-14) is amended to read as follows:

C.13:13A-14 Review zone designated.

14. a. The commission shall determine, after a public hearing, or public hearings held in Hunterdon, Somerset, Mercer, and Middlesex counties respectively, the extent and limits of the region to be designated the review zone. Any subsequent modification of the review zone shall be made by the commission only after public hearings in the county or counties in which the modification is to be made. All public hearings required pursuant to this section shall be held only after giving prior notice thereof by public advertisement once each week for two consecutive weeks in such newspaper or newspapers selected by the chairman of the commission as will best give notice thereof. The last publication of such notice shall be not less than 10 days prior to the date set for the hearing.

b. The commission shall approve all State actions within the review zone that impact on the park, and insure that these actions conform as nearly as possible to the commission's master plan and relevant local plans or initiatives. The State actions which the commission shall review will include the operations of the Division of Water Resources concerning water supply and quality; the Division of Parks and Forestry in developing recreation facilities; and the activities of any other State department or agency that might affect the park.

c. The commission shall review and approve, reject, or modify any project within the review zone. The initial application for a proposed project within the zone shall be submitted by the applicant to the appropriate municipal reviewing agency. If approved by the agency, the application shall be sent to the commission for review. The commission shall review each proposed project in terms of its conformity with, or divergence from, the objectives of the commission's master plan and shall: (1) advise the appropriate municipal reviewing agency that the project can proceed as proposed; (2) reject the application and so advise the appropriate municipal reviewing agency and the governing body of the municipality; or (3) require modifications or additional safeguards on the part of the applicant, and return the application to the appropriate municipal reviewing agency, which shall be responsible for insuring that these conditions are satisfied before issuing a permit. If no action is taken by the commission within a period of 45 days from the date of submission of the application to the commission by the municipal reviewing agency, this shall constitute an approval by the commission. The commission's decision shall be final and binding on the municipality, and the commission may, in the case of any violation or threat of a violation of a commission's decision by a municipality, or by the appropriate municipal reviewing agency, as the case may be, institute civil action (1) for injunctive relief; (2) to set aside and invalidate a decision made by a municipi-

pality in violation of this subsection; or (3) to restrain, correct or abate such violation. As used herein: (1) "project" means any structure, land use change, or public improvements 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; and (2) "agency" means any body or instrumentality of the municipality responsible for the issuance of permits or the approval of projects, as herein defined, which shall include, but not be limited to, governing bodies, planning and zoning boards, building inspectors, managers and municipal engineers.

d. To the extent that any action the commission takes pursuant to this section may impact upon or otherwise affect the Highlands Region or the Highlands regional master plan, as defined in section 3 of P.L.2004, c.120 (C.13:20-3), the commission shall consult with the Highlands Water Protection and Planning Council, established pursuant to section 4 of P.L.2004, c.120 (C.13:20-4), and any such action taken shall be consistent with the Highlands regional master plan adopted by the council pursuant to that act.

e. Notwithstanding the provisions of P.L.1974, c.118 (C.13:13A-1 et seq.), and any rules and regulations adopted pursuant thereto, to the contrary, the commission is authorized to issue a general permit in lieu of an approval required pursuant to subsection b. or c. of this section. The commission shall adopt, pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), rules and regulations that identify the types of projects eligible for a general permit and establish the criteria for the approval or rejection of a general permit issued pursuant to this subsection. The commission may authorize, by adoption of a resolution by the affirmative vote of a majority of the members, the executive director of the commission to approve, approve with conditions, or reject an application for a general permit issued pursuant to this subsection in accordance with the provisions of P.L.1974, c.118 (C.13:13A-1 et seq.) and any rules and regulations adopted pursuant thereto.

3. This act shall take effect immediately.

Approved August 21, 2007.

CHAPTER 143

AN ACT concerning the protection of infants and supplementing P.L.2000, c.58 (C.30:4C-15.5 et al.) and chapter 33 of Title 18A of the New Jersey Statutes.

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

C.30:4C-15.11 Distribution of information about "New Jersey Safe Haven Infant Protection Act" to certain public school students.

1. a. The Commissioner of Children and Families, in consultation with the Commissioner of Education, shall develop a plan to distribute to all public school districts in the State with students in grades 7 through 12, pamphlets, posters and other educational materials that provide information to these students on the provisions of the "New Jersey Safe Haven Infant Protection Act," P.L.2000, c.58 (C.30:4C-15.5 et al.).

b. The Department of Children and Families shall distribute the pamphlets, posters and other educational materials, at no charge, to the school districts. The department shall update the pamphlets, posters and other educational materials as necessary, and shall make additional copies available to educators and other individuals working with public school students in grades 7 through 12.

C.18A:40-43 Information available to certain public school students about "New Jersey Safe Haven Infant Protection Act."

2. In the 2006-2007 school year and in each school year thereafter, each board of education which operates an educational program for public school students in grades 7 through 12 shall:

a. ensure that posters providing information on the provisions of the "New Jersey Safe Haven Infant Protection Act," P.L.2000, c.58 (C.30:4C-15.5 et al.), are prominently displayed in the school nurse's office and health education classrooms;

b. have pamphlets and other educational materials providing information about the safe haven procedures available in the guidance office of every public school with students in grades 7 through 12 for free distribution to students; and

c. utilize, for the purposes of this section, informational pamphlets, posters and other educational materials distributed by the Department of Children and Families pursuant to section 1 of P.L.2007, c.143 (C.30:4C-15.11).

3. This act shall take effect immediately.

Approved August 21, 2007.

CHAPTER 144

AN ACT eliminating the fee imposed for certified copy of veteran's discharge papers and amending P.L.1965, c.123.

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

1. Section 2 of P.L.1965, c.123 (C.22A:4-4.1) is amended to read as follows:

C.22A:4-4.1 Fees for services of county clerks and registers.

2. County clerks and registers of deeds and mortgages, in counties having such offices, shall charge for the services herein enumerated the following fees:

	Fee
For recording veteran's discharge papers	No fee
For recording any instrument:	
First page	\$30.00
Each additional page or part thereof	\$10.00
Each rider, insertion, addition, or any map, plat or sketch filed or recorded pursuant to subsection (c) of section 2 of P.L.1957, c.130 (C.48:3-17.3)	\$10.00
For entering the marginal notation of an order, judgment, statement or warrant discharging, annulling a notice of lis pendens and for filing such order, judgment or statement	\$10.00
For filing a lis pendens foreclosure	\$30.00
Notation	\$10.00
For preparing and transmitting to the assessor, collector, or other custodian of the assessment map of any taxing district, the abstract of an instrument evidencing title to realty	\$10.00
For entering the marginal notation of a discharge or release of a New Jersey building and loan or savings and loan mortgage and forwarding abstract	\$10.00
For entering the marginal notation of a discharge, assignment, postponement or release of a	

mortgage, other than building and loan and savings and loan mortgages	\$10.00
For the cancellation of any mortgage	\$20.00
For a marginal notation of the discharge of a mortgage in counties where mortgages are indexed under a system requiring a duplication of indices and description	\$10.00
For filing and recording notice of federal tax lien or other federal lien or certificate discharging such lien	\$25.00
For filing a notice of settlement	\$20.00
For filing each map, plat, plan or chart (except when presented by the State or its agencies or filed pursuant to subsection (c) of section 2 of P.L.1957, c.130 (C.48:3-17.3))	\$55.00
For recording tax sale certificate, except by municipalities, or a redemption or assignment of tax sale certificate, first page	\$30.00
Each additional page or part thereof	\$10.00
Certified copy of veteran's discharge	No fee
For indexing any recorded instrument in excess of 5 parties, per each name in excess of 5	\$6.00
For recording tax sale certificate, lien, deed, or related instrument by a municipality	\$8.00
For recording vacations or dedications of roads, first page	\$30.00
Each additional page or part thereof	\$10.00
For disclaimers	\$15.00
For reimbursement agreements	No fee

2. This act shall take effect immediately.

Approved August 21, 2007.

CHAPTER 145

AN ACT concerning interference with transportation and amending N.J.S.2C:33-14.

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

1. N.J.S.2C:33-14 is amended to read as follows:

Interference with transportation.

2C:33-14. a. Interference with Transportation. A person is guilty of interference with transportation if the person purposely or knowingly:

(1) casts, shoots or throws anything at, against or into any vehicle, including, but not limited to, a bus, light rail vehicle, railroad locomotive, railroad car, jitney, trolley car, subway car, ferry, airplane, or other facility of transportation; or

(2) casts, shoots, throws or otherwise places any stick, stone, object or other substance upon any street railway track, trolley track or railroad track; or

(3) endangers or obstructs the safe operation of motor vehicles by casting, shooting, throwing or otherwise placing any stick, stone, object or other substance upon any highway or roadway; or

(4) unlawfully climbs into or upon any light rail vehicle, railroad locomotive or railroad car, either in motion or standing on the track of any railroad company in this State; or

(5) unlawfully disrupts, delays or prevents the operation of any vehicle, including, but not limited to, a bus, light rail vehicle, railroad locomotive, train, bus, jitney, trolley, subway, airplane or any other facility of transportation. The term "unlawfully disrupts, delays or prevents the operation of" does not include non-violent conduct growing out of a labor dispute as defined in N.J.S.2A:15-58; or

(6) endangers or obstructs the safe operation of motor vehicles by using a traffic control preemption device to interfere with or impair the operation of a traffic control signal as defined in R.S.39:1-1; or

(7) shines, points or focuses a laser lighting device beam, directly or indirectly, upon a person operating any vehicle, including, but not limited to, a bus, light rail vehicle, railroad locomotive, railroad car, jitney, trolley car, subway car, ferry, airplane, or other facility of transportation. As used in this paragraph, "laser lighting device" means a device which emits a laser beam that is designed to be used by the operator as a pointer or highlighter to indicate, mark or identify a specific position, place, item or object.

As used in this subsection, "traffic control preemption device" means an infrared transmitter or other device which transmits an infrared beam, radio wave or other signal designed to change, alter, or disrupt in any manner the normal operation of a traffic control signal.

- b. Interference with transportation is a disorderly persons offense.
- c. Interference with transportation is a crime of the fourth degree if the person purposely, knowingly or recklessly causes bodily injury to another person or causes pecuniary loss in excess of \$500 but less than \$2,000.
- d. Interference with transportation is a crime of the third degree if the person purposely, knowingly or recklessly causes significant bodily injury to another person or causes pecuniary loss of \$2,000 or more, or if the person purposely or knowingly creates a risk of significant bodily injury to another person.
- e. Interference with transportation is a crime of the second degree if the person purposely, knowingly or recklessly causes serious bodily injury to another person.

2. This act shall take effect immediately.

Approved August 21, 2007.

CHAPTER 146

AN ACT concerning missing persons and supplementing chapter 17B of Title 52 of the Revised Statutes.

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

C.52:17B-9.8d Establishment of guidelines for missing persons cases involving Alzheimer's disease or juveniles.

1. a. Within 180 days of the effective date of this act, the Missing Persons Unit established in the Division of State Police within the Department of Law and Public Safety pursuant to section 2 of P.L.1983, c.467 (C.52:17B-9.7) shall establish minimum uniform guidelines concerning the handling of missing persons cases involving:

- (1) persons known to be suffering from Alzheimer's disease, and
- (2) juveniles, as defined in section 3 of P.L.1982, c.77 (C.2A:4A-22).

b. The Missing Persons Unit shall consult with Alzheimer's support and child welfare groups in developing these guidelines.

c. All State or local law enforcement entities shall adhere to the guidelines established pursuant to this section.

2. This act shall take effect immediately.

Approved August 21, 2007.

CHAPTER 147

AN ACT concerning county colleges and amending N.J.S.18A:64A-8 and P.L.1982, c.42.

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

1. N.J.S.18A:64A-8 is amended to read as follows:

Boards of trustees; apportionment of membership where established in more than one county.

18A:64A-8. For each county college there shall be a board of trustees, consisting of the county superintendent of schools and 10 persons, eight of whom shall be appointed by the appointing authority of the county with the advice and consent of the board of chosen freeholders, at least two of whom shall be women and two of whom shall be appointed by the Governor, according to criteria and for such initial terms as shall be established. However, no trustee shall be appointed after July 1, 1994 who is an employee of a constituent county. The president of the college shall serve as an ex officio member of the board of trustees without vote. In addition, the student body of each county college shall be entitled to elect from the graduating class one representative to serve as a member on the board of trustees for a term of one year commencing at the first meeting of the board in July following graduation of his class. The student representative may be granted voting rights by a majority vote of the members of the board of trustees. If the board of trustees grants the student representative voting rights and all members of the board are present at the board meeting and there is a tie vote, the chairman shall break the tie.

The appointing authority of the county shall establish a trustee search committee of not less than five members who shall be residents of the county. The members of the trustee search committee shall not be elected public officials and shall not be eligible for appointment to the board of trustees for a period of six months after their service on the trustee search committee. The trustee search committee shall nominate individuals for consideration by the appointing authority of the county for appointment to the board of trustees.

When a county college is established by more than one county, the board of trustees shall be increased by two members for each additional participating county. The membership of the board of trustees shall be apportioned by the commission among the several counties as nearly as may be according to the number of inhabitants in each county as shown by the last federal census, officially promulgated in this State. Each apportionment shall continue in effect until a reapportionment shall become necessary by reason of the official promulgation of the next federal census or the enlargement of the board by the admission of one or more additional counties as provided for in section 18A:64A-24. Each county shall be entitled to have at least two members and the county superintendent of the schools of said county on the board of trustees.

2. Section 6 of P.L.1982, c.42 (C.18A:64A-55) is amended to read as follows:

C.18A:64A-55 Membership of board of trustees.

6. The board of trustees shall include seven public trustees, consisting of the county superintendent of schools, four members appointed by the board of chosen freeholders, and two citizens of the county appointed by the Governor, and four trustees appointed by the board of governors from among its members. However, no trustee shall be appointed after July 1, 1994 who is an employee of a constituent county. In addition, the student body shall be entitled to elect from the graduating class one representative to serve as a member of the board of trustees for a term of one year commencing at the first meeting of the board in July following graduation of his class. The student representative may be granted voting rights by a majority vote of the members of the board of trustees. If the board of trustees grants the student representative voting rights and all members of the board are present at the board meeting and there is a tie vote, the chairman shall break the tie.

All appointive members shall be residents of the county for a period of four years prior to appointment and no elected public official or employee of the county college shall serve as a voting member of the board. The terms of office of the appointive members shall be four years, except for the first appointment. Terms of those initially appointed by the chairman of the board of chosen freeholders shall expire, respectively, one, two, three and four years after appointment. Of those appointed by the Governor, one person shall be appointed for a term of two years and one for a term of four years. Of the members appointed by the board of governors, one person

shall be appointed for a term of one year, one for a term of two years, one for a term of three years, and one for a term of four years.

Each member shall serve until his successor is appointed and qualified.

Vacancies shall be filled in the same manner as the original appointment for the unexpired term. Upon notice and opportunity to be heard, an appointee may be removed for cause by the body originally making the appointment. Members shall serve without compensation but shall be entitled to be reimbursed for all reasonable and necessary expenses.

3. This act shall take effect immediately and shall apply to graduating class representatives elected following its enactment.

Approved August 21, 2007.

CHAPTER 148

AN ACT prohibiting the unauthorized use of military medals or insignias and amending N.J.S.38A:14-5.

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

1. N.J.S.38A:14-5 is amended to read as follows:

Impersonation by wearing of uniform, medal, insignia, fourth degree crime.

38A:14-5. Any person who knowingly, with intent to impersonate and with intent to deceive, misrepresents himself as a member or veteran of the United States Armed Forces or organized militia by wearing the uniform or any medal or insignia authorized for use by the members or veterans of the United States Armed Forces or the organized militia, by Federal and State laws and regulations, shall be guilty of a crime of the fourth degree.

2. This act shall take effect immediately.

Approved August 21, 2007.

CHAPTER 149

AN ACT concerning construction code enforcement and amending P.L.1975, c.217.

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

1. Section 14 of P.L.1975, c.217 (C.52:27D-132) is amended to read as follows:

C.52:27D-132 Inspection of construction by enforcing agency; right of entry; stop construction orders; violations, reinspection.

14. a. The enforcing agency shall periodically inspect all construction undertaken pursuant to a construction permit issued by it to insure that the construction or alteration is performed in accordance with the conditions of the construction permit and consistent with the requirements of the code and any ordinance implementing said code.

b. The owner of any premises upon which a building or structure is being constructed shall be deemed to have consented to the inspection by the enforcing agency and the department, of the entire premises and of any and all construction being performed on it until a certificate of occupancy has been issued. An inspector, or team of inspectors, on presentation of proper credentials, shall have the right to enter and inspect such premises, and any and all construction thereon, for purposes of ensuring compliance with the provisions of the applicable construction permit, the code, and other applicable laws and regulations. All inspection pursuant to this act shall be between the hours of 9 a.m. and 5 p.m. on business days, or when construction is actually being undertaken, provided, however, that inspections may be conducted at other times if the enforcing agency has reasonable cause to believe that an immediate danger to life, limb or property exists, or if permission is given by an owner, or his agent, architect, engineer or builder. No person shall accompany an inspector or team of inspectors on any inspection pursuant to this act, unless his presence is necessary for the enforcement of this act, or the code, or unless consent is given by an owner or his agent, architect, engineer or builder.

c. If the construction of a structure or building is being undertaken contrary to the provisions of a construction permit, this act, the code, or other applicable laws or ordinances, the enforcing agency may issue a stop construction order in writing which shall state the conditions upon which construction may be resumed and which shall be given to the owner or the holder of the construction permit or to the person performing the construction. If the person doing the construction is not known, or cannot be located with reasonable effort, the notice may be delivered to the person in charge of, or apparently in charge of, the construction. No person shall

continue, or cause or allow to be continued, the construction of a building or structure in violation of a stop construction order, except with the permission of the enforcing agency to abate a dangerous condition or remove a violation, or except by court order. If an order to stop construction is not obeyed, the enforcing agency may apply to the appropriate court as otherwise established by law for an order enjoining the violation of the stop construction order. The remedy for violation of such an order provided in this subsection shall be in addition to, and not in limitation of, any other remedies provided by law or ordinance.

d. When an inspector or team of inspectors finds a violation of the provisions of a construction permit, the code, or other applicable laws and regulations at an owner-occupied single-family residence, and issues a notice of violation and an order to terminate the violation, the enforcing agency shall require the same inspector or team of inspectors who found the violation to undertake any subsequent reinspection thereof at the premises. When the same inspector or team of inspectors cannot be assigned to undertake the reinspection, the enforcing agency may assign an available inspector provided the scope of the reinspection shall be limited to the violation for which the reinspection is required. The requirements of this subsection shall not apply to violations of the plumbing or electrical subcodes, or to fire safety code violations, or to any violation of any other subcode that the Department of Community Affairs determines to be a health or safety violation. Nothing in this subsection shall be construed to infringe upon the right of a property owner to request a different inspector, team of inspectors, or supervisor, to perform any required reinspection.

2. This act shall take effect immediately.

Approved August 21, 2007.

CHAPTER 150

AN ACT concerning propane gas service contracts and supplementing Title 52 of the Revised Statutes.

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

C.52:27D-509 Short title.

1. This act shall be known and may be cited as the "Propane Gas Customer Protection Act."

C.52:27D-510 Definitions relative to propane gas service contracts.

2. As used in this act:

"Act" means the "Propane Gas Customer Protection Act."

"Department" means the Department of Community Affairs.

"Propane" means any of the forms of liquefied petroleum products, including propane, propylene, butane, isobutane, and butylene, or any mixture of these hydrocarbons, that is utilized for residential and commercial heating purposes and for various appliances and fixtures, including, but not limited to, clothes washers and dryers, grills, lighting and electricity-producing fuel cells.

"Propane gas supplier or marketer" or "supplier or marketer" means a duly licensed business that takes title to propane gas and then assumes the contractual and legal obligation to provide propane gas to an end-user customer or customers.

"Propane services" or "services" means the performing of safety and leak testing of, and the performing of installation, maintenance, repair, removal, adjustment and other services to, propane appliances including, without limitation, ranges, water heaters, heaters, furnaces, containers and other propane fueled systems, for residential and commercial applications.

C.52:27D-511 Rules, regulations; information provided to customers, required contents.

3. a. Within 180 days following the effective date of this act, the department shall adopt rules and regulations pursuant to the "Administrative Procedure Act," P.L. 1968, c.410 (C.52:14B-1 et seq.) requiring that propane gas suppliers or marketers distribute to each customer a description of the terms of their plans or contracts for the sale of propane and propane services in a plain and conspicuous manner and providing for certification of persons as qualified to engage in the sale of propane and to perform propane services pursuant to subsection c. of this section.

b. The description required by subsection a. of this section shall contain the following information:

(1) The supplier's or marketer's charges and pricing policies for propane and propane services that are disclosed in a format including a price conversion chart that will assist a customer to compare price offers from different propane suppliers or marketers on a uniform basis which an aver-

age person can understand and use to do comparative shopping for propane, propane services and for a supplier or marketer;

(2) Notification of the right of customers to obtain the supplier's or marketer's current prices of propane and propane services over the telephone, by facsimile transmission or by any other electronic or written means including any additional charges that may be included in the plan or contract for any other items related to the purchase of propane and propane services;

(3) Whether the supplier's or marketer's price of propane and propane services may vary depending on non-scheduled or irregular deliveries of propane, or the provision of propane services on weekends, nights, holidays or at other times outside of the normal weekday hours, the criteria for determining what constitutes a non-scheduled or irregular delivery, or outside of normal weekday hours, and the cost of non-scheduled or irregular delivery if propane is provided outside of regular delivery, or if propane services are provided outside of normal weekday hours;

(4) The amount of any additional charges that may be charged by that supplier or marketer to install a container or any other related equipment that may be needed to store and utilize propane, the amount of any container rental fees that may be charged by that supplier or marketer, notice of the customer's right to use the customer's own container and regulator provided that the container and regulator have been verified by the supplier or marketer to meet current safety and licensing standards, and the cost charged by the supplier or marketer to verify whether the customer's container and regulator meet current standards and regulations;

(5) Criteria used to determine that supplier's or marketer's pricing structure for propane or propane services, including such criteria as annual usage, the area where the customer lives, the quantity or time of the delivery or other factors;

(6) Notice of the right to be contacted by that supplier or marketer at least seven business days before the propane supplier or marketer may discontinue further propane deliveries due to nonpayment;

(7) Notice of the customer's right to receive written verification that the propane supplier or marketer is licensed by the New Jersey Department of Community Affairs;

(8) Notice of the customer's right to change propane suppliers or marketers, consistent with the terms of the customer's plan or contract, if the customer is dissatisfied with price or services or for any other reason;

(9) Notice of whether a customer is required to call for delivery of propane or if the deliveries are automatic, how often the automatic delivery

will be made, whether the deliveries will be made on weekends and holidays and, if so, whether there are additional charges to make deliveries on weekends and holidays, and if the customer is to receive automatic delivery, whether the customer should inform the supplier or marketer of any changes in the customer's circumstances that might change the rate at which the customer uses propane;

(10) Notice of whether there is any minimal amount of propane per delivery, how many days a customer has to pay a bill after the delivery of propane is made or propane services are provided, as the case may be, and how many days before late fees are charged to a customer and what the supplier's or marketer's policy is for the delivery of propane or the provision of propane services, if needed, during the winter when a customer may have outstanding debt;

(11) Notice of the provisions contained within subsection c. of this section;

(12) If desired by the supplier or marketer, a statement that nothing in this description is a waiver or amendment of the contract or plan between the supplier or marketer and the customer, but is merely a summary of the department's regulations for the convenience of the customer; and

(13) Any other information that the department considers appropriate to ensure that customers of propane suppliers or marketers are fully informed of the terms of their plans or contracts.

c. To ensure the safety of this State's propane customers, any customer who desires to cause propane services to be performed should ensure that any such propane services are performed only by persons certified by the department pursuant to the regulations to be adopted pursuant to paragraph (1) of this subsection.

(1) The department, in consultation with and upon the advice and recommendation of the Liquefied Petroleum Gas Education and Safety Board, shall promulgate rules and regulations for the certification and competency testing of all persons engaged in the sale of propane and performing propane services, and for the dissemination to the public of information regarding the current certification, or the lack thereof, of persons offering to perform propane services in this State.

(2) All persons who are certified by the department shall be legally responsible for the propane services they perform.

d. Propane gas suppliers or marketers shall provide the information required by subsection b. of this section to a customer prior to entering into any contract with a customer for the delivery of propane or propane services, upon renewal of an existing contract and in response to a request from a customer.

e. The department shall adopt rules and regulations directing propane suppliers and marketers to publish the information required by subsection b. of this section in a format that is clear, uniform and designed to ensure that customers may accurately compare the true cost of services among different suppliers or marketers.

f. The department shall also require propane suppliers and marketers to meet the disclosure requirements in subsection b. of this section in advertising to the extent allowed by the advertising medium.

C.52:27D-512 Violations, penalties.

4. Any propane gas supplier or marketer who neglects or knowingly fails to comply with the requirements of this act or of the regulations issued thereunder shall be subject to a penalty not to exceed \$1,000 per violation, which penalty may be imposed by the department and recovered in a civil action by a summary proceeding pursuant to the "Penalty Enforcement Law of 1999," P.L.1999, c.274 (C.2A:58-10 et seq.). Payment of any such penalty shall be remitted to the department.

C.52:27D-513 Severability.

5. The provisions of this act are severable. If any phrase, clause, sentence, provision or section is declared to be invalid or preempted by federal law or regulation, the validity of the remainder of this act shall not be affected thereby.

6. This act shall take effect immediately.

Approved August 21, 2007.

CHAPTER 151

AN ACT concerning the legislative procedure for the preparation of fiscal notes and estimates, amending P.L.1980, c.67 and repealing section 7 of P.L.1980, c.67.

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

1. Section 1 of P.L.1980, c.67 (C.52:13B-6) is amended to read as follows:

C.52:13B-6 Review of introduced bill, determination of need and request for fiscal note.

1. Whenever any bill is introduced in either the Senate or General Assembly, and that bill receives first reading pursuant to the rules of the House in which it is introduced, the bill shall be immediately reviewed by the Legislative Budget and Finance Officer in the Office of Legislative Services. If, upon that review, the Legislative Budget and Finance Officer determines that the bill may increase or decrease expenditures or increase or decrease revenues of the State or any political subdivision thereof, the Officer shall immediately forward a request for a fiscal note to the Director of the Division of Budget and Accounting in the Department of the Treasury.

2. Section 2 of P.L.1980, c.67 (C.52:13B-7) is amended to read as follows:

C.52:13B-7 Forwarding of request for fiscal note; preparation, return to Legislative Budget and Finance Officer.

2. a. It shall be the duty of the director, upon receipt of a request for a fiscal note, to forward the request within 5 business days to the State department, commission or agency which would be authorized or required to carry out the purposes of the bill or, if the bill would affect the expenditures or revenues of any political subdivision of the State, to the State department, commission or agency having the most adequate information pertaining thereto.

b. Within 20 business days after receiving a request for a fiscal note from the director, the State department, commission or agency shall prepare and return to the director a fiscal note containing the most accurate estimate possible, in dollars, concerning the amount by which expenditures or revenues will be increased or decreased for the State or any of its political subdivisions. The fiscal note shall contain information relating to as many fiscal years as can reasonably be foreseen.

c. Within 5 business days after receiving a fiscal note from a State department, commission or agency, the director shall return the fiscal note to the Legislative Budget and Finance Officer. The director shall include with the fiscal note a statement (1) concurring with the fiscal note, (2) suggesting alternative dollar amounts, or (3) indicating any other information which the director deems relevant.

3. Section 3 of P.L.1980, c.67 (C.52:13B-8) is amended to read as follows:

C.52:13B-8 Statement of Legislative Budget and Finance Officer appended to fiscal note.

3. Upon receiving a fiscal note from the director, the Legislative Budget and Finance Officer shall, by a date consistent with legislative consideration, append thereto a statement (1) concurring with the fiscal note, (2) suggesting alternative dollar amounts, or (3) indicating any other information which the Officer deems relevant.

4. Section 4 of P.L.1980, c.67 (C.52:13B-9) is amended to read as follows:

C.52:13B-9 Nonreceipt of fiscal note, production of legislative fiscal estimate.

4. If the Legislative Budget and Finance Officer has not received a fiscal note from the director by a date consistent with legislative consideration, the Officer shall cause a legislative fiscal estimate to be produced by the Office of Legislative Services as soon as practicable. The legislative fiscal estimate shall contain the same information as would be included in a fiscal note. In addition, it shall contain the following statement: "This legislative fiscal estimate has been produced by the Office of Legislative Services due to the failure of the Executive Branch to respond to our request for a fiscal note."

5. Section 5 of P.L.1980, c.67 (C.52:13B-10) is amended to read as follows:

C.52:13B-10 Electronic copy of fiscal note, estimate to sponsor, notice of right to object.

5. When the Legislative Budget and Finance Officer has a complete fiscal note or legislative fiscal estimate, the Officer shall transmit an electronic copy of the fiscal note or legislative fiscal estimate to the sponsor whose name first appears on the bill with a notice that the sponsor may object to the fiscal note or legislative fiscal estimate within three business days after the transmittal of the electronic copy.

6. Section 6 of P.L.1980, c.67 (C.52:13B-11) is amended to read as follows:

C.52:13B-11 Approval, objection by sponsor, publishing of fiscal note, estimate.

6. If, after the three-day review period provided in section 5 of P.L.1980, c.67 (C.52:13B-10), the Legislative Budget and Finance Officer has received no objections from the sponsor, the Officer shall cause the fis-

cal note or legislative fiscal estimate to be printed and promptly made available through the Office of Legislative Services to all members of the Legislature and to the general public. If, however, the sponsor objects to the fiscal note or legislative fiscal estimate, the Legislative Budget and Finance Officer shall promptly review it and make any changes therein which the Officer might deem as reasonable, in the interest of accuracy and objectivity. Any fiscal note or legislative fiscal estimate with which a sponsor does not concur after being reviewed by the Legislative Budget and Finance Officer shall contain the following statement: "The sponsor does not concur with the information presented herein."

7. Section 8 of P.L.1980, c.67 (C.52:13B-13) is amended to read as follows:

C.52:13B-13 Emergency request for fiscal information.

8. Whenever the Legislative Budget and Finance Officer has reason to believe that a fiscal note on any bill will be required more quickly than provided for in this act, the Officer shall submit to the director an emergency request for fiscal information, which the director shall cause to be completed as quickly as possible, but in no case later than 10 business days. This emergency request shall be in addition to a request for a fiscal note and shall represent the director's best judgment as to the fiscal implications of pending legislation.

8. Section 9 of P.L.1980, c.67 (C.52:13B-14) is amended to read as follows:

C.52:13B-14 Sponsor, chair, presiding officer request for fiscal note, permissive.

9. a. In any case in which the Legislative Budget and Finance Officer has not determined, pursuant to this act, that a bill contains fiscal implications, the sponsor of the bill, the chairman of the committee to which the bill was referred, or the presiding officer of the House, may direct the Legislative Budget and Finance Officer to request a fiscal note, if, in the opinion of any of them, one is warranted.

b. In any case in which a bill is amended and those amendments affect the fiscal implications of the bill, the Legislative Budget and Finance Officer shall request a fiscal note.

Repealer.

9. Section 7 of P.L.1980, c.67 (C.52:13B-12) is repealed.

10. This act shall take effect immediately and shall be retroactive to January 10, 2006.

Approved August 21, 2007.

CHAPTER 152

AN ACT concerning the industrial use of certain chemicals and supplementing chapter 35 of Title 2C of the New Jersey Statutes.

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

C.2C:35-29 Definitions relative to industrial use of certain chemicals; not deemed a CDS, certain; inferences.

1. a. For the purposes of this section:

“Finished product” means a product: (1) that does not contain an industrial use chemical or from which an industrial chemical cannot be readily extracted or readily synthesized and (2) which is not sold for human consumption.

“Industrial distribution” means any process or operation necessary for distributing an industrial product, including, but not limited to, wholesaling, delivery or transport, and storage.

“Industrial product” means a non-drug, non-controlled finished product that is not for human consumption.

“Industrial use chemical” means gamma butyrolactone or 1,4-butanediol.

“Industrial use chemical manufacturer” means a person who: (1) is involved in the manufacture of an industrial chemical for use in the manufacture of an industrial product; (2) provides that industrial use chemical to an industrial use chemical distributor or a manufacturer of an industrial product; and (3) is in compliance with any requirements to register with the United States Drug Enforcement Administration as a List I Chemical registrant.

“Industrial use chemical distributor” means a person who: (1) is involved in the industrial distribution of an industrial use chemical; and (2) is in compliance with any requirements to register with the United States Drug Enforcement Administration as a List I Chemical registrant.

“Manufacturer of an industrial product” means a person who is involved in any process or operation necessary for manufacturing an indus-

trial product in which that person acquires an industrial use chemical from an industrial use chemical manufacturer or an industrial use chemical distributor and who possesses that substance solely for use in the manufacture of an industrial product.

b. An industrial use chemical shall not be deemed a controlled dangerous substance within the meaning of N.J.S.2C:35-2 when that substance is in the possession of:

- (1) An industrial use chemical manufacturer;
- (2) An industrial use chemical distributor;
- (3) A manufacturer of an industrial product; or
- (4) A person possessing a finished product.

c. This section shall not apply to:

(1) An industrial use chemical manufacturer who sells, delivers or otherwise distributes an industrial use chemical to a person who is not an industrial use chemical distributor or a manufacturer of an industrial product;

(2) An industrial use chemical distributor who sells, delivers or otherwise distributes an industrial use chemical to a person who is not an industrial use chemical distributor or a manufacturer of an industrial product;

(3) A person who extracts or synthesizes an industrial use chemical from a finished product or a person who extracts or synthesizes an industrial use chemical from any product or material, unless that extraction or synthesis is authorized by law; or

(4) A person whose possession of an industrial use chemical is not in compliance with the provisions of subsection b. of this section or whose possession of that substance is not specifically authorized by law.

d. (1) There shall be a permissive inference that a person to whom an industrial use chemical is sold, delivered or otherwise distributed in a quantity of 10 gallons or less is not an industrial use chemical distributor or a manufacturer of an industrial product.

(2) There shall be a permissive inference that a person who possesses an industrial use chemical in a quantity of one gallon or less is not an industrial use chemical manufacturer, an industrial use chemical distributor, a manufacturer of an industrial product or a person possessing a finished product, and is a person whose possession of the industrial use chemical is not specifically authorized by law.

(3) The inferences established in paragraphs (1) and (2) of this subsection shall not apply to the distribution or possession of sample quantities for the purpose of conducting chemical research, chemical quality assurance testing or industrial product or applications development.

2. This act shall take effect on the first day of the fourth month following enactment.

Approved August 21, 2007.

CHAPTER 153

AN ACT requiring homeowner associations to permit the installation of solar collectors and supplementing P.L.1993, c.30 (C.45:22A-43 et seq.)

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

C.45:22A-48.2 Solar collectors on certain roofs, homeowners association authority limited.

1. a. An association formed for the management of commonly-owned elements and facilities, regardless of whether organized pursuant to section 1 of P.L.1993, c.30 (C.45:22A-43), shall not adopt or enforce a restriction, covenant, bylaw, rule or regulation prohibiting the installation of solar collectors on certain roofs of dwelling units, as follows:

A roof of a single-family dwelling unit which is solely owned by an individual or individuals, and which is not designated as a common element or common property in the governing documents of an association; and

A roof of a townhouse dwelling unit, which for the purposes of this subsection means any single-family dwelling unit constructed with attached walls to another such unit on at least one side, which unit extends from the foundation to the roof, and has at least two sides which are unattached to any other building, and the repair of the roof for the townhouse dwelling unit is designated as the responsibility of the owner and not the association in the governing documents.

b. An association may adopt rules to regulate the installation and maintenance of solar collectors on those roofs as specified in subsection a. of this section, in accordance with subsection c. of this section, and as follows:

(1) The qualifications, certification and insurance requirements of personnel or contractors who may install the solar collectors;

(2) The location where solar collectors may be placed on roofs;

(3) The concealment of solar collectors' supportive structures, fixtures and piping;

(4) The color harmonization of solar collectors with the colors of structures or landscaping in the development; and

(5) The aggregate size or coverage or total number of solar collectors, provided that the provisions of paragraph (2) of subsection c. below are met.

c. (1) An association shall not adopt and shall not enforce any rule related to the installation or maintenance of solar collectors, if compliance with a rule or rules would increase the solar collectors' installation or maintenance costs by an amount which is estimated to be greater than 10 percent of the total cost of the initial installation of the solar collectors, including the costs of labor and equipment.

(2) An association shall not adopt and shall not enforce any rule related to the installation or maintenance of solar collectors, if compliance with such rules inhibits the solar collectors from functioning at their intended maximum efficiency.

d. The Commissioner of Community Affairs shall enforce the provisions of P.L.2007, c.153 (C.45:22A-48.2) in accordance with the authority granted under section 18 of P.L.1977, c. 419 (C.45:22A-38).

e. The provisions of P.L.2007, c.153 (C.45:22A-48.2) shall not apply to associations that are under the control of the developer as provided under section 5 of P.L.1993, c.30 (C.45:22A-47).

2. This act shall take effect immediately.

Approved August 21, 2007.

CHAPTER 154

AN ACT concerning the filing of financial disclosure statements by members and employees of the Casino Control Commission and employees and agents of the Division of Gaming Enforcement and amending P.L.1977, c.100.

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

1. Section 58 of P.L.1977, c.110 (C.5:12-58) is amended to read as follows:

C.5:12-58 Restrictions on pre-employment by commissioners, commission employees and division employees and agents.

58. Restrictions on Pre-Employment by Commissioners, Commission Employees and Division Employees and Agents.

a. Deleted by amendment.

b. No person shall be appointed to or employed by the commission or division if, during the period commencing three years prior to appointment or employment, said person held any direct or indirect interest in, or any employment by, any person which is licensed as a casino licensee pursuant to section 87 of P.L.1977, c.110 (C.5:12-87) or as a casino service industry pursuant to subsection a. of section 92 of P.L.1977, c.110 (C.5:12-92) or has an application for such a license pending before the commission; provided, however, that notwithstanding any other provision of this act to the contrary, any such person may be appointed to or employed by the commission or division if his interest in any such casino licensee or casino service industry which is publicly traded would not, in the opinion of the employing agency, interfere with the objective discharge of such person's employment obligations, but in no instance shall any person be appointed to or employed by the commission or division if his interest in such a casino licensee or casino service industry which is publicly traded constituted a controlling interest in that casino licensee or casino service industry; and provided further, however, that notwithstanding any other provision of this act to the contrary, any such person may be employed by the commission or division in a secretarial or clerical position if, in the opinion of the employing agency, his previous employment by, or interest in, any such casino licensee or casino service industry would not interfere with the objective discharge of such person's employment obligations.

c. Prior to appointment or employment, each member of the commission, each employee of the commission, the director of the Division of Gaming Enforcement and each employee and agent of the division shall swear or affirm that he possesses no interest in any business or organization licensed by or registered with the commission.

d. Each member of the commission and the director of the division shall file with the State Ethics Commission a financial disclosure statement listing all assets and liabilities, property and business interests, and sources of income of said member or director and said member's or director's spouse and shall provide to the State Ethics Commission a financial disclosure statement listing all assets and liabilities, property and business interests, and sources of income of the parents, brothers, sisters, and children of

said member or director. Such statement shall be under oath and shall be filed at the time of appointment and annually thereafter.

e. Each employee of the commission, except for secretarial and clerical personnel, and each employee and agent of the division, except for secretarial and clerical personnel, shall file with the State Ethics Commission a financial disclosure statement listing all assets and liabilities, property and business interests, and sources of income of said employee or agent and said employee's or agent's spouse. Such statement shall be under oath and shall be filed at the time of employment and annually thereafter. Notwithstanding the provisions of subsection (n) of section 10 of P.L.1971, c.182 (C.52:13D-21), only financial disclosure statements filed by a commission or division employee or agent who is in a policy-making management position shall be posted on the Internet site of the State Ethics Commission.

2. This act shall take effect immediately.

Approved August 21, 2007.

CHAPTER 155

AN ACT concerning mine safety, increasing certain fees and penalties and amending P.L.1954, c.197.

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

1. Section 2 of P.L.1954, c.197 (C.34:6-98.2) is amended to read as follows:

C.34:6-98.2 Definitions relative to mine safety.

2. As used in this act:

"Approved" means approved by the commissioner.

"Commissioner" means the Commissioner of Labor and Workforce Development or any of his authorized representatives.

"Department" means the Department of Labor and Workforce Development.

"Excavations" or "workings" means shafts, tunnels, entries, winzes, raises, stopes, open cut and any and all working places and parts of a mine,

either above ground or underground, excavated or being excavated, whether abandoned or in use.

"Face" means the advancing breast of any place of work.

"Mine" includes any mines within the State, whether on the surface or underground and any mining plant, material, equipment or explosives on the surface or underground, which may contribute to the mining or handling of ore or other metalliferous or nonmetalliferous products. The term "mine" shall also include quarry, sand pit, gravel pit, clay pit and shale pit.

"Operator" means the person, firm, association, company, corporation or any officers or agents thereof, in immediate possession of any mine or mining claim or its accessories as owner or lessee and, as such, responsible for its management and condition.

"Section" means the mine safety section within the Department of Labor and Workforce Development.

"Superintendent" means the person who has immediate supervision of a mine for an operator.

Words used in the singular shall include the plural, and the plural shall include the singular.

2. Section 3 of P.L.1954, c.197 (C.34:6-98.3) is amended to read as follows:

C.34:6-98.3 Mine safety section, powers, duties.

3. a. There is hereby created within the Department of Labor and Workforce Development a mine safety section.

b. The mine safety section shall be under the immediate supervision of a section chief, who shall be responsible for the efficient, effective administration of the work of the section. The section chief shall be assisted by and supervise such other mine safety inspectors, technicians and other employees as may be necessary to perform the work.

c. The section chief shall personally or by assignment to employees of the section, inspect, investigate, inquire and examine into the operation, workings, methods, safety devices and appliances, machinery, sanitation, ventilation, means of ingress and egress, means taken to protect the lives and insure the safety and health of miners, together with the causes of accidents, injuries and fatalities and means taken to comply with the law; conduct scientific tests to determine amount and condition of air together with contaminants therein or for any purpose that shall provide for the maintenance of safe, sanitary and healthful conditions, furnish such reports and do other related work as required.

d. Employees of the section shall have the power and authority, upon exhibition of official credentials, at all reasonable hours to enter and examine any part of a mine, mining plant, equipment or workings. All operators and their employees shall render all assistance necessary to facilitate such examination.

e. (Deleted by amendment, P.L.2007, c.155).

f. (Deleted by amendment, P.L.2007, c.155).

g. (Deleted by amendment, P.L.2007, c.155).

h. No employee of the department shall make public, directly or indirectly to any person any knowledge or information obtained by him in the exercise of his official duties concerning ores, ore bodies or values of any mine or part thereof. Any employee who shall violate any of the provisions of this subsection shall be guilty of a crime of the fourth degree and, on conviction, shall be punished by a fine of not less than \$500.00 nor more than \$1,000.00 or imprisonment in the county jail not to exceed 1 year, or both, and shall be dismissed from his position.

i. It shall be the duty of the section to cause to have inspected at least once in every 3 months, every underground mine in this State, and every other working mine at least twice each year, and more often, if it is deemed necessary for the safety of the persons involved with the mine.

j. After every inspection, the mine safety inspector shall enter forthwith in a book to be kept at the mine and designated as the "record of mine safety inspection," the portion of the mine inspected, the nature of the inspection and the dangers and defects observed. This record shall be open at all reasonable hours to the examination of the operator, any employee or the designated representative of the employees of the mine inspected. Nothing contained in or omitted from any entry in such record shall limit or affect the duty and obligations of the operator, superintendent or employee.

3. Section 4 of P.L.1954, c.197 (C.34:6-98.4) is amended to read as follows:

C.34:6-98.4 Authority and duties of the commissioner.

4. a. The commissioner shall administer the provisions of this act and may promulgate, make, amend and repeal necessary and reasonable rules and regulations not inconsistent with the provisions of this act. Such rules and regulations shall have the force and effect of law and shall be enforced in the same manner. It is the policy and intent of this section that the physical plant, operations and methods of the mining industry or any part thereof including mines abandoned prior to the passage of this act and mines aban-

done subsequent to the passage of this act shall be so constructed, equipped, arranged, operated, maintained and conducted in all respects as to provide for reasonable and adequate protection to the lives, health and safety of miners, others employed in the mining industry and frequenting the same, the owners of the surface of the ground above such mines and the general public, as well as the protection of property.

b. When requested to do so, the commissioner may make tests, or have same made, to determine if any device, safeguard or equipment may be approved for use in connection with any provisions of this act. The commissioner may charge a fee for such approval, payable by the approval applicant, in any amount commensurate with the cost to the State for making such tests or have same made, in which case he may require the applicant to pay all cost directly to the private agency making the test.

c. The commissioner shall appoint all personnel pursuant to the provisions of Title 11A of the New Jersey Statutes and arrange for all services necessary to administer the provisions of this act. He shall arrange for operations to be conducted in branch offices located near the mining centers of the State if, in his opinion, the effectiveness of the service can be thereby improved.

d. If, upon examination or inspection, it shall appear to an inspector that a mine or part thereof is, from any cause, in a dangerous condition, or fails to comply with the provisions of this act or any rule or regulation promulgated hereunder, he shall so report to the section and the commissioner shall at once notify the operator in charge thereof, such notice to be in writing and to be served by copy upon the operator. Said notice shall state in detail in what particular said mine or part thereof is deemed dangerous, insecure and not in compliance with the provisions of this act, and provide a reasonable specified time to comply. The operator of said mine shall forthwith make such change in order to comply with the requirements of this act.

e. In case of any civil or criminal proceedings at law against the parties so notified, on account of loss of life or bodily injuries sustained by an employee, subsequent to such notice, and in consequence of such dangerous condition, and without an affirmative and diligent effort having been made to remedy the same to the satisfaction of the commissioner, a certified copy of the notice served by the commissioner shall be prima facie evidence of the negligence of such party or parties.

f. If it appears from a reexamination of the mine by the inspector that such changes or compliances have not been made within the time specified in such notice, and that the mine or part of such mine is still in an unlawful condition or dangerous to life, health or property and in the opinion of the commissioner, it is necessary for the protection of life, health or property

that such mine or part of the mine be vacated, the commissioner shall forthwith order the cessation of the operation and working of said mine or part of mine, and order that the employees shall not be permitted therein for any purpose other than to remedy the defects complained of, until the provisions of this act are complied with to the satisfaction of the commissioner. The operator of said mine shall forthwith obey said order.

g. If a representative of the section finds conditions in any mine which in his opinion are dangerous to the health and lives of employees, owners of the surface of the ground above the mine or the general public, he shall report the facts forthwith to the commissioner. The commissioner shall order all workings stopped in the particular section of the mine in which the dangerous condition was found, if in his opinion such an action is necessary to preserve life and limb. Work shall not be resumed until the commissioner so authorizes.

h. The commissioner shall have the power and authority to require that every mine, pit or quarry of any operator be registered with him and that a certificate of registration be obtained before the opening of such mine, pit or quarry. The application and certificate forms shall be prescribed by the commissioner.

A certificate of registration shall expire 1 year from its effective date, unless sooner revoked or suspended by the commissioner. A certificate of registration may be renewed upon the filing of an application of renewal on a form prescribed by the commissioner. A certificate of registration shall at all times be prominently displayed at each mine, pit or quarry of the operator.

The commissioner shall have the power and authority to charge an annual registration fee of not less than \$500 nor more than \$3,000 for each certificate of registration issued. Thereafter, these fees may be adjusted by the commissioner in accordance with fee schedules adopted by regulation.

4. Section 5 of P.L.1954, c.197 (C.34:6-98.5) is amended to read as follows:

C.34:6-98.5 Annual report to Governor.

5. The commissioner shall embody in his annual report to the Governor a statistical summary and report of work of the section during the year ending June 30.

a. The report shall contain a statement showing for each mine, the number of persons employed underground and above-ground; the number and nature of fatal, lost-time injuries and serious accidents; the number of inspections made, complaints filed, inquests attended, workings ordered

vacated and violations found; and any other information deemed important and relevant to safety in the mining industry of the State together with such recommendations as in the judgment of the commissioner are necessary to enforce the law, insure the safety of persons in mines and preserve property. The commissioner may prepare supplemental reports containing any or all of the above described statements, from time to time. A copy of any supplemental or annual report shall be made publicly available.

5. Section 6 of P.L.1954, c.197 (C.34:6-98.6) is amended to read as follows:

C.34:6-98.6 General requirements.

6. a. Every operator shall comply with the provisions of this act and the rules and regulations issued hereunder and every person shall comply with such provisions as applicable to that person.

b. Every operator before opening a new mine, pit or quarry, shall report the location of such proposed mine, pit or quarry and the operator's name and address in writing to the commissioner and to the local governing body of the municipality in which the mine, pit or quarry is to be located, and make application in writing to the commissioner for permission to open such mine, pit or quarry.

c. Every operator shall report the location of the mine and the name and address of the owner of the surface and of the mineral rights in writing to the commissioner and the local governing bodies involved before the commencement of operations by him.

d. Every operator abandoning or permanently discontinuing any mine, pit or quarry shall notify the commissioner and the local governing bodies involved in writing no less than 60 days prior to such abandonment or discontinuance.

e. The operator shall post at the surface entrance, or around the surface extremities of any mine, pit or quarry, appropriate, conspicuous and readily legible warning notices of the existence and dangers thereof and shall also place or cause to be placed guardrails, fences or other approved means, sufficient to prevent accidental fallings in any operating or abandoned mine, pit or quarry as the commissioner may direct.

f. The protection shall include adequate fences, when any such mine or area is declared a hazard as provided by this act, or effective and secure capping of surface access to mine workings or other protective measures which in the judgment of the commissioner are necessary to prevent injury to persons or damage to property by accidental fallings into the abandoned mine.

In any case where an abandoned mine constitutes an imminent hazard to persons and the order of the commissioner to protect such mine has not been complied with in the time specified, the commissioner is authorized to take such steps as may be necessary to eliminate the imminent hazard. The operator of the mine shall reimburse the commissioner for the actual cost of whatever corrective measures have been employed in eliminating the imminent hazard. The cost of any such corrective measures, until reimbursed, shall constitute a lien on such property and the mineral rights thereto.

The provisions of subsection e. of this section shall be applicable to mines abandoned prior to the passage of this act when any such mine is declared a hazard by the municipal governing body or by the State, after public hearing, and after such protection is requested by the municipality or State.

g. It shall be the duty of the mine operator, superintendent, or anyone in charge of a mine, with 10 or more persons, to keep at such places about the mine as may be designated by the commissioner, a stretcher and a woolen and waterproof blanket, in good condition, for use in caring for any person who may be injured at the mine. When more than 50 persons are employed, two or more stretchers with woolen and waterproof blankets shall be kept, and in all mines, a supply of first-aid equipment as may be prescribed by the section shall be kept readily accessible for the treatment of anyone injured. In all mines a first-aid corps shall be organized, consisting of the foreman, shift bosses, and other employees designated by the operator or superintendent of the mine to cause the organization of such; and to procure the services of a physician or qualified first-aid instructor to instruct the members of such first-aid corps from time to time, not less than once in each calendar month, until a sufficient number of members of such corps as may be required by the section shall be certified by said physician or instructor to be qualified in the proper handling and treatment of injured persons before treatment by a physician.

h. Adequate medical care or attention shall be provided for all injuries arising out of and in the course of employment.

i. When considered necessary by the section, and so ordered by it, the operator of every underground mine shall make and maintain, or cause to be made and maintained, a reasonably accurate map of the workings of such mine. At least once in every 6 months, or more often, if necessary, the operator or engineer of such mine shall cause to be shown, with reasonable accuracy on the map of said mine, all the excavations made therein during the time elapsed since such excavations were last shown on said map, and all parts of said mine which were worked and abandoned during said elapsed period of time shall be clearly indicated on said map, and all under-

ground workings shall be surveyed and mapped before they are allowed to become inaccessible. Such maps shall at all times be open to examination by an inspector of the section.

j. No person shall disobey an order given in pursuance of the law, or do a willful act whereby the lives or health of persons working in such mines, or the security of a mine, or the machinery connected therewith, may be endangered.

k. Notices shall be placed by the superintendent, or under his direction by the mine foreman or shift boss, at the entrance of any working place deemed dangerous, and at the entrance to old or abandoned workings; and no person other than those who are authorized by the operator or superintendent, shall remove or go beyond any caution board or danger signal so placed.

l. At any mine employing 25 or more persons underground, the operator shall provide, and keep in a readily accessible place, at least 2 approved portable oxygen breathing apparatuses in condition to be used in case of emergency; also, the operator or superintendent of such mine shall provide training and periodic drills for a mine rescue crew in the use of such apparatuses, fire protection methods and rescue work all in a manner as may be required by the section. Tests, at least once monthly, of apparatuses by the actual use thereof shall be made.

m. It shall be the duty of the superintendent of any mine, within the provisions of this act, to keep at all times in the office of the mine and in the timekeeper's office thereof, in an accessible place and subject to inspection by all persons, at least one printed copy of this act.

n. No minor under 18 years of age shall be employed, permitted or suffered to work in, about, or in connection with any mine.

o. Strangers and visitors shall not be allowed underground unless accompanied by the owner, official or employee deputized to accompany them.

p. No person shall be required, without his consent, to work underground in any mine for more than 8 hours in any consecutive 24 hours, which 8 hours shall be reckoned from the time he arrives at his place of work in the mine until he leaves such place, provided that:

(a) A Saturday shift may work longer hours for the purpose of avoiding work on Sunday or changing shift at the end of the week or giving any of the persons a part holiday;

(b) The said limit shall not apply to a foreman, pumpman, cagetender, or any person engaged solely in surveying or measuring, nor shall it apply in cases of emergency, where life or property is in imminent danger, or in any case of repair work.

q. No person shall knowingly injure or destroy any equipment or machinery of any mine; nor, unless lawfully authorized to do so, obstruct or open an airway, handle or disturb any part of the machinery of the hoisting engine of the mine, open the door of a mine and neglect to close it, endanger the mine or those working therein, disobey an order given in pursuance of the law, or do a willful act whereby the lives or health of persons working in such mines, or the security of a mine, or the machinery connected therewith, may be endangered.

6. Section 7 of P.L.1954, c.197 (C.34:6-98.7) is amended to read as follows:

C.34:6-98.7 Safety.

7. a. Every mine shall be so constructed, equipped, arranged, operated, maintained and conducted in all respects as to provide reasonable and adequate protection to the lives, health and safety of all persons employed therein, or legally frequenting the same, the owners of the surface of the ground above the mine, the general public and to provide for the protection of property.

b. No person shall work or be permitted to work alone in an unsafe place.

c. No person shall be permitted to work in an unsafe place unless for the purpose of making it safe, and then only after proper precautions have been taken to protect the persons who are doing the work.

No person shall be in solitary employment at a working face unless he is in communication with another employee at reasonable intervals as determined by the commissioner.

d. An air current sufficient to remove smoke, dust and noxious gases and to insure the safety of every person shall be conducted along every passageway and working place in underground workings in such a manner and in accordance with the standards established by the section.

e. Every mine shall install and maintain approved washing, dressing and toilet facilities and every underground mine shall install and maintain an approved miner's dryhouse for drying the working clothes of the miners.

f. The commissioner shall require that an underground mine, operating either through a vertical or inclined shaft, or a horizontal tunnel, and producing from stoping operations shall have not less than two approved outlets, at least 150 feet apart. Where there is no such escapement shaft or opening, work thereon must be commenced as soon as stoping begins, and must be diligently prosecuted until the escapement shaft, raise, or opening is completed and continued to and connected with the lowest workings.

The subterranean workings shall connect such outlets with each other in a safe, approved manner. Such outlets shall at all times provide safe and separate passage between the subterranean workings and the surface.

g. Every mine shall be properly and sufficiently protected in an approved manner against the hazards of fire from any cause.

h. All working places and travel roads shall be, when necessary, kept timbered, barricaded, or otherwise guarded to prevent injury to any person from falling material, falling objects or fall of such person.

i. When advancing a drift, exit, level or incline toward a mine working that is suspected to be filled with water, a bore hole must be kept at least 20 feet in advance of the breast of the drive, and also, if necessary, in directions laterally from the course of the drive. Such additional precautionary measures shall be taken as may be deemed necessary by the commissioner to obviate the danger of a sudden break through of water.

j. No raise shall be allowed to approach within 10 feet of any portion of a winze or stope in which there is a dangerous accumulation of water, unless such winze or stope be first unwatered by bailing or pumping or by means of a bore from the raise.

k. In every mine where, in the opinion of the commissioner, there is danger of a sudden inrush of water, such additional raises, drifts or other workings shall be constructed as are necessary to insure the escape of persons from the lower workings, and all sumps and places for the storage of water in mines shall be so constructed as to prevent leakage as far as possible, and insure the safety of the persons working below the same.

l. It shall be unlawful for any operator to impound water or to keep water impounded within any mine in which persons are working below the water so impounded in such manner as to endanger the safety of such persons, unless the water be impounded by a dam or dams or wall or walls approved by the section.

m. Every place where drilling or blasting work is being carried on in an underground mine shall be adequately supplied at all times with clean water under pressure or other approved appliances for controlling dust.

n. Potable drinking water shall be available to employees during working hours.

o. Approved personal protective equipment shall be worn by all employees during the course of their work as required by standards and the rules and regulations promulgated pursuant to the provisions of this act.

7. Section 8 of P.L.1954, c.197 (C.34:6-98.8) is amended to read as follows:

C.34:6-98.8 Explosives.

8. a. When explosives are used in a mine or quarry, the manner of storing, keeping, handling, moving, charging and firing, or in any manner using such explosives, shall be in accordance with the requirements of the "Explosives Act," P.L.1960, c.55 (C.21:1A-128 et seq.), as amended or supplemented, and the rules and regulations now in effect or hereafter issued thereunder, except for the following limitations:

b. All explosives in excess of the amount required for the work of 1-day underground operations may be stored underground in a safely located secondary storage magazine. The maximum amount of explosives to be stored in such magazine shall not exceed the requirements for a 48 hours' supply.

c. The commissioner may regulate and limit the amount of explosives stored in a primary magazine in any underground portion of a mine with due regard for the safety of miners.

d. Any temporary supply for the work of a shift shall be kept in such a place that its accidental discharge will not endanger the miners.

8. Section 9 of P.L.1954, c.197 (C.34:6-98.9) is amended to read as follows:

C.34:6-98.9 Complaints; serious accidents.

9. a. Whenever the commissioner receives a complaint in writing signed by 2 or more persons employed in a mine, setting forth that the mine or part thereof in which he or they are working is being operated contrary to law, or is dangerous in any respect to the health or lives of those employed therein, he shall cause to be inspected such mine as soon as possible. The names of the persons making such complaint shall be kept secret, unless permission to disclose them be expressly granted by the persons making the complaint. Such complaint shall in all cases set forth the nature of the danger existing at the mine, and the time when such danger was first observed. If, after such inspection, it is found that the conditions are dangerous to the health or lives of those employed therein, the commissioner shall serve a notice, setting forth fully the facts, upon the operator or any person having charge of such mine, and shall order the operator of said mine or mines to remove such dangerous or harmful conditions, and the operator of said mine shall obey said order.

b. Whenever loss of life or serious accident shall occur in any mine, the operator thereof shall forthwith give notice immediately in the quickest possible manner, and, in addition, shall report the facts thereof in writing within 24 hours after such occurrence in a manner prescribed by the section.

The refusal or failure of said owner, agent, manager or operator to so report shall be a misdemeanor. The section, upon receipt of notice of such accident, shall investigate the same and make, or cause to be made, a report which shall be filed for future reference. In case of the loss of life, any inspector of the section may take testimony of witnesses relative to the same, for the purpose of ascertaining the cause of such accident, and for his information in filing a report concerning the same. If, after making such investigation, the section considers the facts warrant it, a copy of the report of such accident and all papers relating thereto shall be forwarded to the county prosecutor of the county in which the accident or loss of life occurred, together with an accompanying statement, showing in what particular or particulars it is believed the law to have been violated, and if upon the receipt thereof, the prosecuting officer of the said county deems the facts sufficient to make a prima facie case of criminal action against any person or persons, he shall present such evidence to the grand jury, or take such steps for the criminal prosecution of such operator, employees or persons as may seem advisable.

9. Section 14 of P.L.1954, c.197 (C.34:6-98.14) is amended to read as follows:

C.34:6-98.14 Violations, penalties.

14. Any person violating any of the provisions of this act shall be liable to a penalty of not more than \$2,500 for the first offense, not more than \$5,000 for the second offense and not more than \$10,000 for the third and any subsequent offense, 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.). Any person violating any provision of this act which results in serious bodily injury, shall be liable for a penalty of not less than \$100 nor more than \$25,000 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.). Any violation of the act by an officer, agent or employee shall also be a violation of the act by his employer if such employer had knowledge of and actual control over the cause of such violation. Where the violation is of a continuing nature each day during which it continues, after the date given by which the violation must be eliminated in the order by the commissioner, shall constitute an additional separate and distinct offense, except during the time an appeal from said order may be taken or is pending.

The commissioner is hereby authorized and empowered to compromise and settle any claim for a penalty under this section in such amount in the

discretion of the commissioner as may appear appropriate and equitable under all of the circumstances.

10. This act shall take effect immediately.

Approved August 21, 2007.

CHAPTER 156

AN ACT concerning compact fluorescent light bulbs and supplementing Title 52 of the Revised Statutes.

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

C.52:34-6.5 Replacement of incandescent light bulbs with compact fluorescent light bulbs in State-owned buildings.

1. a. Within three years after the date of enactment of this act, notwithstanding the provisions of any other law 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, or any State agency having authority to contract for the purchase of goods or services, as appropriate, shall, whenever possible, replace all incandescent light bulbs used in buildings owned by the State with compact fluorescent light bulbs.

b. Commencing three years after the date of enactment of this act, notwithstanding the provisions of any other law 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, or any State agency having authority to contract for the purchase of goods or services, as appropriate, shall purchase compact fluorescent light bulbs for use in buildings owned by the State to the maximum extent practicable.

2. Within 30 days after the date of enactment of this act, the Board of Public Utilities shall undertake a public education and awareness campaign to inform businesses and homeowners of the benefits of using compact fluorescent light bulbs. In conducting this public education and awareness campaign, the board shall utilize both electronic and print media and any other methods deemed appropriate.

3. This act shall take effect immediately.

Approved August 21, 2007.

CHAPTER 157

AN ACT concerning historic site real property tax exemptions, amending P.L.1962, c.92, and amending and supplementing P.L.2004, c.183.

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

C.54:4-3.54a1 Findings, declarations relative to tax exemptions for certain historic site real property.

1. The Legislature finds and declares:

- a. The decision of the New Jersey Supreme Court on May 30, 2007, in *University Cottage Club of Princeton New Jersey Corp. v. New Jersey Department of Environmental Protection and the Borough of Princeton*, 191 N.J. 38 (2007), which effectively granted to the University Cottage Club real property tax exempt status under the historic site real property tax exemption law, P.L.1962, c.92 (C.54:4-3.52 et seq.), and determined that revised requirements for an historic site real property tax exemption contained in a supplementary law to the 1962 historic site real property tax exemption law, approved by the Legislature and enacted as P.L.2004, c.183 (C.54:4-3.54a et seq.) on December 22, 2004, did not apply to the University Cottage Club, requires the Legislature to clarify its intent in approving that act.

- b. The court's interpretation of the intended effect of P.L.2004, c.183 is contrary to the intent of the Legislature and as a result, corrective legislation removing any question regarding the intent, scope and applicability of that act is necessary and appropriate.

- c. The Legislature intended to preserve the tax exempt status of historic sites that had received tax exempt status from the Commissioner of Environmental Protection prior to enactment of the 2004 law because the owners of those properties relied upon the tax exemption, and municipalities had already removed those properties from their tax rolls. The Legislature intended to apply the standards set forth in P.L.2004, c.183 to historic sites that were not previously certified as tax exempt by the Commissioner of Environmental Protection.

d. It is also important to clarify and expand upon the Legislature's intent to require significant public access to any historic site determined to be eligible for an historic site real property tax exemption, and to require that the nonprofit corporation that owns the historic site must have a primary mission as an historical organization to research, preserve and interpret history and architectural history. It was the Legislature's intent in 2004, and remains the Legislature's intent today, that the granting of property tax exempt status to an historic site, which imposes an additional property tax burden on the residents of the taxing district in which the historic site is located, because the budgetary needs of the taxing district must be fulfilled regardless of the number of taxpaying properties located in the taxing district, must be contingent on the public's ability to regularly use and enjoy the historic site and also understand the history of the historic site through the research, preservation and interpretation of the history of the site, including the site's architectural history, prepared by its nonprofit corporate owner. It was not the intent of the Legislature in 2004, and it is not the intent of the Legislature today, that historic site real property tax exemptions be granted to private clubs and organizations that provide such minimal access and benefit to the public that financially support them that the access and benefit is of nominal or insignificant value to the public.

e. The Commissioner of Environmental Protection erred significantly in relying on informal standards rather than rules and regulations promulgated under the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), to award real property tax exemptions to historic sites; therefore, the Legislature is transferring all authority over the historic site real property tax exemption approval and certification process to the Director of the Division of Taxation in the Department of the Treasury, who has the expertise to administer this real property tax exemption along with the input and participation of municipal tax assessors.

f. It is important to preserve the integrity of the historic site real property tax exemption and so it is necessary and proper to amend the effective date of P.L.2004, c.183 to clarify that the 2004 act is applicable to properties designated as historic sites after July 1, 1999. Of the over 35,000 properties designated as historic sites in New Jersey, only two property owners, applied for real property historic site tax exempt status after July 1, 1999. In P.L.2004, c.183 the Legislature intended that the stricter public access requirements should apply to any historic site that had not been certified to be real property tax exempt prior to the effective date of the law, December 22, 2004.

2. Section 1 of P.L.1962, c.92 (C.54:4-3.52) is amended to read as follows:

C.54:4-3.52 Historic sites; conditions; tax exemption; fee.

1. a. Any building and its pertinent contents and the land whereon it is erected and which may be necessary for the fair enjoyment thereof owned by a nonprofit corporation and which has been certified to be an historic site to the Director of the Division of Taxation in the Department of the Treasury by the Commissioner of Environmental Protection as hereinafter provided shall be exempted from real property taxation by the Director of the Division of Taxation after a determination by the director that the property meets the criteria set forth in section 2 of P.L.2004, c.183 (C.54:4-3.54b).

b. The municipal tax assessor shall annually certify to the Director of the Division of Taxation that each property certified for an historic site real property tax exemption continues to be qualified for its exempt status under the criteria set forth in section 2 of P.L.2004, c.183 (C.54:4-3.54b).

c. The Director of the Division of Taxation, by rule or regulation, shall set an annual fee, to be collected by the municipal assessor from the owner of an historic site that has been granted an historic site real property tax exemption, for the review of the real property tax exemption status of the historic site. The fee shall not exceed \$50 per year and shall be used to offset the cost to the municipal assessor for the review and certification to the director.

3. Section 2 of P.L.1962, c.92 (C.54:4-3.53) is amended to read as follows:

C.54:4-3.53 Certification of historic sites.

2. The Commissioner of Environmental Protection when requested for any such certification and after consultation with and the advice of the Historic Preservation Office within the Department of Environmental Protection shall certify a building to be an historic site whenever he finds such building to have material relevancy to the history of the State and its government warranting its preservation as an historical site and in the event of a restoration, heretofore or hereafter made, such building is or shall be of substantially the same kind, character and description as the original.

4. Section 3 of P.L.1962, c.92 (C.54:4-3.54) is amended to read as follows:

C.54:4-3.54 Cancellation of certification; issuance of new certification.

3. In the event of any substantial change in the building or the premises, such certification as an historic site may be canceled by the commissioner, but no such cancellation shall preclude the issuance of a new certification.

5. Section 1 of P.L.2004, c.183 (C.54:4-3.54a) is amended to read as follows:

C.54:4-3.54a Certain historical properties exempt from taxation; qualifications.

1. After the effective date of P.L.2004, c.183 (C.54:4-3.54a et seq.), any building, its pertinent contents and the land on which it is erected and which may be necessary for the fair enjoyment thereof, owned by a non-profit corporation that: is organized under P.L.1983, c.127 (C.15A:1-1 et seq.); is qualified for tax exempt status under the Internal Revenue Code of 1986, 26 U.S.C. s.501(c) and meets all other State and federal requirements; has a primary mission as an historical organization to research, preserve and interpret history and architectural history; and has been certified to be an historic site by the Commissioner of Environmental Protection, shall be exempt from taxation upon application to, and certification by, the Director of the Division of Taxation in the Department of the Treasury.

6. Section 2 of P.L.2004, c.183 (C.54:4-3.54b) is amended to read as follows:

C.54:4-3.54b Certification of building as historic site; conditions; rules, regulations.

2. a. The Director of the Division of Taxation in the Department of the Treasury shall certify a building to be an historic site qualified for a real property tax exemption whenever the director finds such building to have the following characteristics:

(1) material relevancy to the history of the State and its government warranting its preservation as an historical site;

(2) the building is listed in the New Jersey Register of Historic Places;

(3) in the event of a restoration or rehabilitation, or both, heretofore or hereafter made, such restoration or rehabilitation shall be done in accordance with the United States Secretary of the Interior's Standards for the Treatment of Historic Properties; and

(4) the building is open to the general public and freely available to all people, without discrimination as to race, creed, color or religion, under reasonable terms and conditions, including but not limited to a nominal fee, that would ensure the preservation and maintenance of the site, for a minimum

of 96 days per year. Notwithstanding the foregoing, the building can be open to the public for less than 96 days per year if the building meets the following three qualifications: (a) the nonprofit corporation that owns the building applies to the Director of the Division of Taxation for approval of fewer days; (b) the governing body of the municipality in which the building is located passes a resolution in support of the nonprofit corporation's application for fewer days; and (c) the director determines, based upon the financial resources of the nonprofit corporation, that 96 days is not feasible and approves a fewer number of days. In making this determination the director shall consider at least, but shall not be limited to, the following criteria: the financial condition and resources of the nonprofit corporate owner; whether the request is temporary because of a short-term constraint regarding the public's physical access to the building; whether the property relies on volunteers to manage public access; and the impact upon the public interest in restricting access to the real property tax exempt historic site property.

b. On or before January 30 annually, a nonprofit corporation that owns the building certified as an historic site pursuant to this section shall submit to the municipal tax assessor, the Historic Preservation Office in the Department of Environmental Protection, and the Director of the Division of Taxation a status report that contains the following information:

(1) evidence that the property was open to the public during the preceding calendar year, including proof of public notification or advertisement and a brief summary of visitation statistics;

(2) a copy of any amendments or modifications to the current corporation bylaws;

(3) evidence that the nonprofit corporation that owns the building certified as an historic site has current nonprofit status pursuant to P.L.1983, c.127 (C.15A:1-1 et seq.) and is qualified for tax exempt status under the Internal Revenue Code of 1986, 26 U.S.C. s.501(c);

(4) a brief description of any physical restoration or rehabilitation undertaken in the preceding calendar year, with photographs documenting the current condition of the building; and

(5) a description of any physical restoration or rehabilitation anticipated to be taken in the subsequent calendar year.

c. The Director of the Division of Taxation shall on or before September 15 of each year certify that a property owner and the real property for which an exemption is claimed pursuant to P.L.2004, c.183 (C.54:4-3.54a et seq.) have met all of the qualifications for an historic site real property tax exemption. If an owner and property are not yet qualified for such exemption because the property was not open to the public for at least

the number of days required pursuant to subsection a. of this section by August 31 but is otherwise qualified, the director shall certify the number of days the property was open by August 31, and that the owner and property will be qualified for such exemption if the property is open to the public for at least the required number of days by December 31. The director shall deliver such certification to the property owner and the tax assessor of the taxing district in which the real property is located. In addition to the report required pursuant to subsection b. of this section, on or before August 31 annually, the nonprofit corporation that owns the building certified as an historic site pursuant to this section shall submit to the Historic Preservation Office in the Department of Environmental Protection, the municipal tax assessor, and the Director of the Division of Taxation an interim status report that contains current calendar year information that the director determines is necessary to fulfill the director's obligation pursuant to this subsection.

d. Not later than the first day of the third month next following the effective date of P.L.2007, c.157 (C.54:4-3.54a1 et al.) the Director of the Division of Taxation 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 section and section 1 of P.L.2004, c.183 (C.54:4-3.54a).

7. Section 3 of P.L.2004, c.183 (C.54:4-3.54c) is amended to read as follows:

C.54:4-3.54c Cancellation of certification, notification.

3. Upon the cancellation of a certification as an historic site pursuant to section 3 of P.L.1962, c.92 (C.54:4-3.54), the commissioner shall, no later than the next business day, notify the Director of the Division of Taxation in the Department of the Treasury and the municipal tax assessor wherein the historic site is located, of the cancellation.

8. Section 4 of P.L.2004, c.183 (effective date) is amended to read as follows:

4. This act shall take effect immediately and shall be applicable to any historic site determined to be eligible to receive an historic site real property taxation exemption after July 1, 1999, and to any historic site for which application is made for real property tax exempt status as an historic site after July 1, 1999.

C.54:4-3.54a2 Certain tax exemptions null and void; liability for certain taxes.

9. Any historic site real property tax exemption granted after July 1, 1999 on an historic site that is not in compliance with the provisions of section 2 of P.L.2004, c.183 (C.54:4-3.54b) is null and void, and the owner of the historic site shall be liable for the payment of real property taxes to the taxing district for each tax year during which the historic site property was not in compliance with P.L.2004, c.183 (C.54:4-3.54a et seq.).

10. This act shall take effect immediately.

Approved August 21, 2007.

CHAPTER 158

AN ACT concerning the corruption of public resources and supplementing chapter 27 of Title 2C of the of the New Jersey Statutes.

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

C.2C:27-12 Crime of corruption of public resources; grading.

1. a. A person commits the crime of corruption of public resources if, with respect to a public resource which is subject to an obligation to be used for a specified purpose or purposes, the person knowingly uses or makes disposition of that public resource or any portion thereof for an unauthorized purpose.

(1) If the public resource involved is subject to an obligation to be used to perform or facilitate the performance of a governmental function or public service, corruption of public resources constitutes a crime of the first degree if the amount or value of the public resource involved is \$500,000 or more; the offense constitutes a crime of the second degree if the amount or value involved is \$75,000 or more but is less than \$500,000; and the offense constitutes a crime of the third degree if the amount or value involved is less than \$75,000.

(2) If the public resource involved is not subject to an obligation to be used for a purpose to perform or facilitate the performance of a governmental function or public service, corruption of public resources constitutes a crime of the second degree if the amount or value of the public resource involved is \$500,000 or more; the offense constitutes a crime of the third degree if the amount or value involved is \$75,000 or more but is less than

\$500,000; and the offense constitutes a crime of the fourth degree if the amount or value involved is less than \$75,000.

b. Except as otherwise provided in section 97 of P.L.1999, c.440 (C.2C:21-34), a person commits a crime if he makes a material representation that is false to a government agency, officer or employee (1) with the purpose to obtain or retain a public resource, or (2) with the purpose to mislead or deceive any person as to the use or disposition of a public resource. This offense constitutes a crime of the second degree if the amount or value of the public resource involved is \$500,000 or more; the offense constitutes a crime of the third degree if the amount or value involved is \$75,000 or more but is less than \$500,000; and the offense constitutes a crime of the fourth degree if the amount or value involved is less than \$75,000.

c. For purposes of this section, "public resource" means any funds or property provided by the government, or a person acting on behalf of the government, which shall include but is not limited to: (1) money or the equivalent of money paid by the government directly or indirectly to or on behalf of a person or his employer; (2) transfer by the government of an asset of value for less than fair market price; (3) fees, costs, rents, insurance or bond premiums, loans, interest rates or other obligations that would normally be required in the execution of the contract, that are paid, reduced, charged at less than fair market value, waived, or forgiven by the government; (4) money loaned by the government that is to be repaid on a contingent basis; (5) money loaned by an entity based upon or in accordance with a guarantee provided by the government; (6) grants awarded by the government or an entity acting on behalf of the government; and (7) credits that are applied by the government against repayment obligations to the government. For purposes of this section, a purpose is unauthorized if it is not the specified purpose or purposes for which a public resource is obligated to be used, and the government agency having supervision of or jurisdiction over the person or public resource has not given its approval for such use.

d. Each act of corruption of public resources shall constitute an additional, separate and distinct offense, except that the amounts or values of public resources used for an unauthorized purpose in separate acts of corruption of public resources may be aggregated for the purpose of establishing liability pursuant to this section.

e. Proof that a person made a false statement, prepared a false report or if the government agency having supervision of or jurisdiction over the person or public resource required a report to be prepared, failed to prepare a report concerning the conduct that is the subject of the prosecution, shall give rise to an inference that the actor knew that the public resource was

used for an unauthorized purpose.

f. Nothing in this act shall preclude an indictment and conviction for any other offense defined by the laws of this State.

g. Nothing in this act shall preclude an assignment judge from dismissing a prosecution under this section if the assignment judge determines, pursuant to N.J.S.2C:2-11, the conduct charged to be a de minimis infraction.

2. This act shall take effect immediately.

Approved September 4, 2007.

CHAPTER 159

AN ACT concerning certain criminal penalties and supplementing Title 2C of the New Jersey Statutes.

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

C.2C:30-8 "Public Corruption Profiteering Penalty Act."

1. a. This act shall be known and may be cited as the "Public Corruption Profiteering Penalty Act."

b. In addition to any other disposition authorized by the court, including but not limited to any fines, penalties or assessments which may be imposed pursuant to the provisions of Title 2C of the New Jersey Statutes where a person has been convicted of a crime enumerated in subsection c. of this section or an attempt or conspiracy to commit such crime, the court shall, upon the application of the Attorney General or the county prosecutor, impose a public corruption profiteering penalty in an amount determined pursuant to this section; provided that the trier of fact has found beyond a reasonable doubt that the defendant is guilty of a crime or an attempt or conspiracy to commit a crime involving the negotiation, award, performance or payment of a local, county or State contract as enumerated in subsection c. of this section.

c. The public corruption profiteering penalty set forth in this section may be imposed when a person is convicted of a crime or an attempt or conspiracy to commit a crime involving the negotiation, award, performance or payment of a local, county or State contract, including, but not limited to:

(1) a violation of any of the provisions of chapter 21 of Title 2C of the New Jersey Statutes;

(2) a violation of any of the provisions of chapter 27 of Title 2C of the New Jersey Statutes;

(3) a violation of any of the provisions of chapter 28 of Title 2C of the New Jersey Statutes;

(4) a violation of any of the provisions of chapter 29 of Title 2C of the New Jersey Statutes; or

(5) a violation of any of the provisions of chapter 30 of Title 2C of the New Jersey Statutes.

d. Where the defendant was convicted of any of the crimes enumerated in subsection c. of this section, the court shall assess a public corruption profiteering penalty as follows:

(1) \$500,000 in the case of a crime of the first degree; \$250,000 in the case of a crime of the second degree; \$75,000 in the case of a crime of the third degree; or

(2) an amount equal to three times the value of any property involved in any of the crimes enumerated in subsection c. of this section.

e. Where the prosecution requests that the court assess a public corruption profiteering penalty in an amount calculated pursuant to this section, the court shall take judicial notice of any evidence, testimony or information adduced at trial, plea hearing or other court proceedings and shall also consider the presentence report and other relevant information, including expert opinion in the form of live testimony or by affidavit. The court's findings shall be incorporated in the record, and such findings shall not be subject to modification by an appellate court except upon a showing that the finding was totally lacking support in the record or was arbitrary and capricious.

f. The court shall not revoke or reduce the public corruption profiteering penalty imposed pursuant to this section. A public corruption profiteering penalty imposed pursuant to this section shall not be deemed a fine for purposes of N.J.S.2C:46-3.

g. The court may, for good cause shown, and subject to the provisions of this section, grant permission for the payment of a public corruption profiteering penalty imposed pursuant to this section to be made within a specified period of time or in specified installments, provided however that the payment schedule fixed by the court shall require the defendant to pay the penalty in the shortest period of time consistent with the nature and extent of his assets and his ability to pay, and further provided that the Attorney General or the county prosecutor shall be afforded the opportunity to present evidence or information concerning the nature, extent and location of the defendant's assets or interests in property which are or might be subject to levy and execution. In such event, the court may only grant permis-

sion for the payment to be made within a specified period of time or installments with respect to that portion of the assessed penalty which would not be satisfied by the liquidation of property which is or may be subject to levy and execution, unless the court finds that the immediate liquidation of such property would result in undue hardship to innocent persons. If no permission to make payment within a specified period of time or in installments is embodied in the sentence, the entire penalty shall be payable forthwith.

h. A public corruption profiteering penalty assessed pursuant to this section shall be imposed and paid in addition to any penalty, fine, fee or order for restitution which may be imposed pursuant to Title 2C of the New Jersey Statutes.

i. A public corruption profiteering penalty imposed pursuant to this section shall be in addition to and not in lieu of any forfeiture or other cause of action instituted pursuant to chapter 41 or 64 of Title 2C of the New Jersey Statutes, and nothing in this section shall be construed in any way to preclude, preempt or limit any such cause of action. A defendant shall not be entitled to receive credit toward the payment of a public corruption profiteering penalty imposed pursuant to this section for the value of property forfeited, or subject to forfeiture, pursuant to the provisions of chapter 41 or 64 of Title 2C of the New Jersey Statutes.

j. All public corruption profiteering penalties imposed pursuant to this section shall be docketed and collected as provided for the collection of fines, penalties, fees and restitution in chapter 46 of Title 2C of the New Jersey Statutes. The Attorney General or the county prosecutor may prosecute an action to collect any public corruption profiteering penalties imposed pursuant to this section. All public corruption profiteering penalties assessed pursuant to this section shall be disposed of, distributed, appropriated and used as if the collected penalties were the proceeds of property forfeited pursuant to chapter 64 of Title 2C of the New Jersey Statutes.

2. This act shall take effect immediately.

Approved September 4, 2007.

CHAPTER 160

AN ACT concerning legislative information available to members of the public and amending P.L.1995, c.319.

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

1. Section 1 of P.L.1995, c.319 (C.52:11-78) is amended to read as follows:

C.52:11-78 Legislative information available to public, maintained in electronic form.

1. a. The Office of Legislative Services shall make available to the public and maintain in electronic form the following information:

(1) the most current available compilation of the official text of the statutes of New Jersey;

(2) the text of all bills introduced during the current two-year session of the Legislature, including amended versions, as well as sponsor statements, committee statements, and fiscal notes;

(3) all bills currently pending in the Legislature, listed by subject and sponsor;

(4) bill-tracking data on all bills pending in the Legislature, including the history of actions, current status, a complete voting record, including individual votes by members of the Legislature recorded during committee meetings, updated on a daily basis and made available and maintained for the two-year legislative term in progress and the immediately preceding term, and, where appropriate, by citation of the section of law to be amended by a bill;

(5) a current calendar of legislative events, including the schedule of legislative committee meetings, and a list of bills scheduled for legislative action;

(6) a current directory of the members of the Legislature, including complete committee membership information;

(7) the text of all chapter laws beginning with laws passed by the Legislature after 12:00 noon, January 9, 1996; and

(8) such other information as the Legislative Services Commission shall direct.

b. The information specified in subsection a. of this section shall be made available to the public through the largest nonproprietary cooperative public computer network.

c. The Office of Legislative Services shall not impose a fee or usage charge as a condition of accessing the information specified in subsection a. of this section through the network described in subsection b. of this section.

d. The Office of Legislative Services may offer a fee-based electronic legislative information service which may include, in addition to the infor-

mation specified in subsection a. of this section, the following information and capabilities:

(1) the ability for users to automatically maintain updated private databases and receive notification of scheduled action on specific bills or subject matter;

(2) the ability for users to retrieve information by various means of searching full text; and

(3) archives of bill texts and related information from prior sessions of the Legislature.

e. Nothing contained in this section shall be construed as prohibiting a private individual or entity from using the information specified in subsection a. of this section to provide, either commercially or on a voluntary basis, services similar to those provided by the Office of Legislative Services pursuant to subsection d. of this section.

f. The Office of Legislative Services shall consult with the appropriate office within the executive branch of the State government responsible for computer security and guidelines in order to provide the information specified in subsection a. of this section on the largest nonproprietary cooperative public computer network, and both offices shall take all appropriate security measures, subject to the approval of the Legislative Services Commission or the designee thereof, to protect the computer systems that provide access to and store the information specified in subsection a. of this section.

g. No fee shall be charged to the Office of Legislative Services by the appropriate office within the executive branch of the State government responsible for computer security and guidelines for services rendered related to this act.

2. This act shall take effect immediately and be retroactive to January 10, 2006.

Approved September 4, 2007.

CHAPTER 161

AN ACT concerning persons holding more than one elective public office simultaneously, amending and supplementing chapter 3 of Title 19 of the Revised Statutes and amending N.J.S.40A:9-4.

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

1. R.S.19:3-5 is amended to read as follows:

Incompatible offices, prohibition; qualifications for certain elected offices.

19:3-5. No person shall hold at the same time more than one of the following offices: elector of President and Vice-President of the United States, member of the United States Senate, member of the House of Representatives of the United States, member of the Senate or of the General Assembly of this State, county clerk, register, surrogate or sheriff.

No person shall hold the office of member of the Senate or the General Assembly of this State and, at the same time, hold any other elective public office in this State, except that any person who holds the office of member of the Senate or the General Assembly and, at the same time, holds any other elective public office on the effective date of P.L.2007, c.161 may continue to hold that office of member of the Senate or that office of member of the General Assembly, and may hold that other elective public office at the same time if service in the Senate or the General Assembly and the other elective office are continuous following the effective date of P.L.2007, c.161.

No person shall be elected an elector of President and Vice-President of the United States unless he shall possess the qualifications of a legal voter of the State, shall be of the age of 25 years or upwards and shall have been a citizen of the United States seven years next preceding such election.

No person shall be elected a member of the House of Representatives, or an elector of President and Vice-President who shall hold any office of trust or profit under the United States.

2. N.J.S.40A:9-4 is amended to read as follows:

Dual office holding.

40A:9-4. (1) It shall be unlawful for a person to hold simultaneously an elective county office and an elective municipal office.

(2) It shall be lawful for a member of the Legislature of the State to hold simultaneously any appointive office or position in county or municipal government.

(3) Nothing contained in this section shall be deemed to prevent the incumbent of any office from abstaining from voting in any matter in which the incumbent believes he or she has a conflict of duty or of interest, nor to

prevent a challenge of a right to vote on that account under the principles of the common law or any statute.

(4) a. (Deleted by amendment, P.L.2007, c.161).

b. (Deleted by amendment, P.L.2007, c.161).

c. For the purposes of this section the term "elective office" shall mean an office to which an incumbent is elected by the vote of the general electorate.

(5) Notwithstanding the provision of paragraph (1) of this section, a person who, on the effective date of P.L.2007, c.161, holds simultaneously an elective county office and an elective municipal office may continue to hold the elective offices simultaneously if service in those elective offices is continuous following the effective date of P.L.2007, c.161.

C.19:3-5.2 Holding simultaneously more than one elective public office prohibited; exceptions.

3. a. For elective public office other than as provided in R.S.19:3-5 or N.J.S.40A:9-4, a person elected to public office in this State shall not hold simultaneously any other elective public office.

b. Notwithstanding the provision of subsection a. of this section, a person who holds simultaneously more than one elective public office on the effective date of P.L.2007, c.161 may continue to hold the elective public offices simultaneously if service in those elective public offices is continuous following the effective date of P.L.2007, c.161.

4. This act shall take effect on February 1, 2008.

Approved September 4, 2007.

CHAPTER 162

AN ACT providing unemployment benefits for certain spouses of armed forces members and amending R.S.43:21-5.

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

1. R.S.43:21-5 is amended to read as follows:

Disqualification for benefits.

43:21-5. An individual shall be disqualified for benefits:

(a) For the week in which the individual has left work voluntarily without good cause attributable to such work, and for each week thereafter until the individual becomes reemployed and works four weeks in employment, which may include employment for the federal government, and has earned in employment at least six times the individual's weekly benefit rate, as determined in each case. This subsection shall apply to any individual seeking unemployment benefits on the basis of employment in the production and harvesting of agricultural crops, including any individual who was employed in the production and harvesting of agricultural crops on a contract basis and who has refused an offer of continuing work with that employer following the completion of the minimum period of work required to fulfill the contract.

(b) For the week in which the individual has been suspended or discharged for misconduct connected with the work, and for the five weeks which immediately follow that week, as determined in each case. In the event the discharge should be rescinded by the employer voluntarily or as a result of mediation or arbitration, this subsection (b) shall not apply, provided, however, an individual who is restored to employment with back pay shall return any benefits received under this chapter for any week of unemployment for which the individual is subsequently compensated by the employer.

If the discharge was for gross misconduct connected with the work because of the commission of an act punishable as a crime of the first, second, third or fourth degree under the "New Jersey Code of Criminal Justice," N.J.S.2C:1-1 et seq., the individual shall be disqualified in accordance with the disqualification prescribed in subsection (a) of this section and no benefit rights shall accrue to any individual based upon wages from that employer for services rendered prior to the day upon which the individual was discharged.

The director shall insure that any appeal of a determination holding the individual disqualified for gross misconduct in connection with the work shall be expeditiously processed by the appeal tribunal.

(c) If it is found that the individual has failed, without good cause, either to apply for available, suitable work when so directed by the employment office or the director or to accept suitable work when it is offered, or to return to the individual's customary self-employment (if any) when so directed by the director. The disqualification shall continue for the week in which the failure occurred and for the three weeks which immediately follow that week, as determined:

(1) In determining whether or not any work is suitable for an individual, consideration shall be given to the degree of risk involved to health, safety, and morals, the individual's physical fitness and prior training, ex-

perience and prior earnings, the individual's length of unemployment and prospects for securing local work in the individual's customary occupation, and the distance of the available work from the individual's residence. In the case of work in the production and harvesting of agricultural crops, the work shall be deemed to be suitable without regard to the distance of the available work from the individual's residence if all costs of transportation are provided to the individual and the terms and conditions of hire are as favorable or more favorable to the individual as the terms and conditions of the individual's base year employment.

(2) Notwithstanding any other provisions of this chapter, no work shall be deemed suitable and benefits shall not be denied under this chapter to any otherwise eligible individual for refusing to accept new work under any of the following conditions: the position offered is vacant due directly to a strike, lockout, or other labor dispute; the remuneration, hours, or other conditions of the work offered are substantially less favorable to the individual than those prevailing for similar work in the locality; or, the individual, as a condition of being employed, would be required to join a company union or to resign from or refrain from joining any bona fide labor organization.

(d) If it is found that this unemployment is due to a stoppage of work which exists because of a labor dispute at the factory, establishment or other premises at which the individual is or was last employed.

(1) No disqualification under this subsection (d) shall apply if it is shown that:

(a) The individual is not participating in or financing or directly interested in the labor dispute which caused the stoppage of work; and

(b) The individual does not belong to a grade or class of workers of which, immediately before the commencement of the stoppage, there were members employed at the premises at which the stoppage occurs, any of whom are participating in or financing or directly interested in the dispute; provided that if in any case in which (a) or (b) above applies, separate branches of work which are commonly conducted as separate businesses in separate premises are conducted in separate departments of the same premises, each department shall, for the purpose of this subsection, be deemed to be a separate factory, establishment, or other premises.

(2) For any claim for a period of unemployment commencing on or after December 1, 2004, no disqualification under this subsection (d) shall apply if it is shown that the individual has been prevented from working by the employer, even though the individual's recognized or certified majority representative has directed the employees in the individual's collective bargaining unit to work under the preexisting terms and conditions of em-

ployment, and the employees had not engaged in a strike immediately before being prevented from working.

(e) For any week with respect to which the individual is receiving or has received remuneration in lieu of notice.

(f) For any week with respect to which or a part of which the individual has received or is seeking unemployment benefits under an unemployment compensation law of any other state or of the United States; provided that if the appropriate agency of the other state or of the United States finally determines that the individual is not entitled to unemployment benefits, this disqualification shall not apply.

(g) (1) For a period of one year from the date of the discovery by the division of the illegal receipt or attempted receipt of benefits contrary to the provisions of this chapter, as the result of any false or fraudulent representation; provided that any disqualification may be appealed in the same manner as any other disqualification imposed hereunder; and provided further that a conviction in the courts of this State arising out of the illegal receipt or attempted receipt of these benefits in any proceeding instituted against the individual under the provisions of this chapter or any other law of this State shall be conclusive upon the appeals tribunal and the board of review.

(2) A disqualification under this subsection shall not preclude the prosecution of any civil, criminal or administrative action or proceeding to enforce other provisions of this chapter for the assessment and collection of penalties or the refund of any amounts collected as benefits under the provisions of R.S.43:21-16, or to enforce any other law, where an individual obtains or attempts to obtain by theft or robbery or false statements or representations any money from any fund created or established under this chapter or any negotiable or nonnegotiable instrument for the payment of money from these funds, or to recover money erroneously or illegally obtained by an individual from any fund created or established under this chapter.

(h) (1) Notwithstanding any other provisions of this chapter (R.S.43:21-1 et seq.), no otherwise eligible individual shall be denied benefits for any week because the individual is in training approved under section 236(a)(1) of the "Trade Act of 1974," Pub.L.93-618 (19 U.S.C. s.2296 (a)(1)) nor shall the individual be denied benefits by reason of leaving work to enter this training, provided the work left is not suitable employment, or because of the application to any week in training of provisions in this chapter (R.S.43:21-1 et seq.), or any applicable federal unemployment compensation law, relating to availability for work, active search for work, or refusal to accept work.

(2) For purposes of this subsection (h), the term "suitable" employment means, with respect to an individual, work of a substantially equal or higher skill level than the individual's past adversely affected employment, as defined for purposes of the "Trade Act of 1974," Pub.L.93-618 (19 U.S.C. s.2101 et seq.) and wages for this work at not less than 80% of the individual's average weekly wage, as determined for the purposes of the "Trade Act of 1974."

(i) For benefit years commencing after June 30, 1984, for any week in which the individual is a student in full attendance at, or on vacation from, an educational institution, as defined in subsection (y) of R.S.43:21-19; except that this subsection shall not apply to any individual attending a training program approved by the division to enhance the individual's employment opportunities, as defined under subsection (c) of R.S.43:21-4; nor shall this subsection apply to any individual who, during the individual's base year, earned sufficient wages, as defined under subsection (e) of R.S.43:21-4, while attending an educational institution during periods other than established and customary vacation periods or holiday recesses at the educational institution, to establish a claim for benefits. For purposes of this subsection, an individual shall be treated as a full-time student for any period:

(1) During which the individual is enrolled as a full-time student at an educational institution, or

(2) Which is between academic years or terms, if the individual was enrolled as a full-time student at an educational institution for the immediately preceding academic year or term.

(j) Notwithstanding any other provisions of this chapter (R.S.43:21-1 et seq.), no otherwise eligible individual shall be denied benefits because the individual left work or was discharged due to circumstances resulting from the individual being a victim of domestic violence as defined in section 3 of P.L.1991, c.261 (C.2C:25-19). No employer's account shall be charged for the payment of benefits to an individual who left work due to circumstances resulting from the individual being a victim of domestic violence.

For the purposes of this subsection (j), the individual shall be treated as being a victim of domestic violence if the individual provides one or more of the following:

(1) A restraining order or other documentation of equitable relief issued by a court of competent jurisdiction;

(2) A police record documenting the domestic violence;

(3) Documentation that the perpetrator of the domestic violence has been convicted of one or more of the offenses enumerated in section 3 of P.L.1991, c.261 (C.2C:25-19);

(4) Medical documentation of the domestic violence;
(5) Certification from a certified Domestic Violence Specialist or the director of a designated domestic violence agency that the individual is a victim of domestic violence; or

(6) Other documentation or certification of the domestic violence provided by a social worker, member of the clergy, shelter worker or other professional who has assisted the individual in dealing with the domestic violence.

For the purposes of this subsection (j):

"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; and "designated domestic violence agency" means a county-wide 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 by the Division of Youth and Family Services in the Department of Children and Families and is under contract with the division for the express purpose of providing such services.

(k) Notwithstanding any other provisions of this chapter (R.S. 43:21-1 et seq.), no otherwise eligible individual shall be denied benefits for any week in which the individual left work voluntarily and without good cause attributable to the work, if the individual left work to accompany his or her spouse who is an active member of the United States Armed Forces, as defined in N.J.S.38A:1-1(g), to a new place of residence outside the State, due to the armed forces member's transfer to a new assignment in a different geographical location outside the State, and the individual moves to the new place of residence not more than nine months after the spouse is transferred, and upon arrival at the new place of residence the individual was in all respects available for suitable work. No employer's account shall be charged for the payment of benefits to an individual who left work under the circumstances contained in this subsection (k), except that this shall not be construed as relieving the State of New Jersey and any other governmental entity or instrumentality or nonprofit organization electing or required to make payments in lieu of contributions from its responsibility to make all benefit payments otherwise required by law and from being charged for those benefits as otherwise required by law.

2. This act shall take effect on the 90th day following the date of enactment.

Approved September 10, 2007.

CHAPTER 163

AN ACT concerning uninsured and underinsured motorist coverage and amending P.L.1968, c.385.

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

1. Section 2 of P.L.1968, c.385 (C.17:28-1.1) is amended to read as follows:

C.17:28-1.1 Required coverage; exceptions.

2. a. Except for a basic automobile insurance policy, no motor vehicle liability policy or renewal of such policy of insurance, including a standard liability policy for an automobile as defined in section 2 of P.L.1972, c.70 (C.39:6A-2), insuring against loss resulting from liability imposed by law for bodily injury or death, sustained by any person arising out of the ownership, maintenance or use of a motor vehicle, shall be issued in this State with respect to any motor vehicle registered or principally garaged in this State unless it includes coverage in limits for bodily injury or death as follows:

(1) an amount or limit of \$15,000.00, exclusive of interest and costs, on account of injury to, or death of, one person, in any one accident, and

(2) an amount or limit, subject to such limit for any one person so injured or killed, of \$30,000.00, exclusive of interest and costs, on account of injury to or death of more than one person, in any one accident, under provisions approved by the Commissioner of Banking and Insurance, for payment of all or part of the sums which the insured or his legal representative shall be legally entitled to recover as damages from the operator or owner of an uninsured motor vehicle, or hit and run motor vehicle, as defined in section 18 of P.L.1952, c.174 (C.39:6-78), because of bodily injury, sickness or disease, including death resulting therefrom, sustained by the insured, caused by accident and arising out of the ownership, maintenance, operation or use of such uninsured or hit and run motor vehicle anywhere within the United States or Canada; except that uninsured motorist coverage shall provide that in order to recover for non-economic loss, as defined in section 2 of P.L.1972, c.70 (C.39:6A-2), for accidents to which the benefits of section 4 (C.39:6A-4) of that act apply, the tort option elected pursuant to section 8 (C.39:6A-8) of that act shall apply to that injured person.

All motor vehicle liability policies, except basic automobile insurance policies, shall also include coverage for the payment of all or part of the sums which persons insured thereunder shall be legally entitled to recover as damages from owners or operators of uninsured motor vehicles, other than hit and run motor vehicles, because of injury to or destruction to the personal property of such insured, with a limit in the aggregate for all insurers involved in any one accident of \$5,000.00, and subject, for each insured, to an exclusion of the first \$500.00 of such damages.

b. Uninsured and underinsured motorist coverage shall be provided as an option by an insurer to the named insured electing a standard automobile insurance policy up to at least the following limits: \$250,000.00 each person and \$500,000.00 each accident for bodily injury; \$100,000.00 each accident for property damage or \$500,000.00 single limit, subject to an exclusion of the first \$500.00 of such damage to property for each accident, except that the limits for uninsured and underinsured motorist coverage shall not exceed the insured's motor vehicle liability policy limits for bodily injury and property damage, respectively.

Rates for uninsured and underinsured motorist coverage for the same limits shall, for each filer, be uniform on a Statewide basis without regard to classification or territory.

c. Uninsured and underinsured motorist coverage provided for in this section shall not be increased by stacking the limits of coverage of multiple motor vehicles covered under the same policy of insurance nor shall these coverages be increased by stacking the limits of coverage of multiple policies available to the insured. If the insured had uninsured motorist coverage available under more than one policy, any recovery shall not exceed the higher of the applicable limits of the respective coverages and the recovery shall be prorated between the applicable coverages as the limits of each coverage bear to the total of the limits.

d. Uninsured and underinsured motorist coverage shall be subject to the policy terms, conditions and exclusions approved by the Commissioner of Banking and Insurance, including, but not limited to, unauthorized settlements, non-duplication of coverage, subrogation and arbitration.

e. For the purpose of this section, (1) "underinsured motorist coverage" means insurance for damages because of bodily injury and property damage resulting from an accident arising out of the ownership, maintenance, operation or use of an underinsured motor vehicle. Underinsured motorist coverage shall not apply to an uninsured motor vehicle. A motor vehicle is underinsured when the sum of the limits of liability under all bodily injury and property damage liability bonds and insurance policies

available to a person against whom recovery is sought for bodily injury or property damage is, at the time of the accident, less than the applicable limits for underinsured motorist coverage afforded under the motor vehicle insurance policy held by the person seeking that recovery. A motor vehicle shall not be considered an underinsured motor vehicle under this section unless the limits of all bodily injury liability insurance or bonds applicable at the time of the accident have been exhausted by payment of settlements or judgments. The limits of underinsured motorist coverage available to an injured person shall be reduced by the amount he has recovered under all bodily injury liability insurance or bonds;

(2) "uninsured motor vehicle" means:

(a) a motor vehicle with respect to the ownership, operation, maintenance, or use of which there is no bodily injury liability insurance or bond applicable at the time of the accident;

(b) a motor vehicle with respect to the ownership, operation, maintenance, or use of which there is bodily injury liability insurance in existence but the liability insurer denies coverage or is unable to make payment with respect to the legal liability of its insured because the insurer has become insolvent or bankrupt, or the Commissioner of Banking and Insurance has undertaken control of the insurer for the purpose of liquidation;

(c) a hit and run motor vehicle as described in section 18 of P.L.1952, c.174 (C.39:6-78); or

(d) an automobile covered by a special automobile insurance policy pursuant to section 45 of P.L.2003, c.89 (C.39:6A-3.3).

"Uninsured motor vehicle" shall not include an automobile covered by a basic automobile insurance policy; an underinsured motor vehicle; a motor vehicle owned by or furnished for the regular use of the named insured or any resident of the same household; a self-insurer within the meaning of any financial responsibility or similar law of the state in which the motor vehicle is registered or principally garaged; a motor vehicle which is owned by the United States or Canada, or a state, political subdivision or agency of those governments or any of the foregoing; a land motor vehicle or trailer operated on rails or crawler treads; a motor vehicle used as a residence or stationary structure and not as a vehicle; or equipment or vehicles designed for use principally off public roads, except while actually upon public roads.

f. Notwithstanding the provisions of this section or any other law to the contrary, a motor vehicle liability policy or renewal of such policy of insurance, insuring against loss resulting from liability imposed by law for bodily injury or death, sustained by any person arising out of the ownership, maintenance or use of a motor vehicle, issued in this State to a corpo-

rate or business entity with respect to any motor vehicle registered or principally garaged in this State, shall not provide less uninsured or underinsured motorist coverage for an individual employed by the corporate or business entity than the coverage provided to the named insured under the policy. A policy that names a corporate or business entity as a named insured shall be deemed to provide the maximum uninsured or underinsured motorist coverage available under the policy to an individual employed by the corporate or business entity, regardless of whether the individual is an additional named insured under that policy or is a named insured or is covered under any other policy providing uninsured or underinsured motorist coverage.

2. This act shall take effect immediately.

Approved September 10, 2007.

CHAPTER 164

AN ACT concerning handicapped parking spaces and amending R.S.39:4-198.

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

1. R.S.39:4-198 is amended to read as follows:

Notice of ordinance, resolution or regulation by signs.

39:4-198. No ordinance, resolution or regulation enacted, passed, or adopted by local authorities nor any regulation adopted by the Commissioner of Transportation under any power given by this chapter or any supplement thereto shall be effective unless due notice thereof is given to the public by placing a sign at the places where the ordinance, resolution or regulation is effective, and by briefing its provisions on signs according to specifications contained in this chapter or as specified by the current Manual on Uniform Traffic Control Devices for streets and highways. These signs shall be so placed as to be easily read by pedestrians or operators of vehicles. Except, in the case of "No Passing" zones, in lieu of or in addition to signs, notice shall be given to the public by highway pavement markings which conform to the current Manual on Uniform Traffic Control Devices for streets and highways.

In addition to the specifications in the Manual on Uniform Traffic Control Devices, any sign erected after the effective date of this amendatory and supplementary act to notify the public that parking in a space is reserved for the handicapped shall also state the penalties set forth in paragraph c. of subsection (3) of R.S.39:4-197 which may be imposed for a violation. Signs which were erected prior to the effective date shall be modified within 12 months after the effective date to include the penalty information.

It shall not be a defense to the unauthorized use of a parking space reserved for the handicapped pursuant to R.S.39:4-138 that the penalties set forth in paragraph c. of subsection (3) of R.S.39:4-197 were not posted or were improperly posted.

2. This act shall take effect immediately.

Approved September 10, 2007.

CHAPTER 165

AN ACT concerning condominium associations, amending P.L.1969, c.257 and validating certain master deed and bylaws provisions.

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

1. Section 15 of P.L.1969, c.257 (C.46:8B-15) is amended to read as follows:

C.46:8B-15 Powers of association.

15. Subject to the provisions of the master deed, the bylaws, rules and regulations and the provisions of this act or other applicable law, the association shall have the following powers:

(a) Whether or not incorporated, the association shall be an entity which shall act through its officers and may enter into contracts, bring suit and be sued. If the association is not incorporated, it may be deemed to be an entity existing pursuant to this act and a majority of the members of the governing board or of the association, as the case may be, shall constitute a quorum for the transaction of business. Process may be served upon the association by serving any officer of the association or by serving the agent

designated for service of process. Service of process upon the association shall not constitute service of process upon any individual unit owner.

(b) The association shall have access to each unit from time to time during reasonable hours as may be necessary for the maintenance, repair or replacement of any common elements therein or accessible therefrom or for making emergency repairs necessary to prevent damage to common elements or to any other unit or units. The association may charge the unit owner for the repair of any common element damaged by the unit owner or his tenant.

(c) The association may purchase units in the condominium and otherwise acquire, hold, lease, mortgage and convey the same. It may also lease or license the use of common elements in a manner not inconsistent with the rights of unit owners.

(d) The association may acquire or enter into agreements whereby it acquires leaseholds, memberships or other possessory or use interests in lands or facilities including, but not limited to country clubs, golf courses, marinas and other recreational facilities, whether or not contiguous to the condominium property, intended to provide for the enjoyment, recreation or other use or benefit of the unit owners. If fully described in the master deed or bylaws, the fees, costs and expenses of acquiring, maintaining, operating, repairing and replacing any such memberships, interests and facilities shall be common expenses. If not so described in the master deed or bylaws as originally recorded, no such membership interest or facility shall be acquired except pursuant to amendment of or supplement to the master deed or bylaws duly adopted as provided therein and in this act. In the absence of such amendment or supplement, if some but not all unit owners desire any such acquisition and agree to assume among themselves all costs of acquisition, maintenance, operation, repair and replacement thereof, the association may acquire or enter into an agreement to acquire the same as limited common elements appurtenant only to the units of those unit owners who have agreed to bear the costs and expenses thereof. Such costs and expenses shall be assessed against and collected from the agreeing unit owners in the proportions in which they share as among themselves in the common expenses in the absence of some other unanimous agreement among themselves. No other unit owner shall be charged with any such cost or expense; provided, however, that nothing herein shall preclude the extension of the interests in such limited common elements to additional unit owners by subsequent agreement with all those unit owners then having an interest in such limited common elements.

(e) The association may levy and collect assessments duly made by the association for a share of common expenses or otherwise, including any

other moneys duly owed the association, upon proper notice to the appropriate unit owner, together with interest thereon, late fees and reasonable attorneys' fees, if authorized by the master deed or bylaws.

All funds collected by an association shall be maintained separately in the association's name. For investment purposes only, reserve funds may be commingled with operating funds of the association. Commingled operating and reserve funds shall be accounted for separately, and a commingled account shall not, at any time, be less than the amount identified as reserve funds. A manager or business entity managing a condominium, or an agent, employee, officer, or director of an association, shall not commingle any association funds with his or her funds or with the funds of any other condominium association or the funds of another association as defined in section 3 of P.L.1977, c.419 (C.45:22A-23).

If authorized by the master deed or bylaws, the association may levy and collect a capital contribution, membership fee or other charge upon the initial sale or subsequent resale of a unit, which collection shall be earmarked for the purpose of maintenance of or improvements to common elements to defray common expenses or otherwise, provided that such charge shall not exceed nine times the amount of the most recent monthly common expense assessment for that unit.

(f) If authorized by the master deed or bylaws, the association may impose reasonable fines upon unit owners for failure to comply with provisions of the master deed, bylaws or rules and regulations, subject to the following provisions:

A fine for a violation or a continuing violation of the master deed, bylaws or rules and regulations shall not exceed the maximum monetary penalty permitted to be imposed for a violation or a continuing violation under section 19 of the "Hotel and Multiple Dwelling Law," P.L.1967, c.76 (C.55:13A-19).

On roads or streets with respect to which Title 39 of the Revised Statutes is in effect under section 1 of P.L.1945, c.284 (C.39:5A-1), an association may not impose fines for moving automobile violations.

A fine shall not be imposed unless the unit owner is given written notice of the action taken and of the alleged basis for the action, and is advised of the right to participate in a dispute resolution procedure in accordance with subsection (k) of section 14 of P.L.1969, c.257 (C.46:8B-14). A unit owner who does not believe that the dispute resolution procedure has satisfactorily resolved the matter shall not be prevented from seeking a judicial remedy in a court of competent jurisdiction.

(g) Such other powers as may be set forth in the master deed or by-laws, if not prohibited by P.L.1969, c.257 (C.46:8B-1 et seq.) or any other law of this State.

2. Any master deed or bylaws provision providing for the imposition and collection of a capital contribution, membership fee or other charge upon the resale or transfer of units prior to the effective date of this act is hereby validated.

3. This act shall take effect immediately.

Approved September 10, 2007.

CHAPTER 166

AN ACT concerning vehicle protection product warranties and supplementing P.L.1960, c.39 (C.56:8-1 et seq.) and chapter 18 of Title 17 of the Revised Statutes.

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

C.17:18-19 Definitions relative to vehicle protection product warranties.

1. As used in this act:

"Administrator" means a third party, other than the warrantor, who is designated by the warrantor to be responsible for the administration of vehicle protection product warranties.

"Incidental costs" means losses and expenses that are specified in the vehicle protection product warranty and are incurred by the warranty holder relating to the failure of the vehicle protection product to perform as provided in the warranty. Incidental costs may include, but are not limited to, insurance policy deductibles, rental vehicle charges, the difference between the actual value of the stolen vehicle at the time of theft and the cost of a replacement vehicle, sales taxes, registration fees, transaction fees and mechanical inspection fees.

"Vehicle protection product" means a vehicle protection device, system or service that:

(a) is installed on or applied to a vehicle;

(b) is designed to prevent loss or damage to a vehicle from a specific cause or to facilitate the recovery of the vehicle after it has been stolen; and

(c) includes a written warranty by a warrantor that provides if the vehicle protection product fails to prevent loss or damage to a vehicle from a specific cause or to facilitate the recovery of the vehicle after it has been stolen, the warranty holder shall be paid specified incidental costs by the warrantor as a result of the failure of the vehicle protection product to perform pursuant to the terms of the warranty.

The term does not include a vehicle protection device, system, or service that is installed on or applied to a vehicle by the vehicle manufacturer at the vehicle assembly facility. Vehicle protection products include, but are not limited to, alarm systems, body part marking products, steering locks, window etch products, pedal and ignition locks, fuel and ignition kill switches and electronic, radio and satellite tracking devices.

"Vehicle protection product warrantor" or "warrantor" means a person who is contractually obligated to the warranty holder under the terms of the vehicle protection product warranty. Warrantor does not include a licensed or eligible insurer.

"Warranty reimbursement insurance policy" means a policy of insurance issued to a vehicle protection product warrantor to provide reimbursement to the warrantor under the terms of the insured warrantor's vehicle protection product warranty, and to pay on behalf of the warrantor, in the event of the warrantor's nonperformance, all covered obligations incurred by the warrantor under the terms of the warrantor's vehicle protection product warranty. A licensed or eligible insurer that has filed its policy form with the Department of Banking and Insurance shall issue the warranty reimbursement insurance policy.

C.17:18-20 Requirements for issuance of vehicle protection product warranty.

2. A vehicle protection product warranty offered or issued in this State shall:

- a. Identify the warrantor, the seller, the warranty holder and the terms of the sale;
- b. Conspicuously and in plain English set forth in writing the obligations of the warrantor to the warranty holder, and state that those obligations are guaranteed under a warranty reimbursement insurance policy;
- c. Conspicuously state that if the payment due under the terms of the warranty is not provided by the warrantor within sixty days after proof of loss has been filed pursuant to the terms of the warranty by the warranty holder, the warranty holder may file directly with the warranty reimbursement insurance company for reimbursement;

d. Conspicuously state the name and address of the company issuing the warranty reimbursement insurance policy and, if different, the complete address at which a claim may be filed; and

e. Contain a disclosure that reads substantially as follows:
THIS AGREEMENT IS A PRODUCT WARRANTY, NOT INSURANCE,
AND IS UNDER THE PURVIEW OF THE DIVISION OF CONSUMER
AFFAIRS.

C.17:18-21 Registration for warrantor required.

3. a. A person may not operate as a warrantor or represent to the public that the person is a warrantor unless the person is registered with the Director of the Division of Consumer Affairs, in such manner as the director deems appropriate, and:

(1) Maintains and has filed with the director a copy of a warranty reimbursement insurance policy which states that:

(a) The company issuing the warranty reimbursement insurance policy will reimburse or pay on behalf of the vehicle protection product warrantor all incidental costs or will provide the service that the warrantor is legally obligated to perform according to the warrantor's contractual obligations under the vehicle protection product warranty; and

(b) If the payment due under the terms of the warranty is not provided by the warrantor within sixty days after proof of loss has been filed according to the terms of the warranty by the warranty holder, the warranty holder may file for reimbursement directly with the company issuing the warranty reimbursement insurance policy and the insurer shall make reimbursement or provide the service required by the warranty directly to the warranty holder; and

(2) Has filed a copy of the warranties used by the warrantor in this State and a copy of the warranty reimbursement insurance policy with the director.

b. The director shall require warrantors to register annually, and to update their registration, the form of warranty, or the warranty reimbursement insurance policy, within 30 days of any change. The registration form shall contain:

(1) The warrantor's name, and any assumed name under which the warrantor does business in the State;

(2) The warrantor's principal office address and telephone number;

(3) The name, address, and telephone number of all administrators designated by the warrantor to be responsible for the administration of vehicle protection product warranties in this State; and

(4) The name, address, and telephone number of the insurance company providing the warranty reimbursement insurance policy coverage.

c. The information required to be provided in the registration form shall be made available to the public.

d. The director shall impose a fee on each registered warrantor to defray the costs of administering the provisions of P.L.2007, c.166 (C.17:18-19 et al.), in the amount of \$1,000 annually. Beginning 12 months after the effective date of P.L.2007, c.166 (C.17:18-19 et al.), and annually thereafter, the director may modify the amount of the fee imposed pursuant to this subsection, which amount shall not exceed \$2,000, to reflect the division's actual costs of administration.

C.56:8-167 Sale, offer of vehicle protection product by unregistered warrantor, person, deemed unlawful practice.

4. a. It shall be an unlawful practice for a person to sell, or offer for sale, a vehicle protection product with a warranty issued by a warrantor that is not registered pursuant to P.L.2007, c.166 (C.17:18-19 et al.).

b. It shall be an unlawful practice for a person who is not registered pursuant to section 3 of P.L.2007, c.166 (C.17:18-21) to offer or issue a vehicle protection product warranty.

C.17:18-22 Conditions for express warranty.

5. A vehicle protection product warranty issued by the warrantor of a vehicle protection product does not constitute a contract substantially amounting to insurance or its issuance the business of insurance under Title 17 of the Revised Statutes and is an express warranty, if all of the following conditions are met:

a. The warranty is limited to indemnifying the warranty holder for incidental costs which may be reimbursed under the provisions of the warranty in either a fixed amount specified in the warranty or sales agreement or by the use of a formula itemizing specific incidental costs incurred by the warranty holder;

b. The warranty meets all the requirements set forth in section 2 of P.L.2007, c.166 (C.17:18-20), including, but not limited to, being guaranteed by a warranty reimbursement insurance policy; and

c. The warrantor meets all the requirements set forth in section 3 of P.L.2007, c.166 (C.17:18-21).

C.17:18-23 Registration not required for nonwarrantor.

6. An administrator or person who sells or solicits a sale of a vehicle protection product, but who is not a warrantor, shall not be required to register as a warrantor or be licensed under the insurance laws of this State to sell vehicle protection products.

C.17:18-24 Vehicle protection product not required for sale, financing.

7. A warrantor or seller of vehicle protection products shall not require, as a condition of sale or financing, a retail purchaser of a motor vehicle to purchase a vehicle protection product that is not installed on the motor vehicle at the time of sale.

C.17:18-25 Noncompliance prior to effective date.

8. The failure of a warrantor or other person to comply with P.L.2007, c.166 (C.17:18-19 et al.), or otherwise to administer a vehicle protection product in the manner required by P.L.2007, c.166 (C.17:18-19 et al.), before its effective date is not admissible in any court, administrative, arbitration, or alternative dispute resolution proceeding and may not otherwise be used to prove that the action of any person or the affected vehicle protection product was unlawful or otherwise improper.

C.17:18-26 Violation, unlawful practice.

9. A violation of the provisions of P.L.2007, c.166 (C.17:18-19 et al.) shall be an unlawful practice and a violation of P.L.1960, c.39 (C.56:8-1 et seq.).

10. This act shall take effect on the first day of the seventh month after enactment, provided, however, that it shall only apply to vehicle protection products purchased on or after such date, and that vehicle protection products purchased before such date and subsequently transferred to another consumer on or after such date are not required to comply with the provisions of this act, but the Director of the Division of Consumer Affairs may take such anticipatory acts in advance of that date as may be necessary for the timely implementation of this act.

Approved September 10, 2007.

CHAPTER 167

AN ACT concerning applications for inclusion in the longshoremen's register and amending P.L.1966, c.18.

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

1. Section 2(5-p) of P.L.1966, c.18 (C.32:23-114) is amended to read as follows:

C.32:23-114 Longshoremen's register.

2. 5-p. The commission shall accept applications for inclusion in the longshoremen's register: (a) upon the joint recommendation in writing of stevedores and other employers of longshoremen in the Port of New York District, acting through their representative for the purposes of collective bargaining with a labor organization representing such longshoremen in such district, and such labor organization; or (b) upon the petition in writing of a stevedore or other employer of longshoremen in the Port of New York District which does not have a representative for the purposes of collective bargaining with a labor organization representing such longshoremen.

2. If any part or provision of this act or the application thereof to any person or circumstances be adjudged invalid by any court of competent jurisdiction, such judgment shall be confined in its operation to the part, provision or application directly involved in the controversy in which such judgment shall have been rendered and shall not affect or impair the validity of the remainder of this act or the application thereof to other persons or circumstances and the two states hereby declare that they would have entered into this act or the remainder thereof had the invalidity of such provisions or application thereof been apparent.

3. This act constitutes an agreement between the states of New Jersey and New York, supplementary to the waterfront commission compact and amendatory thereof, and shall be liberally construed to effectuate the purposes of that compact and the powers vested in the waterfront commission hereby shall be construed to be in aid of and supplemental to and not in limitation of or in derogation of any of the powers heretofore conferred upon or delegated to the waterfront commission.

4. This act shall take effect immediately but shall remain inoperative until the enactment into law by the State of New York of legislation of substantially similar substance and effect; but if such legislation already has been enacted, this act shall take effect immediately.

Approved September 10, 2007.

CHAPTER 168

AN ACT concerning medical research and treatment of autism, amending and supplementing P.L.1999, c.105 and amending P.L.2001, c.338 and P.L.2003, c.144.

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

1. Section 1 of P.L.1999, c.105 (C.30:6D-56) is amended to read as follows:

C.30:6D-56 Short title.

1. This act shall be known and may be cited as the "New Jersey Autism Biomedical Research Act."

2. Section 2 of P.L.1999, c.105 (C.30:6D-57) is amended to read as follows:

C.30:6D-57 Findings, declarations relative to autism.

2. The Legislature finds and declares that:

a. Autism and autism spectrum disorders are biologically-based developmental disorders which cause severe impairments in language and communication and generally manifest in young children sometime during the first two years of life, and the devastation caused by autism lasts a lifetime due to the emotional and financial distress that families experience from the intense support which most individuals with autism require throughout their lives;

b. With three quarters of those with autism spending their adult lives in institutions or group homes, and usually entering institutions by the age of 13, the cost of caring for individuals with autism and autism spectrum disorders is great, and is estimated to be \$.5 billion per year in the State, solely for direct costs;

c. According to the federal Centers for Disease Control and Prevention, or CDC, one of every 94 children in this State has autism, which is the highest rate among the states examined by the CDC in the most comprehensive study of the prevalence of autism to date;

d. While autism is the third most common developmental disorder and is more prevalent than Down's syndrome, childhood cancer or cystic fibrosis, autism research receives less than 5% of the funding of these other diseases from the federal government and to date little biomedical research has been done on this disorder, despite the fact that scientists consider autism to be one of the most heritable of all the developmental disorders and the most likely to yield to the latest scientific advancements in genetics and neurology;

e. The lack of research was due to 40 years of neglect of autism by the scientific community, arising from the formerly widespread but now discredited belief that autism was an emotional disorder caused by faulty

parenting, and thus, few dollars were allocated to researchers, leaving an entire generation of children to be overlooked; however, the rapid advancements in biomedical science suggest that effective treatment and a cure for autism are attainable, if sufficient dollars are allocated to research so that another generation of children in the State is not lost to this disorder;

f. While promising findings in the field of autism research have been made in recent years, the diverse symptoms and etiology of autism require a high level of activity in the widest variety of scientific fields, from genetics and neurology to neuroimaging, immunology and gastroenterology, if effective treatments and a cure are to be found quickly;

g. Other states such as New York, Connecticut and Maryland have nationally recognized centers for researching and treating autism that attract significant funding from private sources and the National Institutes of Health, but since New Jersey lacks such centers, the State is unable to attract comparable funding, despite the presence of highly regarded medical facilities in the State such as Robert Wood Johnson University Hospital and Hackensack University Medical Center, as well as a higher education medical institution such as the University of Medicine and Dentistry of New Jersey;

h. The State's substantial pharmaceutical industry would benefit from having medical centers dedicated to autism research and treatment by gaining access to families for clinical trials and by enabling easy collaboration between public and private scientists; and

i. Legislation has been introduced in the United States Congress which, if passed, will increase the level of federal funding for biomedical research on autism; however, in order for State researchers to be eligible for these dollars, funding must be made available for State researchers to carry out preliminary pilot studies.

3. Section 3 of P.L.1999, c.105 (C.30:6D-58) is amended to read as follows:

C.30:6D-58 Definitions relative to autism.

3. As used in this act:

"Autism" includes autism spectrum disorders to the extent determined by the council to be appropriate.

"Center" means the Center of Excellence for Autism established pursuant to this act.

"Council" means the "Governor's Council for Medical Research and Treatment of Autism" established pursuant to this act.

4. Section 4 of P.L.1999, c.105 (C.30:6D-59) is amended to read as follows:

C.30:6D-59 "Governor's Council for Medical Research and Treatment of Autism."

4. a. There is established in the Department of Health and Senior Services, the "Governor's Council for Medical Research and Treatment of Autism." The council shall be composed of 14 members as follows: seven persons to be appointed by the Governor, two of whom shall be members of the public who do not occupy a leadership position in any of the organizations represented on the council, of which two members one shall be a person with a diagnosis of autism or autism spectrum disorder or the family member of such a person, four of whom shall be appointed in consultation with the presidents of academic institutions in this State that are engaged in autism research, and one of whom shall be a representative of a health care organization with demonstrated clinical expertise in the evaluation and treatment of autism spectrum disorders; one person to be appointed by the President of the Senate and one person to be appointed by the Speaker of the General Assembly; one person to be appointed by the Commissioner of Health and Senior Services; and four persons, also to be appointed by the Governor, who represent autism organizations in New Jersey, each of whom shall represent no more than one such organization.

b. At its first meeting of each calendar year, the council shall select, by a simple majority of the members present, a chairperson from among its members, who shall serve as the chairperson until the first meeting held in the next calendar year, at which time the same person may be selected as chairperson or a new chairperson may be selected in the same manner. The members of the council shall serve for three-year terms. Each member shall hold office for the term of appointment and until a successor is appointed and qualified. All vacancies shall be filled in the same manner as the original appointment. Members appointed to fill a vacancy occurring for any reason other than the expiration of the term shall serve for the unexpired term only. The members of the council shall be eligible for reappointment.

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

d. A majority of the members of the council shall constitute a quorum, but a lesser number may hold hearings.

e. The council shall meet periodically at the call of the chairperson, but not less than four times in each calendar year.

f. The Commissioner of Health and Senior Services, in consultation with the council, shall appoint a director of the council. The director shall be a person qualified by training and experience to perform the duties of that position. The director at the direction of the council, may call upon the commissioner for additional staff assistance and resources as appropriate.

5. Section 5 of P.L.1999, c.105 (C.30:6D-60) is amended to read as follows:

C.30:6D-60 Center of Excellence for Autism.

5. a. The council shall make awards of grants and contracts to public and nonprofit private entities to pay all or part of the cost of planning, establishing, improving and providing basic operating support for a Center of Excellence for Autism in the State where basic and applied biomedical research, diagnosis and treatment for autism shall take place.

b. The council shall define the scope of the programs to be undertaken at the center with the understanding that the center shall conduct:

(1) basic and clinical research into the cause, diagnosis, early detection, prevention, control and treatment of autism, including research in the fields of developmental neurobiology, genetics, psychopharmacology, neuroimaging, immunology, infectious diseases, gastroenterology and endocrinology;

(2) training programs on biomedical treatments, diagnosis and prevention for autism for physicians, scientists and other health care and allied health care professionals in the State; and

(3) information and continuing educational programs on the latest advances in biomedical research on autism for physicians and other health care and allied health care professionals who provide care for patients with autism in the State.

c. The center may carry out programs to make individuals in the State aware of opportunities to participate as subjects in research conducted by the center. The program may provide fees to these subjects. The program may, in accordance with guidelines established by the council, provide to these subjects health care, referrals for health and other services and such incidental services as will facilitate the participation of individuals as subjects.

d. The center may provide stipends for health care professionals enrolled in training programs established under paragraph (2) of subsection b. of this section.

e. The council may require the periodic preparation of reports on the activities of the center and the submission of the reports to the council.

f. The center shall use the facilities of a single medical facility or higher education medical institution, or be formed from a consortium of cooperating facilities or institutions, and shall meet any requirements as may be prescribed by the council, with the understanding that the work carried out at the center shall be comprehensive and fully collaborative.

6. Section 6 of P.L.1999, c.105 (C.30:6D-61) is amended to read as follows:

C.30:6D-61 Duties of council, director.

6. The council shall provide guidance and direction to the director of the council, who shall be responsible for the following duties:

a. Carry out a program to provide information and education on advances in the diagnosis and biomedical treatment of autism to families in the State with autistic members and to the general public;

b. Establish a five-member Scientific Advisory Committee whose members shall serve at the pleasure of the council. The members of the committee shall include: three biomedical research scientists with demonstrated achievements in biomedical research relating to autism; and two medical clinicians whose practice is primarily devoted to the treatment of individuals with autism. The committee shall identify and make recommendations to the council regarding grants for the most promising pilot studies for biomedical research, diagnosis and treatment for autism and autism spectrum disorders;

c. Present the recommendations of the Scientific Advisory Committee to the council, which shall select the final grants for pilot studies;

d. Establish mechanisms to use the results of biomedical research on autism and autism spectrum disorders, conducted at the center and through the pilot studies in the development of policies and programs to improve the outcomes of individuals in the State with these disorders;

e. Establish a mechanism for the sharing of information among researchers and clinicians in the State conducting biomedical research on autism and autism spectrum disorders;

f. Provide for a mechanism that would permit the public to obtain information on the existing and planned programs and activities being conducted through the center and the pilot studies, and the council to receive comments from the public regarding these programs and activities;

g. Continually seek and apply for funding to supplement and eventually replace the moneys provided pursuant to subsection f. of R.S.39:5-41; and

h. Report not later than March 1 of each year to the Governor and,

pursuant to section 2 of P.L.1991, c.164 (C.52:14-19.1), to the Legislature on the status of the Center of Excellence for Autism and other activities of the council.

C.30:6D-58.1 References to Council.

7. Whenever the term "Governor's Council for Medical Research and Treatment of Infantile Autism" occurs or any reference is made thereto in any law, contract or document, the same shall be deemed to mean or refer to the "Governor's Council for Medical Research and Treatment of Autism."

8. Section 1 of P.L.2001, c.338 (C.30:6D-62.1) is amended to read as follows:

C.30:6D-62.1 Annual appropriation to Governor's Council for Medical Research and Treatment of Autism.

1. Beginning in Fiscal Year 2001 and in each fiscal year thereafter, the Governor shall recommend and the Legislature shall appropriate \$1,500,000 from the General Fund to the Governor's Council for Medical Research and Treatment of Autism established pursuant to P.L.1999, c.105 (C.30:6D-56 et seq.).

9. Section 1 of P.L.2003, c.144 (C.30:6D-62.2) is amended to read as follows:

C.30:6D-62.2 "Autism Medical Research and Treatment Fund" established.

1. a. There is established in the Department of the Treasury a nonlapsing fund to be known as the "Autism Medical Research and Treatment Fund." This fund shall be the repository for moneys provided pursuant to subsection f. of R.S.39:5-41. Moneys deposited in the fund, and any interest earned thereon, shall be allocated to the Governor's Council for Medical Research and Treatment of Autism established pursuant to P.L.1999, c.105 (C.30:6D-56 et seq.), to support grants and contracts awarded under subsection a. of section 5 of P.L.1999, c.105 (C.30:6D-60), and any grants for pilot studies selected under subsection c. of section 6 of P.L.1999, c.105 (C.30:6D-61), provided that, if federal funds are available for the purpose, the grantee or contractor shall, as a condition of receiving any such grant or contract from the fund, apply for an amount of federal funds in support of that grant or contract.

b. Any costs incurred by the department in the collection or administration of the fund may be deducted from the funds deposited therein, as determined by the Director of the Division of Budget and Accounting.

10. This act shall take effect immediately.

Approved September 12, 2007.

CHAPTER 169

AN ACT establishing the Asperger's Syndrome Pilot Initiative 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-62.3 Findings, declarations relative to Asperger's Syndrome.

1. The Legislature finds and declares that:
 - a. Asperger's Syndrome is a Pervasive Developmental Disorder often characterized by autistic-like behaviors and marked by deficiencies in social and communication skills;
 - b. Children with Asperger's Syndrome tend to be self-absorbed, have difficulty making friends, are often preoccupied with their own interests and easily become the victims of teasing or bullying;
 - c. The best studies conducted to date indicate that Asperger's Syndrome is five to six times more common than classic autism;
 - d. Those with the disorder are often misdiagnosed with other neurological disorders such as Attention Deficit and Hyperactivity Disorders or Obsessive Compulsive Disorder;
 - e. Although those with Asperger's Syndrome have a better prognosis than those with other Pervasive Developmental Disorders, people with Asperger's Syndrome often continue to demonstrate difficulties in social interactions well into their adult lives and face an increased risk of developing psychosis, depression and anxiety;
 - f. Persons with Asperger's Syndrome who are diagnosed and treated early have an increased chance of living independently and leading healthy, productive lives;
 - g. Because individuals evidencing this syndrome may have normal to superior intelligence, and do not always evidence significant functional impairments across a range of life skills, they may not be eligible for services from the Division of Developmental Disabilities in the Department of Human Services;

h. The range of support needs for persons with Asperger's Syndrome typically includes: social skills training; social supports, including supported employment; housing supports; and psychiatric and psychological services for the treatment of Obsessive Compulsive Disorder and other neurological disorders; and

i. The public policy of this State should seek to provide a vehicle to address the needs of those who suffer from Asperger's Syndrome through the establishment of a demonstration program that provides vocational, educational and social training services to individuals with this disorder.

C.30:6D-62.4 Asperger's Syndrome Pilot Initiative established in DHS.

2. The Commissioner of Human Services shall establish the Asperger's Syndrome Pilot Initiative in the Department of Human Services.

a. The purpose of the initiative shall be to provide vocational, educational and social training services to persons with Asperger's Syndrome, through community-based service sites, which offer these individuals appropriate support, guidance and education to enable them to: further their education, achieve gainful employment, develop meaningful friendships, and become broadly competent adults who are able to lead fulfilling lives.

b. The commissioner shall contract with one or more entities to make services available Statewide under the initiative.

c. The initiative shall provide services, through an individualized approach to instruction and support for persons with Asperger's Syndrome, which address a comprehensive range of support needs for these individuals, including, at a minimum: social skills training; social supports, including supported employment; housing supports; and psychiatric and psychological services for the treatment of Obsessive Compulsive Disorder and other neurological disorders.

d. The commissioner shall report to the Governor, and to the Legislature pursuant to section 2 of P.L.1991, c.164 (C.52:14-19.1), on the initiative no later than two years after the date that it commences operations, and shall include in that report a detailed summary of its activities, an assessment of its cost-effectiveness, and any recommendations that the commissioner desires to make for the extension, expansion, modification or termination of the initiative.

3. The Commissioner of Human Services, pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), shall adopt rules and regulations to effectuate the purposes of this act.

4. This act shall take effect on the 180th day after enactment, except that the Commissioner of Human Services may take such anticipatory administrative action in advance as shall be necessary for the implementation of the act.

Approved September 12, 2007.

CHAPTER 170

AN ACT concerning the reporting of autism diagnoses, supplementing Title 26 of the Revised Statutes, and making an appropriation.

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

C.26:2-185 Findings, declarations relative to reporting of autism diagnoses.

1. The Legislature finds and declares that:

a. Autism is a developmental disorder of brain function which is typically manifested in impaired social interaction, problems with verbal and nonverbal communication and imagination, and unusual or severely limited activities and interests. These symptoms generally appear during the first three years of childhood and continue throughout life, often taking devastating emotional and financial tolls on the family of the autistic child;

b. According to the federal Centers for Disease Control and Prevention, or CDC, one of every 94 children in this State has autism, which is the highest rate among the states examined by the CDC in the most comprehensive study of the prevalence of autism to date;

c. There is a clear need for greater accuracy in reporting as well as for information on the epidemiologic data on the incidence and prevalence of autism in this State; and

d. The State currently requires that a number of other conditions, including cancer and certain birth defects, be reported and maintained in a central registry. A similar requirement for reporting diagnoses of autism and maintaining a registry of that information is needed to improve current knowledge and understanding of autism, to conduct thorough and complete epidemiologic surveys of the disorder, to enable analysis of this problem, and to plan for and provide services to children with autism and their families.

C.26:2-186 Reporting diagnosis to DHSS.

2. a. A physician, psychologist, and any other health care professional licensed pursuant to Title 45 of the Revised Statutes who is qualified by

training to make the diagnosis and who then makes the diagnosis that a child is affected with autism shall report this diagnosis to the Department of Health and Senior Services in a form and manner prescribed by the Commissioner of Health and Senior Services.

b. The report shall be in writing and shall include the name and address of the person submitting the report, the name, age, place of birth, and address of the child diagnosed as having autism, and other pertinent information as may be required by the commissioner; except that, if the child's parent or guardian objects to the reporting of the child's diagnosis for any reason, the report shall not include any information that could be used to identify the child.

c. The commissioner shall specify procedures for the health care professional to inform the child's parent or guardian of the requirements of subsections a. and b. of this section and the purpose served by including this information in a registry pursuant to section 3 of this act, as well as the parent's or guardian's right to refuse to permit the reporting of any information that could be used to identify the child.

C.26:2-187 Maintenance of up-to-date registry.

3. The Department of Health and Senior Services, in consultation with the Department of Human Services, shall maintain an up-to-date registry which shall include a record of: all reported cases of autism that occur in New Jersey; each reported case of autism that occurs in New Jersey in which the initial diagnosis is changed, lost, or considered misdiagnosed; and any other information it deems relevant and appropriate in order to conduct thorough and complete epidemiologic surveys of autism, to enable analysis of this problem and to plan for and provide services to children with autism and their families.

C.26:2-188 Use of reports; immunity for professionals.

4. a. The reports made pursuant to this act are to be used only by the Department of Health and Senior Services and other agencies as may be designated by the Commissioner of Health and Senior Services, including the Department of Human Services, and shall not otherwise be divulged or made public so as to disclose the identity of any person to whom they relate; and, to that end, the reports shall not be included under materials available to public inspections pursuant to P.L.1963, c.73 (C.47:1A-1 et seq.) or P.L.2001, c.404 (C.47:1A-5 et al.).

b. A physician, psychologist, or health care professional providing information to the department in accordance with this act shall not be

deemed to be, or held liable for, divulging confidential information.

c. Nothing in this act shall be construed to compel a child who has been reported as affected with autism to submit to medical or health examination or supervision by the department.

5. There is appropriated from the General Fund to the Department of Health and Senior Services \$500,000 to effectuate the purposes of this act.

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

7. This act shall take effect on the 180th day after enactment, but the Commissioner of Health and Senior Services may take such anticipatory administrative action in advance as shall be necessary for the implementation of this act.

Approved September 12, 2007.

CHAPTER 171

AN ACT concerning required instruction for 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:26-2.8 Instruction in autism, developmental disabilities awareness, teaching methods, required for N.J. instructional certificate.

1. Beginning with the 2008-2009 school year, a regionally-accredited institution of higher education offering coursework for a New Jersey instructional certificate shall incorporate the recommendations developed by the Commissioner of Education pursuant to section 2 of this act on instruction in autism and other developmental disabilities awareness and methods of teaching students with autism and other developmental disabilities into existing course curriculum.

C.18A:26-2.9 Recommendations for autism, developmental disabilities awareness instruction, teaching methods.

2. a. The Commissioner of Education shall develop recommendations for autism and other developmental disabilities awareness instruction and

methods of teaching students with autism and other developmental disabilities for teacher preparation programs in accordance with section 1 of this act and shall submit the recommendations to the State Board of Education. In developing the recommendations, the commissioner shall consult with the Commissioner of Health and Senior Services, representatives from entities that promote awareness about autism and other developmental disabilities and provide programs and services to people with autism and other developmental disabilities, including, but not limited to Autism Speaks, The Autism Center of New Jersey Medical School at the University of Medicine and Dentistry of New Jersey, and The New Jersey Center for Outreach and Services for the Autism Community, and representatives of the education community, including, but not limited to the New Jersey Education Association, the New Jersey School Boards Association, the New Jersey Principals and Supervisors Association, and the New Jersey Professional Teaching Standards Board.

b. The Commissioner of Education shall develop recommendations to incorporate autism and other developmental disabilities awareness instruction and methods of teaching students with autism and other developmental disabilities for teacher and paraprofessional in-service and other training programs, where appropriate, and shall submit the recommendations to the State board. In developing the recommendations, the commissioner shall consult with the Commissioner of Health and Senior Services, representatives from entities that promote awareness about autism and other developmental disabilities and provide programs and services to people with autism and other developmental disabilities, including, but not limited to Autism Speaks, The Autism Center of New Jersey Medical School at the University of Medicine and Dentistry of New Jersey, and The New Jersey Center for Outreach and Services for the Autism Community, and representatives of the education community, including, but not limited to the New Jersey Education Association, the New Jersey School Boards Association, the New Jersey Principals and Supervisors Association, and the New Jersey Professional Teaching Standards Board.

c. The recommendations developed by the commissioner pursuant to subsections a. and b. of this section shall address the following:

- (1) characteristics of students with autism and other developmental disabilities;
- (2) curriculum planning, curricular and instructional modifications, adaptations, and specialized strategies and techniques;
- (3) assistive technology; and
- (4) inclusive educational practices, including collaborative partnerships.

C.18A:26-2.10 Regulations.

3. The State Board of Education, based upon the recommendations developed by the Commissioner of Education pursuant to section 2 of this act, shall promulgate regulations pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), necessary to implement the provisions of this act.

4. This act shall take effect immediately.

Approved September 12, 2007.

CHAPTER 172

AN ACT concerning early intervention services for infants and toddlers with autism and amending and supplementing P.L.1993, c.309.

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

1. Section 2 of P.L.1993, c.309 (C.26:1A-36.7) is amended to read as follows:

C.26:1A-36.7 Early intervention services established.

2. The Department of Health and Senior Services, in conjunction with the Departments of Education and Human Services, shall establish a State-wide system of early intervention services for eligible infants and toddlers from birth to age two, inclusive, with physical, cognitive, communication, social or emotional, and adaptive developmental delays or disabilities in accordance with Part H of the "Individuals with Disabilities Education Act," Pub.L.91-230 (20 U.S.C. s.1471 et seq.).

C.26:1A-36.7a Activities of Early Intervention Program relative to autism spectrum disorders.

2. The Early Intervention Program in the Department of Health and Senior Services established pursuant to section 2 of P.L.1993, c.309 (C.26:1A-36.7) shall conduct activities to address the specific needs of children with autism spectrum disorders and their families. These activities shall include, but not be limited to, the following:

a. developing, in consultation with autism experts and advocates, including, but not limited to, the Governor's Council for Medical Research

and Treatment of Autism, Autism Speaks, The New Jersey Center for Outreach and Services for the Autism Community, The Autism Center of New Jersey Medical School at the University of Medicine and Dentistry of New Jersey, the Statewide Parent Advocacy Network, Inc., and the New Jersey chapter of the American Academy of Pediatrics, guidelines for health care professionals to use in evaluating infants and toddlers living in the State for autism and to ensure the timely referral by health care professionals of infants and toddlers who are identified as having autism or suspected of being on the autism spectrum to the Early Intervention Program in order to provide appropriate services to those infants and toddlers as early as possible;

b. referring affected children who are identified as having autism or suspected of being on the autism spectrum and their families to schools and agencies, including community, consumer, and parent-based agencies, and organizations and other programs mandated by Part C of the "Individuals with Disabilities Education Act" (20 U.S.C. s.1431 et seq.), which offer programs specifically designed to meet the unique needs of children with autism;

c. collecting data on Statewide autism screening, diagnosis, and intervention programs and systems that can be used for applied research, program evaluation, and policy development; and

d. disseminating information on the medical care of individuals with autism to health care professionals and the general public.

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

4. This act shall take effect on the 180th day following enactment, but the Commissioner of Health and Senior Services may take such anticipatory administrative action in advance as shall be necessary for implementation of the act.

Approved September 12, 2007.

CHAPTER 173

AN ACT establishing the New Jersey Adults with Autism Task Force.

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

1. The Legislature finds and declares that:

- a. Autism is a lifelong disability; and just as the autism spectrum covers a wide range of functional abilities, so does the need for services and supports for adults with autism;
- b. Adults with autism face significant challenges in various aspects of their lives, including such areas as job training and placement, housing, and long-term care; however, much of the current focus on autism relates to education and development and neglects these other concerns;
- c. According to the federal Centers for Disease Control and Prevention, or CDC, one of every 94 children in this State has autism, which is the highest rate among the states examined by the CDC in the most comprehensive study of the prevalence of autism to date;
- d. There is a pressing need for policymakers and advocates in New Jersey to formulate achievable goals for State government to meet in order to better serve the community of adults with autism in this State; and
- e. It is in the public interest for the State to establish a New Jersey Adults with Autism Task Force to develop a comprehensive plan for meeting the various needs of adults with autism living in this State.

2. a. There is established the New Jersey Adults with Autism Task Force in the Department of Human Services. The purpose of the task force shall be to study and evaluate, and develop recommendations relating to, specific actionable measures to support and meet the needs of adults with autism who are residents of New Jersey, including, but not limited to, job training and placement, housing, and long-term care. The recommendations shall comprise the basis for a comprehensive plan for meeting the needs of adults with autism, which the task force shall present to the Governor and the Legislature pursuant to section 3 of this act.

b. The task force shall consist of 13 members as follows:

(1) the Commissioners of Human Services, Health and Senior Services, Education, and Labor and Workforce Development, and the chairman of the Governor's Council for Medical Research and Treatment of Autism, or their designees, who shall serve ex officio; and

(2) eight public members, who shall be appointed no later than the 30th day after the effective date of this act, as follows:

(a) six persons appointed by the Governor, who shall include: one person upon the recommendation of The New Jersey Center for Outreach and Services for the Autism Community; one person upon the recommendation of Autism Speaks; one person upon the recommendation of ASPEN; one

person who is an adult with autism; and two members of the public with a demonstrated expertise in issues relating to the work of the task force;

(b) one person appointed by the President of the Senate; and

(c) one person appointed by the Speaker of the General Assembly.

Vacancies in the membership of the task force shall be filled in the same manner provided for the original appointments.

c. The Commissioner of Human Services or the commissioner's designee shall serve as chairperson of the task force. The task force shall organize as soon as practicable following the appointment of its members and shall select a vice-chairperson from among the members. The chairperson shall appoint a secretary who need not be a member of the task force.

d. The public members shall serve without compensation, but shall be reimbursed for necessary expenses incurred in the performance of their duties and within the limits of funds available to the task force.

e. The task force 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.

f. The task force may meet and hold hearings at the places it designates during the sessions or recesses of the Legislature.

g. The Division of Developmental Disabilities in the Department of Human Services shall provide staff support to the task force.

3. The task force shall report 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), along with any legislative bills that it desires to recommend for adoption by the Legislature, no later than 12 months after the initial meeting of the task force. The report shall contain the comprehensive plan provided for in section 2 of this act.

4. This act shall take effect immediately and shall expire upon the issuance of the task force report.

Approved September 12, 2007.

CHAPTER 174

AN ACT concerning funding for the "Autism Medical Research and Treatment Fund" and amending R.S.39:5-41.

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

1. R.S.39:5-41 is amended to read as follows:

Fines, penalties, forfeitures, disposition of; exceptions.

39:5-41. a. All fines, penalties and forfeitures imposed and collected under authority of law for any violations of R.S.39:4-63 and R.S.39:4-64 shall be forwarded by the judge to whom the same have been paid to the proper financial officer of a county, if the violation occurred within the jurisdiction of that county's central municipal court, established pursuant to N.J.S.2B:12-1 et seq. or the municipality wherein the violation occurred, to be used by the county or municipality to help finance litter control activities in addition to or supplementing existing litter pickup and removal activities in the municipality.

b. Except as otherwise provided by subsection a. of this section, all fines, penalties and forfeitures imposed and collected under authority of law for any violations of the provisions of this Title, other than those violations in which the complaining witness is the director, a member of his staff, a member of the State Police, a member of a county police department and force or a county park police system in a county that has established a central municipal court, an inspector of the Board of Public Utilities, or a law enforcement officer of any other State agency, shall be forwarded by the judge to whom the same have been paid as follows: one-half of the total amount collected to the financial officer, as designated by the local governing body, of the respective municipalities wherein the violations occurred, to be used by the municipality for general municipal use and to defray the cost of operating the municipal court; and one-half of the total amount collected to the proper financial officer of the county wherein they were collected, to be used by the county as a fund for the construction, reconstruction, maintenance and repair of roads and bridges, snow removal, the acquisition and purchase of rights-of-way, and the purchase, replacement and repair of equipment for use on said roads and bridges therein. Up to 25% of the money received by a municipality pursuant to this subsection, but not more than the actual amount budgeted for the municipal court, whichever is less, may be used to upgrade case processing.

All fines, penalties and forfeitures imposed and collected under authority of law for any violations of the provisions of this Title, in which the complaining witness is a member of a county police department and force or a county park police system in a county that has established a central municipal court, shall be forwarded by the judge to whom the same have been paid to the finan-

cial officer, designated by the governing body of the county, for all violations occurring within the jurisdiction of that court, to be used for general county use and to defray the cost of operating the central municipal court.

Whenever any county has deposited moneys collected pursuant to this section in a special trust fund in lieu of expending the same for the purposes authorized by this section, it may withdraw from said special trust fund in any year an amount which is not in excess of the amount expended by the county over the immediately preceding three-year period from general county revenues for said purposes. Such moneys withdrawn from the trust fund shall be accounted for and used as are other general county revenues.

c. (Deleted by amendment, P.L.1993, c.293.)

d. Notwithstanding the provisions of subsections a. and b. of this section, \$1 shall be added to the amount of each fine and penalty imposed and collected through a court under authority of any law for any violation of the provisions of Title 39 of the Revised Statutes or any other motor vehicle or traffic violation in this State and shall be forwarded by the person to whom the same are paid to the State Treasurer. In addition, upon the forfeiture of bail, \$1 of that forfeiture shall be forwarded to the State Treasurer. The State Treasurer shall annually deposit those moneys so forwarded in the "Body Armor Replacement" fund established pursuant to section 1 of P.L.1997, c.177 (C.52:17B-4.4). Beginning in the fiscal year next following the effective date of this act, the State Treasurer annually shall allocate from those moneys so forwarded an amount not to exceed \$400,000 to the Department of Personnel to be expended exclusively for the purposes of funding the operation of the "Law Enforcement Officer Crisis Intervention Services" telephone hotline established and maintained under the provisions of P.L.1998, c.149 (C.11A:2-25 et al.).

e. Notwithstanding the provisions of subsections a. and b. of this section, \$1 shall be added to the amount of each fine and penalty imposed and collected through a court under authority of any law for any violation of the provisions of Title 39 of the Revised Statutes or any other motor vehicle or traffic violation in this State and shall be forwarded by the person to whom the same are paid to the State Treasurer. The State Treasurer shall annually deposit those moneys so forwarded in the "New Jersey Spinal Cord Research Fund" established pursuant to section 9 of P.L.1999, c.201 (C.52:9E-9). In order to comply with the provisions of Article VIII, Section II, paragraph 5 of the State Constitution, a municipal or county agency which forwards moneys to the State Treasurer pursuant to this subsection may retain an amount equal to 2% of the moneys which it collects pursuant to this sub-

section as compensation for its administrative costs associated with implementing the provisions of this subsection.

f. Notwithstanding the provisions of subsections a. and b. of this section, \$1 shall be added to the amount of each fine and penalty imposed and collected through a court under authority of any law for any violation of the provisions of Title 39 of the Revised Statutes or any other motor vehicle or traffic violation in this State and shall be forwarded by the person to whom the same are paid to the State Treasurer. The State Treasurer shall annually deposit those moneys so forwarded in the "Autism Medical Research and Treatment Fund" established pursuant to section 1 of P.L.2003, c.144 (C.30:6D-62.2).

g. Notwithstanding the provisions of subsections a. and b. of this section, \$2 shall be added to the amount of each fine and penalty imposed and collected by a court under authority of any law for any violation of the provisions of Title 39 of the Revised Statutes or any other motor vehicle or traffic violation in this State and shall be forwarded by the person to whom the same are paid to the State Treasurer. The State Treasurer shall annually deposit those moneys so forwarded in the "New Jersey Forensic DNA Laboratory Fund" established pursuant to P.L.2003, c.183. Prior to depositing the moneys into the fund, the State Treasurer shall forward to the Administrative Office of the Courts an amount not to exceed \$475,000 from moneys initially collected pursuant to this subsection to be used exclusively to establish a collection mechanism and to provide funding to update the Automated Traffic System Fund created pursuant to N.J.S.2B:12-30 to implement the provisions of this subsection.

The authority to impose additional fines and penalties under this subsection shall take effect 90 days after the effective date of P.L.2003, c.183 and shall expire five years thereafter. Not later than the 180th day prior to such expiration, the Attorney General shall prepare and submit to the Governor and the Legislature a report on the collection and use of DNA samples under P.L.1994, c.136. The report shall cover the period beginning on that effective date and ending four years thereafter. The report shall indicate separately, for each one-year period during those four years that begins on that effective date or an anniversary thereof, the number of each type of biological sample taken and the total cost of taking that type of sample, and also the number of identifications and exonerations achieved through the use of the samples. In addition, the report shall evaluate the effectiveness, including cost effectiveness, of having the samples available to further police investigations and other forensic purposes.

h. Notwithstanding the provisions of subsections a. and b. of this section, \$1 shall be added to the amount of each fine and penalty imposed and collected under authority of any law for any violation of the provisions of Title 39 of the Revised Statutes or any other motor vehicle or traffic violation in this State and shall be forwarded by the person to whom the same are paid to the State Treasurer. The State Treasurer shall annually deposit those moneys so forwarded in the "New Jersey Brain Injury Research Fund" established pursuant to section 9 of P.L.2003, c.200 (C.52:9EE-9). The Administrative Office of the Courts may retain an amount equal to \$475,000 from the moneys which it initially collects pursuant to this subsection, prior to depositing any moneys in the "New Jersey Brain Injury Research Fund," in order to meet the expenses associated with utilizing the Automated Traffic System Fund created pursuant to N.J.S.2B:12-30 to implement the provisions of this subsection and serve other statutory purposes.

2. This act shall take effect immediately.

Approved September 12, 2007.

CHAPTER 175

AN ACT concerning the transfer of certain college credits 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:62-46 Transfer of academic credits from associate degree program to baccalaureate program.

1. Each public institution of higher education, in consultation with the New Jersey Commission on Higher Education and the New Jersey Presidents' Council, shall establish and enter into a collective Statewide transfer agreement that provides for the seamless transfer of academic credits from a completed associate of arts or associate of science degree program to a baccalaureate degree program. The transfer agreement shall include:

a. a listing of the general education core courses as stipulated by the Presidents' Council;

b. policies and procedures for the seamless transfer and application of academic credits from a completed associate degree program to a baccalaureate degree program, including a guarantee that an associate of arts degree

or an associate of science degree awarded by a county college established pursuant to chapter 64A of Title 18A of the New Jersey Statutes shall be fully transferable and credited as the first two years of a baccalaureate degree program at the four-year public institution of higher education in the State to which a student is admitted;

c. policies and procedures for the implementation of an appeals process for students and institutions to resolve disputes regarding the transfer of academic credits;

d. policies and procedures for the annual review and update of the agreement; and

e. policies and procedures for the collection of data by the commission to ensure that all participating institutions of higher education are in compliance with the provisions of this act and to ensure that the agreement is fostering both a seamless transfer process and the academic success of transfer students at the senior institutions. The commission shall annually determine the data to be collected and shall notify each participating institution in a timely manner.

The policies and procedures set forth in the transfer agreement shall be fully operational by September 1, 2008.

C.18A:62-47 Adoption of policies, procedures regarding certain transfers.

2. On or before January 1, 2008, each public institution of higher education shall, in consultation with the Commission on Higher Education and the Presidents' Council, develop and adopt as part of the collective Statewide transfer agreement established pursuant to section 1 of this act policies and procedures for the transfer of credits earned by a student who has not completed his associate degree program prior to transferring into a baccalaureate degree program.

C.18A:62-48 Independent institutions may enter into agreement.

3. An independent institution of higher education in the State may elect to enter into the agreement.

C.18A:62-49 Annual report to Governor, Legislature.

4. The Commission on Higher Education shall prepare an annual report containing a compilation of the data collected pursuant to subsection e. of section 1 of this act, an analysis of the effect of the agreement on the transfer process and on the academic success of transfer students at the senior institutions, and an analysis of each participating institution's compliance with the provisions of this act. The commission shall submit the report to the Legislature and the Governor by November 15th of each year.

C.18A:62-50 Cooperation considered relative to annual appropriation.

5. The cooperation of each public institution of higher education in abiding by the terms of the agreement shall be reviewed and considered by the Governor and the Legislature when making the annual appropriation for the institution.

C.18A:62-51 Construction of act as to standards and procedures for admission.

6. Nothing in this act shall be construed to require any public or independent institution of higher education to admit a student or to waive its admission standards and application procedures.

7. This act shall take effect immediately.

Approved September 13, 2007.

CHAPTER 176

AN ACT concerning urban revitalization and amending and supplementing P.L.2002, c.43.

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

C.52:27BBB-2.2 Findings, declarations relative to urban revitalization.

1. The Legislature finds and declares:

a. The “Municipal Rehabilitation and Economic Recovery Act,” P.L.2002, c.43 (C.52:27BBB-1 et al.), provides for the appointment of a chief operating officer in a qualified municipality for a five-year period, referred to in that law as the rehabilitation term;

b. As of the effective date of P.L.2007, c.176 (C.52:27BBB-2.2 et al.), that 2002 act has been implemented in one municipality in the State;

c. The fourth-year report of the chief operating officer appointed in that municipality, required pursuant to section 8 of P.L.2002, c.43 (C.52:27BBB-8), recommended an extension of the rehabilitation term to allow for the implementation of the reforms anticipated by P.L.2002, c.43; and

d. Given the detailed assessment and recommendation in that fourth-year report, it is apparent that under certain circumstances a 10-year rehabilitation term is a more realistic period within which government reform may be effectuated in a qualified municipality.

2. Section 6 of P.L.2002, c.43 (C.52:27BBB-6) is amended to read as follows:

C.52:27BBB-6 Municipality deemed under rehabilitation and economic recovery; term.

6. a. Upon the appointment of a chief operating officer pursuant to section 7 of P.L.2002, c.43 (C.52:27BBB-7), a qualified municipality shall be under rehabilitation and economic recovery. This period shall begin with the assumption of job responsibilities by the chief operating officer pursuant to this section and terminate five years following the end of the term of the chief operating officer. The period corresponding with the term of the chief operating officer shall be referred to hereinafter as the rehabilitation term. The period commencing with the expiration of the term of the chief operating officer and terminating five years thereafter shall be referred to hereinafter as the economic recovery term.

b. During the economic recovery term, the mayor shall exercise those powers delegated to the mayor pursuant to the form of government, the charter and the administrative code of the municipality, and those powers delegated to the mayor under general law. In addition, during the economic recovery term, the mayor shall retain the power to veto the minutes of any independent board or authority, including, but not limited to, the housing authority, parking authority, redevelopment authority, planning board and board of adjustment.

While the municipality is under rehabilitation and economic recovery, the mayor shall retain the power to make those appointments to municipal authorities, boards or commissions, as the case may be, which is otherwise allocated to the mayor pursuant to law.

The mayor may retain staff for the purpose of advising the mayor and aiding in the performance of constituent services.

c. Upon the assumption of job responsibilities by the chief operating officer, the financial review board created pursuant to section 5 of P.L.1999, c.156 (C.52:27D-118.30a) to oversee the finances of the municipality shall cease to function and the municipality shall cease to be under supervision pursuant to Article 4 of P.L.1947, c.151 (C.52:27BB-54 et seq.).

All outstanding debts or obligations incurred by a qualified municipality or the New Jersey Housing and Mortgage Finance Agency established pursuant to section 4 of the "New Jersey Housing and Mortgage Finance Agency Law of 1983," P.L.1983, c.530 (C.55:14K-4) and secured by a right of first refusal on municipally-owned property as of 10 days following a determination by the commissioner that the municipality fulfills the defini-

tion of a qualified municipality pursuant to section 4 of P.L.2002, c.43 (C.52:27BBB-4), with any subsidiary of that agency with jurisdiction in a qualified municipality, other than those debts or obligations represented by bonds or other negotiable instruments, are forgiven.

Notwithstanding the termination of the financial review board and supervision, all memorandums of understanding entered into by the municipality as a condition of receiving assistance under P.L.1987, c.75 (C.52:27D-118.24 et seq.) that require the municipality to implement any government, administrative, operational efficiency or oversight measures necessary for the fiscal recovery of the municipality as recommended by the director and approved by the Local Finance Board shall continue to have full force and effect.

During the rehabilitation term, the chief operating officer shall be responsible for entering into any memorandum of understanding on behalf of the qualified municipality that is required as a condition of receiving assistance under P.L.1987, c.75 (C.52:27D-118.24 et seq.), or any other law; provided, however, that those memoranda of understanding shall be consistent with the provisions of P.L.2002, c.43 (C.52:27BBB-1 et al.) and P.L.2007, c.176 (C.52:27BBB-2.2 et al.), and the powers of the chief operating officer granted pursuant thereto. Any such memoranda of understanding shall be executed between the chief operating officer and the Director of the Division of Local Government Services in the Department of Community Affairs. Whenever the powers and duties of the chief operating officer have devolved upon the director pursuant to subsection b. of section 7 of P.L.2002, c.43 (C.52:27BBB-7), the memorandum of understanding shall be executed between the director, on behalf of the qualified municipality, and the State Treasurer, on behalf of the State.

3. Section 7 of P.L.2002, c.43 (C.52:27BBB-7) is amended to read as follows:

C.52:27BBB-7 Appointment of chief operating officer; term.

7. a. Upon receiving notification by the Commissioner of Community Affairs pursuant to section 4 of P.L.2002, c.43 (C.52:27BBB-4), the Governor shall appoint the chief operating officer in consultation with the mayor and the governing body. The chief operating officer shall serve at the pleasure of the Governor. The chief operating officer shall be qualified by training and experience for the position and shall have at least 10 years of experience in the management or supervision of government activities,

three years of which may be substituted by an advanced degree in business, law, or public administration.

b. Pending the appointment of a chief operating officer or, in the event of the death, resignation, removal or inability of the chief operating officer to discharge the duties of that office, the functions, powers and duties of the chief operating officer shall devolve upon the director, for the time being, until a chief operating officer is appointed or is able to discharge the duties of that office. In the event that the chief operating officer does not serve out the chief operating officer's term of office for any reason, a successor shall be chosen by the Governor.

c. The term of the chief operating officer shall terminate five years following the assumption of duties on the part of the initial chief operating officer first appointed pursuant to P.L.2002, c.43 (C.52:27BBB-1 et al.), or 10 years thereafter if the fourth-year report required by section 8 of P.L.2002, c.43 (C.52:27BBB-8) recommends an extension of that term, provided that the extension is approved by the Commissioner of Community Affairs. The chief operating officer may be hired as a State employee in the unclassified service of Title 11A, Civil Service, of the New Jersey Statutes or may be hired under contract, as provided hereunder. Notwithstanding any other provision of law, no person so appointed shall acquire tenure.

If the chief operating officer is hired under contract, the person hired shall meet the qualifications set forth herein, and it shall be clear from the contract that the position is full-time and that the job site shall be at the principal offices of the municipality. If, for any reason, a person engaged under contract is unable to fulfill the job responsibilities of chief operating officer, the selection process shall be recommenced in accordance with the provisions of this section.

If the chief operating officer is hired under contract, the contract shall be available for public inspection in the office of the municipal clerk.

d. Subject to the approval of the State Treasurer, the salary, benefits and costs of the chief operating officer shall be fixed by the board and adjusted from time to time as the board deems appropriate. The salary level and benefits shall be comparable to that of the director of any public authority or agency with jurisdiction in the qualified municipality. The salary, benefits, and costs of the chief operating officer shall be an expense of the State and paid through the Department of the Treasury.

4. Section 8 of P.L.2002, c.43 (C.52:27BBB-8) is amended to read as follows:

C.52:27BBB-8 Submission of report by chief operating officer.

8. a. At the end of four years following the commencement of duties by the chief operating officer and at the end of eight years, in the event of an extension of the term of the chief operating officer, as provided in subsection c. of section 7 of P.L.2002, c.43 (C.52:27BBB-7) (as amended by section 3 of this bill), the chief operating officer or his or her successor shall submit a report to the Governor, each member of the State Economic Recovery Board, each member of the Senate and General Assembly, each member of the county board of freeholders in the county in which the qualified municipality is situated, each member of the regional impact council, the mayor, and each member of the governing body of the qualified municipality. The report shall evaluate progress made in rehabilitating the qualified municipality and the status of economic recovery efforts. The report shall include an enumeration of any problems or hurdles encountered in rehabilitation and economic recovery and, where applicable, recommendations for any amendments to State law which would promote and encourage rehabilitation and economic recovery. If the chief operating officer anticipates that the rehabilitation term will be insufficient to achieve rehabilitation goals, the chief operating officer shall include in the report a detailed analysis of the causes for the municipality's inability to reestablish local control and an assessment of the amount of time necessary for the continuation of the period of the rehabilitation term.

In addition to the foregoing, the report shall include detailed information as to how those funds appropriated pursuant to P.L.2002, c.43 (C.52:27BBB-1 et al.) are being spent and how those expenditures are serving to promote the economic revitalization of the qualified municipality.

b. Within 30 days of receipt of each report by members of the Legislature, a hearing shall be held by the Senate Community and Urban Affairs Committee and the Assembly Housing and Local Government Committee, or their successors, to provide an opportunity for public comment and discussion.

5. Section 9 of P.L.2002, c.43 (C.52:27BBB-9) is amended to read as follows:

C.52:27BBB-9 Reallocation of functions, powers, duties to chief operating officer.

9. a. Upon the appointment of the chief operating officer pursuant to subsection a. of section 7 of P.L.2002, c.43 (C.52:27BBB-7), all the functions, powers and duties heretofore or hereafter assigned by any statute, regulation, ordinance, resolution, charter or contract for municipal opera-

tions, municipal organization and reorganization, development and implementation of workforce training programs, and the hiring and firing of department heads, managers and supervisory employees shall be reallocated to the chief operating officer. The chief operating officer shall exercise those functions, powers and duties in consultation with the mayor as are hereinafter provided.

b. Except as otherwise provided in P.L.2002, c.43 (C.52:27BBB-1 et al.), the chief operating officer shall have the power to perform all acts and do all things consistent with law necessary for the proper conduct, maintenance, rehabilitation and supervision of the qualified municipality. The chief operating officer may propose ordinances, resolutions, rules, policies and guidelines, not inconsistent with law, for the proper conduct, maintenance and supervision of the municipality.

Ordinances and resolutions shall be adopted or amended as provided by law except that the chief operating officer shall exercise the functions, powers and duties of the mayor.

A proposal introduced by the chief operating officer shall be deemed approved if the mayor or governing body fails to act upon the proposal within 45 days following the chief operating officer's submission of the proposal to either the mayor or the governing body, or both, as appropriate. Disapproval by the mayor or governing body of any proposal introduced by the chief operating officer shall constitute an impasse and shall be subject to the dispute resolution procedures set forth in section 5 of P.L.2002, c.43 (C.52:27BBB-5).

c. Notwithstanding the provisions of the "Long Term Tax Exemption Law," P.L.1991, c.431 (C.40A:20-1 et seq.), the chief operating officer may negotiate financial agreements and otherwise exercise the powers of the governing body pursuant thereto, including making available municipal land in order to facilitate a project pursuant to section 17 of P.L.1991, c.431 (C.40A:20-17). Any such agreements negotiated by the chief operating officer shall be presented to the governing body for the information of the members of the governing body.

d. Notwithstanding any provisions of P.L.2001, c.310 to the contrary, the chief operating officer may, in consultation with the mayor and governing body, negotiate bond financing pursuant to the "Redevelopment Area Bond Financing Law," sections 1 through 10 of P.L.2001, c.310 (C.40A:12A-64 through 73) and revenue allocation financing pursuant to the "Revenue Allocation District Financing Act," sections 11 through 41 of P.L.2001, c.310 (C.52:27D-459 through 489).

e. The functions, powers and duties reallocated to the chief operating officer pursuant to this section shall include, but not be limited to those powers allocated to the mayor which are found in the charter and administrative code of the municipality, Titles 40 and 40A generally and specifically in the "Local Bond Law," N.J.S.40A:2-1 et seq., 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 Public Contracts Law," P.L.1971, c.198 (C.40A:11-1 et seq.), any specific form of government law according to which the municipality is governed, and such other sections or other laws necessary to the governance and administration of a municipality, the control of litigation, and the determination of service levels as provided in this section.

Subject to the approval of the State Treasurer, the chief operating officer may appoint staff necessary to assist the chief operating officer in carrying out those responsibilities set forth in P.L.2002, c.43 (C.52:27BBB-1 et al.). The salary and benefits of persons so appointed and persons designated pursuant to subsection g. of this section shall be included in the budget request prepared by the chief operating officer pursuant to subsection b. of section 27 of P.L.2002, c.43 (C.52:27BBB-27). Persons appointed pursuant to this subsection shall serve at the pleasure of the chief operating officer.

f. During the rehabilitation term, the chief operating officer shall exercise the veto power of the mayor with respect to municipal ordinances; provided, however, that the chief operating officer may delegate the veto power to the mayor. In addition, during the rehabilitation term, the chief operating officer shall have the power to veto the minutes of any independent board or authority, including, but not limited to, the housing authority, parking authority, redevelopment authority, planning board and board of adjustment.

During the rehabilitation term, the chief operating officer may refer any matter involving any action or failure to act to the special arbitrator.

g. Subject to the approval of the treasurer, the chief operating officer may appoint a confidential secretary and executive assistant who shall be State employees and serve in the unclassified service of the Civil Service. The salary and benefits of these appointees shall be fixed by the treasurer and adjusted from time to time as the treasurer deems appropriate. The salary, benefits, and costs of these appointees shall be an expense of the State and shall be paid by the treasurer.

These appointees shall serve at the pleasure of the chief operating officer.

6. Section 25 of P.L.2002, c.43 (C.52:27BBB-25) is amended to read as follows:

C.52:27BBB-25 Governing body to retain functions, powers, duties.

25. Unless otherwise provided pursuant to P.L.2002, c.43 (C.52:27BBB-1 et al.), the governing body shall retain all functions, powers and duties prescribed to it pursuant to the charter and administrative code of the municipality, Titles 40 and 40A generally and specifically in the "Local Bond Law," N.J.S.40A:2-1 et seq., 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 Public Contracts Law," P.L.1971, c.198 (C.40A:11-1 et seq.), the "New Jersey Water Supply Public-Private Contracting Act," P.L.1995, c.101 (C.58:26-19 et seq.), any specific form of government law according to which the municipality is governed, and such other sections or other laws which govern municipal operation or administration.

The governing body shall set the schedule and agenda for meetings of the governing body, which shall be duly advertised pursuant to the "Senator Byron M. Baer Open Public Meetings Act," P.L.1975, c.231 (C.10:4-6 et seq.). Meetings of the governing body shall be presided over by the president of the governing body.

The governing body and any other entity created by the municipality, including the planning board, zoning board of adjustment, personnel board, and any commission, council, redevelopment agency, or corporation, shall include in its agenda for meetings, all agenda items submitted by the chief operating officer.

C.52:27BBB-51.1 Two-year commitment for moneys made available.

7. Notwithstanding the provisions of subsection a. of section 52 of P.L.2002, c.43 (C.52:27BBB-51), moneys made available pursuant thereto may be committed for a period not to exceed two years following the effective date of P.L.2007, c.176 (C.52:27BBB-2.2 et al.).

8. This act shall take effect immediately.

Approved September 16, 2007.

CHAPTER 177

AN ACT concerning the dissemination of Truth in Renting information, amending P.L.1975, c.310 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.1975, c.310 (C.46:8-45) is amended to read as follows:

C.46:8-45 Statement of legal rights and responsibilities of tenants and landlords of rental dwelling units.

3. a. The department shall, as soon as practicable and annually thereafter, after public hearing, prepare and make available at no cost to the public, to the extent that funding has been made available to the department for free distribution, a statement, in a form and size suitable for posting and distributing pursuant to the provisions of this act, of the primary clearly established legal rights and responsibilities of tenants and landlords of rental dwelling units. This statement shall be printed in both the English and Spanish languages and shall be posted on the department's Internet website, in an easily printable format, and updated annually. The statement shall serve as an informational document, and nothing therein shall be construed as binding on or affecting a judicial determination under section 6 of P.L.1975, c.310 (C.46:8-48) of what constitutes a lease provision which violates clearly established legal rights of tenants or responsibilities of landlords.

b. Where practical considerations make it necessary for the department to limit the extent of the statement, items to be included shall be selected on the basis of the importance of their inclusion in protecting the rights of the public.

2. There is appropriated to the Department of Community Affairs from the General Fund the amount of \$200,000 to be used for the printing and distribution, at no cost, of the Truth in Renting statement prepared pursuant to section 3 of P.L.1975, c.310 (C.46:8-45).

3. This act shall take effect immediately.

Approved September 27, 2007.

CHAPTER 178

AN ACT concerning vehicle registration and amending P.L.1955, c.53 and R.S.39:5-41.

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

1. Section 1 of P.L.1955, c.53 (C.39:3-17.1) is amended to read as follows:

C.39:3-17.1 Reciprocal driver's license, registration of new residents' vehicles required; violations, fines, impoundment.

1. a. Except as provided in section 9 of P.L.1990, c.103 (C.39:3-10.17), any person who becomes a resident of this State and who immediately prior thereto was authorized to operate and drive a motor vehicle or motor vehicles in this State as a nonresident pursuant to R.S.39:3-15 and R.S.39:3-17, shall not lose his right to so operate and drive such motor vehicle or motor vehicles by becoming a resident of this State, but such right shall continue to be in full force and effect for 60 days, unless a longer period of reciprocity is otherwise provided by law, after the establishment of his residence in this State in the same manner and to the same extent as though he were a nonresident. The chief administrator shall not issue a driver's license to a person who is entitled to operate a motor vehicle in this State under a reciprocity privilege granted by any law.

b. Any person who becomes a resident of this State and who immediately prior thereto was authorized to operate and drive a motor vehicle or motor vehicles in this State as a nonresident pursuant to R.S.39:3-15 and R.S.39:3-17, shall register any vehicle operated on the public highways of this State within 60 days of so becoming a resident of New Jersey, pursuant to R.S.39:3-4 or section 2 of P.L.1968, c.439 (C.39:3-8.1).

c. Any person who violates subsection b. of this section is subject to a fine of not more than \$250 for a first offense and not more than \$500 for a second or subsequent offense.

d. Any person who violates subsection b. of this section a third or subsequent time shall have the vehicle impounded by the law enforcing agency for not less than 96 hours. The vehicle shall only be released to the registered owner upon proof of registration and insurance and payment of all reasonable towing and storage fees.

If the owner of an impounded vehicle fails to claim the impounded vehicle by midnight of the 30th day following the day on which the vehicle was impounded, that vehicle may be sold at auction. Notice of the sale shall be given by the impounding entity by certified mail to the owner of the vehicle, if the owner's name and address are known, and to the lienholder, if the lienholder's name and address are known, and by publication in a form prescribed by the chief administrator by one insertion, at least five days before the date of the sale, in one or more newspapers published in

this State and circulating in the municipality in which the vehicle is impounded.

At any time prior to the sale of an impounded vehicle, the owner or other person entitled to the vehicle may reclaim possession upon showing proof of registration and insurance and paying all costs associated with the impoundment, and reasonable towing and storage fees.

The owner-lessor of an impounded vehicle shall be entitled to reclaim possession without payment or proof of insurance and the lessee shall be liable for all outstanding costs associated with the impoundment, towing, and storage of the vehicle.

e. Any proceeds obtained from the sale of a vehicle at public auction pursuant to subsection d. of this section in excess of the amount owed to the impounding entity for the reasonable costs of towing and storage and any other costs associated with the impoundment of the vehicle shall be returned to the owner of that vehicle, if his name and address are known.

2. R.S.39:5-41 is amended to read as follows:

Fines, penalties, forfeitures, disposition of; exceptions.

39:5-41. a. All fines, penalties and forfeitures imposed and collected under authority of law for any violations of R.S.39:4-63 and R.S.39:4-64 shall be forwarded by the judge to whom the same have been paid to the proper financial officer of a county, if the violation occurred within the jurisdiction of that county's central municipal court, established pursuant to N.J.S.2B:12-1 et seq. or the municipality wherein the violation occurred, to be used by the county or municipality to help finance litter control activities in addition to or supplementing existing litter pickup and removal activities in the municipality.

b. Except as otherwise provided by subsection a. of this section, all fines, penalties and forfeitures imposed and collected under authority of law for any violations of the provisions of this Title, other than those violations in which the complaining witness is the chief administrator, a member of his staff, a member of the State Police, a member of a county police department and force or a county park police system in a county that has established a central municipal court, an inspector of the Board of Public Utilities, or a law enforcement officer of any other State agency, shall be forwarded by the judge to whom the same have been paid as follows: one-half of the total amount collected to the financial officer, as designated by the local governing body, of the respective municipalities wherein the violations occurred, to be used by the municipality for general municipal use and to defray the cost

of operating the municipal court; and one-half of the total amount collected to the proper financial officer of the county wherein they were collected, to be used by the county as a fund for the construction, reconstruction, maintenance and repair of roads and bridges, snow removal, the acquisition and purchase of rights-of-way, and the purchase, replacement and repair of equipment for use on said roads and bridges therein. Up to 25% of the money received by a municipality pursuant to this subsection, but not more than the actual amount budgeted for the municipal court, whichever is less, may be used to upgrade case processing.

All fines, penalties and forfeitures imposed and collected under authority of law for any violations of the provisions of this Title, in which the complaining witness is a member of a county police department and force or a county park police system in a county that has established a central municipal court, shall be forwarded by the judge to whom the same have been paid to the financial officer, designated by the governing body of the county, for all violations occurring within the jurisdiction of that court, to be used for general county use and to defray the cost of operating the central municipal court.

Whenever any county has deposited moneys collected pursuant to this section in a special trust fund in lieu of expending the same for the purposes authorized by this section, it may withdraw from said special trust fund in any year an amount which is not in excess of the amount expended by the county over the immediately preceding three-year period from general county revenues for said purposes. Such moneys withdrawn from the trust fund shall be accounted for and used as are other general county revenues.

c. (Deleted by amendment, P.L.1993, c.293.)

d. Notwithstanding the provisions of subsections a. and b. of this section, \$1 shall be added to the amount of each fine and penalty imposed and collected through a court under authority of any law for any violation of the provisions of Title 39 of the Revised Statutes or any other motor vehicle or traffic violation in this State and shall be forwarded by the person to whom the same are paid to the State Treasurer. In addition, upon the forfeiture of bail, \$1 of that forfeiture shall be forwarded to the State Treasurer. The State Treasurer shall annually deposit those moneys so forwarded in the "Body Armor Replacement" fund established pursuant to section 1 of P.L.1997, c.177 (C.52:17B-4.4). Beginning in the fiscal year next following the effective date of this act, the State Treasurer annually shall allocate from those moneys so forwarded an amount not to exceed \$400,000 to the Department of Personnel to be expended exclusively for the purposes of funding the operation of the "Law Enforcement Officer Crisis Intervention

Services" telephone hotline established and maintained under the provisions of P.L.1998, c.149 (C.11A:2-25 et al.).

e. Notwithstanding the provisions of subsections a. and b. of this section, \$1 shall be added to the amount of each fine and penalty imposed and collected through a court under authority of any law for any violation of the provisions of Title 39 of the Revised Statutes or any other motor vehicle or traffic violation in this State and shall be forwarded by the person to whom the same are paid to the State Treasurer. The State Treasurer shall annually deposit those moneys so forwarded in the "New Jersey Spinal Cord Research Fund" established pursuant to section 9 of P.L.1999, c.201 (C.52:9E-9). In order to comply with the provisions of Article VIII, Section II, paragraph 5 of the State Constitution, a municipal or county agency which forwards moneys to the State Treasurer pursuant to this subsection may retain an amount equal to 2% of the moneys which it collects pursuant to this subsection as compensation for its administrative costs associated with implementing the provisions of this subsection.

f. Notwithstanding the provisions of subsections a. and b. of this section, \$1 shall be added to the amount of each fine and penalty imposed and collected through a court under authority of any law for any violation of the provisions of Title 39 of the Revised Statutes or any other motor vehicle or traffic violation in this State and shall be forwarded by the person to whom the same are paid to the State Treasurer. The State Treasurer shall annually deposit those moneys so forwarded in the "Autism Medical Research and Treatment Fund" established pursuant to section 1 of P.L.2003, c.144 (C.30:6D-62.2).

g. Notwithstanding the provisions of subsections a. and b. of this section, \$2 shall be added to the amount of each fine and penalty imposed and collected by a court under authority of any law for any violation of the provisions of Title 39 of the Revised Statutes or any other motor vehicle or traffic violation in this State and shall be forwarded by the person to whom the same are paid to the State Treasurer. The State Treasurer shall annually deposit those moneys so forwarded in the "New Jersey Forensic DNA Laboratory Fund" established pursuant to P.L.2003, c.183. Prior to depositing the moneys into the fund, the State Treasurer shall forward to the Administrative Office of the Courts an amount not to exceed \$475,000 from moneys initially collected pursuant to this subsection to be used exclusively to establish a collection mechanism and to provide funding to update the Automated Traffic System Fund created pursuant to N.J.S.2B:12-30 to implement the provisions of this subsection.

The authority to impose additional fines and penalties under this subsection shall take effect 90 days after the effective date of P.L.2003, c.183 and shall expire five years thereafter. Not later than the 180th day prior to such expiration, the Attorney General shall prepare and submit to the Governor and the Legislature a report on the collection and use of DNA samples under P.L.1994, c.136. The report shall cover the period beginning on that effective date and ending four years thereafter. The report shall indicate separately, for each one-year period during those four years that begins on that effective date or an anniversary thereof, the number of each type of biological sample taken and the total cost of taking that type of sample, and also the number of identifications and exonerations achieved through the use of the samples. In addition, the report shall evaluate the effectiveness, including cost effectiveness, of having the samples available to further police investigations and other forensic purposes.

h. Notwithstanding the provisions of subsections a. and b. of this section, \$1 shall be added to the amount of each fine and penalty imposed and collected under authority of any law for any violation of the provisions of Title 39 of the Revised Statutes or any other motor vehicle or traffic violation in this State and shall be forwarded by the person to whom the same are paid to the State Treasurer. The State Treasurer shall annually deposit those moneys so forwarded in the "New Jersey Brain Injury Research Fund" established pursuant to section 9 of P.L.2003, c.200 (C.52:9EE-9). The Administrative Office of the Courts may retain an amount equal to \$475,000 from the moneys which it initially collects pursuant to this subsection, prior to depositing any moneys in the "New Jersey Brain Injury Research Fund," in order to meet the expenses associated with utilizing the Automated Traffic System Fund created pursuant to N.J.S.2B:12-30 to implement the provisions of this subsection and serve other statutory purposes.

i. Notwithstanding the provisions of subsections a. and b. of this section, all fines and penalties imposed and collected under authority of law for any violation related to the unlawful operation or the sale of a vehicle under section 1 of P.L.1955, c.53 (C.39:3-17.1) shall be forwarded by the judge to whom the same have been paid to the State Treasurer, if the complaining witness is the chief administrator, a member of his staff, a member of the State Police, an inspector of the Board of Public Utilities, or a law enforcement officer or other official of any other State agency; or, if the complaining witness is not one of the foregoing, one-half to the chief financial officer of the county and one-half to the chief financial officer of the municipality wherein the violation occurred.

3. This act shall take effect immediately.

Approved September 27, 2007.

CHAPTER 179

AN ACT concerning motorcycle safety education courses and amending P.L.1991, c.452.

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

1. Section 1 of P.L.1991, c.452 (C.27:5F-36) is amended to read as follows:

C.27:5F-36 Motorcycle safety education program.

1. a. The chief administrator of the New Jersey Motor Vehicle Commission, after consultation with the motorcycle safety education advisory committee established under section 3 of P.L.1991, c.452 (C.27:5F-38), shall establish a motorcycle safety education program. The program shall consist of a course of instruction and training designed to develop and instill the knowledge, attitudes, habits, and skills necessary for the safe operation and riding of a motorcycle and shall meet or exceed the standards and requirements of the rider's course developed by the Motorcycle Safety Foundation.

b. The motorcycle safety education course shall be open to any applicant for a New Jersey motorcycle license or endorsement and to any person who has been issued a New Jersey motorcycle license or endorsement. The course shall be scheduled for such times and places as the chief administrator shall determine are appropriate to enable interested applicants for and persons with motorcycle licenses and endorsements to participate.

c. The chief administrator may assign employees of the Motor Vehicle Commission to serve as instructors for the course, or may contract with such other persons who are certified as motorcycle safety education instructors pursuant to section 2 of P.L.1991, c.452 (C.27:5F-37) to serve as instructors for the course. A person with a motorcycle safety education instructor endorsement to an instructor's license issued pursuant to section 5 of P.L.1951, c.216 (C.39:12-5) may also be selected by the chief administrator to serve as an instructor for the course.

d. If the moneys deposited in the Motorcycle Safety Education Fund established pursuant to section 4 of P.L.1991, c.452 (C.27:5F-39), are not

sufficient to cover the costs of the program, the chief administrator may impose a registration fee to be paid by the participants in the course.

e. The motorcycle safety education course may also be provided by:

(1) public and private educational institutions which are approved by the chief administrator to offer the course;

(2) drivers' schools licensed pursuant to P.L.1951, c.216 (C.39:12-1 et seq.); or

(3) dealers engaged in the business of selling new motorcycles and licensed pursuant to R.S.39:10-19 and which are approved by the chief administrator to offer the course. A dealer approved to offer the motorcycle safety education course shall not restrict enrollment therein to persons who have purchased or agreed to purchase a motorcycle or other vehicle from that dealer, and shall not charge a higher fee for enrollment therein based upon whether a person has made or has agreed to make such a purchase.

f. Upon and after the effective date of this act, the chief administrator may impose upon an entity seeking approval to provide the motorcycle safety education course in accordance with subsection e. of this section, a course certification fee for each location at which the entity intends to offer motorcycle range instruction. The chief administrator shall adopt regulations pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.) to fix the amount of the course certification fee. Moneys collected pursuant to this subsection shall be deposited in the Motorcycle Safety Education Fund, pursuant to section 4 of P.L.1991, c.452 (C.27:5F-39).

g. Upon and after the effective date of this act, the chief administrator shall collect from each entity approved to provide the motorcycle safety education course pursuant to subsection e. of this section, a road test waiver fee for each student who has successfully completed the course and has qualified for a waiver of the road test portion of the examination required pursuant to section 6 of P.L.1991, c.452 (C.39:3-10.31) to obtain a motorcycle license or endorsement. The chief administrator shall adopt regulations pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.) to fix the amount of the road test waiver fee. Moneys collected pursuant to this subsection shall be deposited in the Motorcycle Safety Education Fund, pursuant to section 4 of P.L.1991, c.452 (C.27:5F-39).

2. This act shall take effect on the 180th day after enactment, but the chief administrator may take such anticipatory administrative action in advance as shall be necessary for the implementation of the act.

Approved September 27, 2007.

CHAPTER 180

AN ACT concerning certain payments to roadway contractors and supplementing P.L.1948, c.454 (C.27:23-1 et seq.).

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

C.27:23-6.3 Partial payments to roadway contractors.

1. Contracts entered into by the New Jersey Turnpike Authority for roadway construction and maintenance shall provide for partial payments at least once each month or from time to time as the work progresses on work of construction or maintenance. Two per centum of the amount due on partial payments of the total contract price shall be withheld from the contractor pending completion of the contract, but upon substantial completion of the contract, as defined by rules or regulations of the authority, 1% shall be withheld. At any time during the performance of the work, if work is not progressing, as defined by the "New Jersey Turnpike Authority Standard Specifications," the authority may, in its discretion, increase the withholding to 4% of the payment due. No retainage shall be withheld on service contracts including, but not limited to, mowing, sweeping, tree trimming and similar contracts. Any partial payments made after substantial completion of the contract shall be made only upon certification by the general contractor to the authority that all subcontractors have been paid in the same proportion that he has been paid; however, should the amount owed by a general contractor to a subcontractor be in dispute the authority shall be empowered to advance to the general contractor the amount in dispute after a determination by the authority.

Contracts may also provide for partial payments at least once in each month or from time to time as the work progresses on all materials placed along or upon the site, or stored at locations approved by the authority, which are suitable for the use and execution of the contract, provided the contractor furnishes releases of liens for all materials furnished at the time each estimate of work is submitted for payment, but such partial payments shall not exceed the cost of material.

When the contract provides that a portion of the work may be deferred with the approval of the authority, the sum withheld from the contractor may not be less than 25% of the value of the work.

Any money heretofore or hereafter withheld from contract payments as provided for herein shall be paid by the authority to any contractor entitled

thereto who shall deposit under terms of an escrow agreement, in a banking institution located in this State and approved by the authority, negotiable bonds, acceptable to the authority, issued by the State or any political subdivision thereof, the bonds having value equal to the amount of money to be paid to any such contractor. For purposes of this section, value shall mean par value or market value, whichever is lower.

C.27:23-6.4 Existing covenants, agreements, contracts unaffected.

2. The provisions of this act shall not modify, limit, or restrict in any manner the obligations and powers of the New Jersey Turnpike Authority to comply with, carry out, and perform each and every covenant, agreement, or contract heretofore made or entered into by the authority with respect to the authority's bonds or for the benefit, protection, or security of the bondholders.

3. This act shall take effect on January 1, 2008.

Approved September 27, 2007.

CHAPTER 181

AN ACT appropriating \$40,000,000 from the "Garden State Green Acres Preservation Trust Fund," and appropriating certain interest earnings and reappropriating certain other moneys, for the acquisition of lands by the State for recreation and conservation purposes.

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

1. a. There is appropriated from the "Garden State Green Acres Preservation Trust Fund," established pursuant to section 19 of P.L.1999, c.152 (C.13:8C-19), to the Department of Environmental Protection the sum of \$40,000,000 for the acquisition of lands by the State for recreation and conservation purposes. This sum shall be allocated as follows:

Project	County	Municipality	Amount
(1) CAPE MAY PENINSULA			\$2,500,000
<i>Cape May Peninsula</i>			
	Cape May	Cape May City	

		Cape May Point Boro	
		Dennis Twp	
		Lower Twp	
		Middle Twp	
		Ocean City	
		Sea Isle City	
		Upper Twp	
		West Cape May Boro	
		Woodbine Boro	
(2)	DELAWARE & RARITAN CANAL GREENWAY		750,000
	Hunterdon	Delaware Twp	
		Kingwood Twp	
		Lambertville City	
		Stockton Boro	
		West Amwell Twp	
	Mercer	Ewing Twp	
		Hamilton Twp	
		Hopewell Twp	
		Lawrence Twp	
		Princeton Twp	
		Trenton City	
	Middlesex	New Brunswick City	
		Plainsboro Twp	
		South Brunswick Twp	
	Somerset	Franklin Twp	
(3)	DELAWARE BAY WATERSHED GREENWAY		3,500,000
	<i>Alloways Creek Greenway</i>		
	Salem	Alloway Twp	
		Elsinboro Twp	
		Lower Alloways Creek Twp	
		Pilesgrove Twp	
		Quinton Twp	
		Upper Pittsgrove Twp	
	<i>Cape May Tributaries</i>		
	Cape May	Dennis Twp	
		Lower Twp	
		Middle Twp	
		Upper Twp	
	<i>Cohansey River Greenway</i>		
	Cumberland	Bridgeton City	
		Fairfield Twp	
		Greenwich Twp	
		Hopewell Twp	
		Lawrence Twp	

		Shiloh Boro	
		Upper Deerfield Twp	
	Salem	Alloway Twp	
	<i>Dividing/ Nantuxent/ Cedar/ Back Creeks Greenway</i>		
	Cumberland	Commercial Twp	
		Downe Twp	
		Fairfield Twp	
		Lawrence Twp	
	<i>Maurice River Greenway</i>		
	Atlantic	Buena Boro	
		Buena Vista Twp	
	Cape May	Dennis Twp	
	Cumberland	Commercial Twp	
		Deerfield Twp	
		Maurice River Twp	
		Millville City	
		Vineland City	
	Gloucester	Clayton Boro	
		Elk Twp	
		Franklin Twp	
		Glassboro Boro	
		Monroe Twp	
		Newfield Boro	
	Salem	Elmer Boro	
		Pittsgrove Twp	
		Upper Pittsgrove Twp	
	<i>Salem River/ Mannington Greenway</i>		
	Salem	Carneys Point Twp	
		Elsinboro Twp	
		Mannington Twp	
		Oldmans Twp	
		Pennsville Twp	
		Piles Grove Twp	
		Upper Pittsgrove Twp	
		Woodstown Boro	
	<i>Stow Creek Greenway</i>		
	Cumberland	Greenwich Twp	
		Stow Creek Twp	
	Salem	Alloway Twp	
		Lower Alloways Creek Twp	
		Quinton Twp	
(4)	DELAWARE RIVER WATERSHED GREENWAY		2,750,000
	<i>Assinkunk Creek Watershed</i>		
	Burlington	Mansfield Twp	

Big Timber Creek

Camden	Clementon Boro Gloucester Twp Lindenwold Boro Pine Hill Boro
Gloucester	Deptford Twp Westville Boro

Cooper River Greenway

Camden	Berlin Twp Camden City Gibbsboro Boro Haddon Twp Lindenwold Boro Voorhees Twp

Crosswicks Creek Watershed

Burlington	Bordentown City Bordentown Twp Chesterfield Twp Mansfield Twp North Hanover Twp
Mercer	Hamilton Twp Trenton City Washington Twp
Monmouth	Allentown Boro Millstone Twp Upper Freehold Twp
Ocean	Jackson Twp Plumsted Twp

Delaware River Bluffs

Hunterdon	Delaware Twp Frenchtown Boro Kingwood Twp Lambertville City Stockton Boro West Amwell Twp
Mercer	Ewing Twp Hopewell Twp

Nishisakawick Greenway

Hunterdon	Alexandria Twp Delaware Twp Frenchtown Boro Kingwood Twp

Oldmans Creek Greenway

Gloucester	Logan Twp

		South Harrison Twp	
		Woolwich Twp	
	Salem	Oldmans Twp	
		Pilesgrove Twp	
		Upper Pittsgrove Twp	
<i>Raccoon Creek Greenway</i>			
	Gloucester	East Greenwich Twp	
		Elk Twp	
		Greenwich Twp	
		Harrison Twp	
		Logan Twp	
		Woolwich Twp	
<i>Rancocas Creek Greenway</i>			
	Burlington	Cinnaminson Twp	
		Delanco Twp	
		Delran Twp	
		Eastampton Twp	
		Hainesport Twp	
		Lumberton Twp	
		Medford Twp	
		Moorestown Twp	
		Mount Holly Twp	
		Mount Laurel Twp	
		Pemberton Twp	
		Riverside Twp	
		Southampton Twp	
		Springfield Twp	
		Westampton Twp	
		Willingboro Twp	
<i>Trenton / Hamilton Marsh</i>			
	Burlington	Bordentown Twp	
		Chesterfield Twp	
	Mercer	Hamilton Twp	
		Trenton City	
<i>Woodbury Creek Watershed</i>			
	Gloucester	National Park Boro	
		West Deptford Twp	
(5) HIGHLANDS GREENWAY			18,000,000
	Bergen	Mahwah Twp	
		Oakland Boro	
	Hunterdon	Alexandria Twp	
		Bethlehem Twp	
		Bloomsbury Boro	
		Califon Boro	

	Clinton Town
	Clinton Twp
	Glen Gardner Boro
	Hampton Boro
	High Bridge Boro
	Holland Twp
	Lebanon Boro
	Lebanon Twp
	Milford Boro
	Tewksbury Twp
	Union Twp
Morris	Boonton Town
	Boonton Twp
	Butler Boro
	Chester Boro
	Chester Twp
	Denville Twp
	Dover Town
	Hanover Twp
	Harding Twp
	Jefferson Twp
	Kinnelon Boro
	Mendham Boro
	Mendham Twp
	Mine Hill Twp
	Montville Twp
	Morris Plains Boro
	Morris Twp
	Morristown Town
	Mount Arlington Boro
	Mount Olive Twp
	Mountain Lakes Boro
	Netcong Boro
	Parsippany-Troy Hills Twp
	Pequannock Twp
	Randolph Twp
	Riverdale Boro
	Rockaway Boro
	Rockaway Twp
	Roxbury Twp
	Victory Gardens Boro
	Washington Twp
	Wharton Boro
Passaic	Bloomington Boro

		Pompton Lakes Boro	
		Ringwood Boro	
		Wanaque Boro	
		West Milford Twp	
	Somerset	Bedminster Twp	
		Bernards Twp	
		Bernardsville Boro	
		Far Hills Boro	
		Peapack-Gladstone Boro	
	Sussex	Byram Twp	
		Franklin Boro	
		Green Twp	
		Hamburg Boro	
		Hardyston Twp	
		Hopatcong Boro	
		Ogdensburg Boro	
		Sparta Twp	
		Stanhope Boro	
		Vernon Twp	
	Warren	Allamuchy Twp	
		Alpha Boro	
		Belvidere Town	
		Franklin Twp	
		Frelinghuysen Twp	
		Greenwich Twp	
		Hackettstown Town	
		Harmony Twp	
		Hope Twp	
		Independence Twp	
		Liberty Twp	
		Lopatcong Twp	
		Mansfield Twp	
		Oxford Twp	
		Phillipsburg Town	
		Pohatcong Twp	
		Washington Boro	
		Washington Twp	
		White Twp	
(6) NON-PROFIT CAMPS			2,000,000
<i>Youth Camps</i>			
	Bergen	Mahwah Twp	
	Burlington	Evesham Twp	
		Medford Twp	
		Tabernacle Twp	

	Cumberland	Greenwich Twp	
		Hopewell Twp	
	Gloucester	Franklin Twp	
	Hunterdon	East Amwell Twp	
		Readington Twp	
	Monmouth	Wall Twp	
	Morris	Kinnelon Boro	
		Rockaway Boro	
	Ocean	Ocean Twp	
	Passaic	Ringwood Boro	
		West Milford Twp	
	Salem	Alloway Twp	
	Somerset	Franklin Twp	
	Sussex	Byram Twp	
		Hampton Twp	
		Sandyston Twp	
		Sparta Twp	
		Stillwater Twp	
		Vernon Twp	
		Wantage Twp	
	Warren	Hardwick Twp	
		Independence Twp	
		Mansfield Twp	
(7) PINELANDS			5,000,000
	Atlantic	Brigantine City	
		Buena Boro	
		Buena Vista Twp	
		Corbin City	
		Egg Harbor City	
		Egg Harbor Twp	
		Estell Manor City	
		Folsom Boro	
		Galloway Twp	
		Hamilton Twp	
		Hammonton Town	
		Mullica Twp	
		Port Republic City	
		Weymouth Twp	
	Burlington	Bass River Twp	
		Evesham Twp	
		Medford Lakes Boro	
		Medford Twp	
		New Hanover Twp	
		North Hanover Twp	

		Pemberton Twp	
		Shamong Twp	
		Southampton Twp	
		Springfield Twp	
		Tabernacle Twp	
		Washington Twp	
		Woodland Twp	
		Wrightstown Boro	
	Camden	Berlin Boro	
		Berlin Twp	
		Chesilhurst Boro	
		Waterford Twp	
		Winslow Twp	
	Cape May	Dennis Twp	
		Middle Twp	
		Upper Twp	
		Woodbine Boro	
	Cumberland	Maurice River Twp	
		Vineland City	
	Gloucester	Franklin Twp	
		Monroe Twp	
	Ocean	Barneget Twp	
		Beachwood Boro	
		Berkeley Twp	
		Eagleswood Twp	
		Jackson Twp	
		Lacey Twp	
		Lakehurst Boro	
		Little Egg Harbor Twp	
		Manchester Twp	
		Ocean Twp	
		Plumsted Twp	
		South Toms River Boro	
		Stafford Twp	
		Toms River Twp	
		Tuckerton Boro	
(8)	RARITAN RIVER WATERSHED GREENWAY		250,000
	Hunterdon	Bethlehem Twp	
		Clinton Twp	
		East Amwell Twp	
		Franklin Twp	
		High Bridge Boro	
		Lebanon Twp	
		Raritan Twp	

	Readington Twp	
	Tewksbury Twp	
	Union Twp	
Middlesex	East Brunswick Twp	
	Milltown Boro	
	New Brunswick City	
	North Brunswick Twp	
	Piscataway Twp	
	South Brunswick Twp	
Morris	Chester Twp	
	Harding Twp	
	Long Hill Twp	
	Mendham Boro	
	Mendham Twp	
	Mount Olive Twp	
	Washington Twp	
Somerset	Bedminster Twp	
	Bernards Twp	
	Branchburg Twp	
	Bridgewater Twp	
	Far Hills Boro	
	Franklin Twp	
	Hillsborough Twp	
	Manville Boro	
	Montgomery Twp	
	Peapack-Gladstone Boro	
	Somerville Boro	
	Warren Twp	
(9) RIDGE AND VALLEY GREENWAY		3,000,000
Sussex	Andover Boro	
	Andover Twp	
	Branchville Boro	
	Frankford Twp	
	Fredon Twp	
	Green Twp	
	Hampton Twp	
	Lafayette Twp	
	Montague Twp	
	Newton Town	
	Sandyston Twp	
	Stillwater Twp	
	Sussex Boro	
	Walpack Twp	
	Wantage Twp	

	Warren	Blairstown Twp Frelinghuysen Twp Hackettstown Town Hardwick Twp Hope Twp Knowlton Twp Liberty Twp	
(10) TRAILS			250,000
	<i>Appalachian Trail Easements</i>		
	Passaic	West Milford Twp	
	Sussex	Frankford Twp Vernon Twp Wantage Twp	
	<i>Capitol to the Coast</i>		
	Mercer	Hamilton Twp Trenton City Washington Twp West Windsor Twp	
	Monmouth	Freehold Twp Howell Twp Manasquan Boro Millstone Twp Roosevelt Boro Sea Girt Boro Spring Lake Boro Spring Lake Heights Boro Upper Freehold Twp Wall Twp Jackson Twp	
	<i>Rails to Trails</i>		
	Ocean		
	Burlington	Burlington City Burlington Twp Chesterfield Twp Mansfield Twp North Hanover Twp Pemberton Boro Pemberton Twp Southampton Twp Springfield Twp Westampton Twp Willingboro Twp	
	Hunterdon	Alexandria Twp Frenchtown Boro Holland Twp	

		Lambertville City	
		Milford Boro	
	Mercer	East Windsor Twp	
		Hightstown Boro	
		Washington Twp	
		West Windsor Twp	
	Ocean	Plumsted Twp	
	Sussex	Andover Boro	
		Andover Twp	
		Franklin Boro	
		Green Twp	
		Hamburg Boro	
		Newton Town	
		Ogdensburg Boro	
		Sparta Twp	
		Sussex Boro	
		Vernon Twp	
	Warren	Allamuchy Twp	
		Belvidere Town	
		Franklin Twp	
		Independence Twp	
		Knowlton Twp	
		Liberty Twp	
		Pohatcong Twp	
		Washington Twp	
		White Twp	
	<i>Warren County Trails</i>		
	Warren	Franklin Twp	
		Harmony Twp	
		Lopatcong Twp	
		Mansfield Twp	
		Oxford Twp	
		Phillipsburg Town	
		Washington Twp	
		White Twp	
(11) URBAN PARKS			2,000,000
	Bergen	Edgewater Boro	
	Camden	Camden City	
	Essex	Belleville Twp	
		Bloomfield Twp	
		Caldwell Boro	
		East Orange City	
		Glen Ridge Boro	
		Irvington Twp	

	Maplewood Twp	
	Montclair Twp	
	Newark City	
	Nutley Twp	
	Orange City Twp	
	South Orange Village Twp	
	West Orange Twp	
Hudson	Bayonne City	
	East Newark Boro	
	Guttenberg Town	
	Harrison Town	
	Hoboken City	
	Jersey City	
	Kearny Town	
	North Bergen Twp	
	Union City	
	Weehawken Twp	
	West New York Town	
Mercer	Trenton City	
Middlesex	Edison Twp	
Monmouth	Long Branch City	
Passaic	Paterson City	
Union	Elizabeth City	
	Fanwood Boro	
	Garwood Boro	
	Hillside Twp	
	Linden City	
	Plainfield City	
	Rahway City	
	Roselle Boro	
	Roselle Park Boro	
	Union Twp	
	Winfield Twp	
TOTAL		\$40,000,000

b. Any transfer of any funds, or change in project site, listed in subsection a. of this section shall require the approval of the Joint Budget Oversight Committee or its successor.

c. To the extent that moneys remain available after the projects listed in subsection a. of this section are offered funding pursuant thereto, any State project that previously received funding appropriated or reappropriated from any Green Acres bond act, any annual appropriations act, section 2 of this act, or the Garden State Green Acres Preservation Trust Fund for

recreation and conservation purposes shall be eligible to receive additional funding, as determined by the Department of Environmental Protection, subject to the approval of the Joint Budget Oversight Committee or its successor.

d. The expenditure of moneys appropriated by this act is subject to the provisions of subsection o. of section 26 of P.L.1999, c.152 (C.13:8C-26).

e. For the purposes of this section, "Green Acres bond act" means P.L.1995, c.204, P.L.1992, c.88, and P.L.1989, c.183.

2. a. There is reappropriated to the Department of Environmental Protection the unexpended balances, due to project cancellations or cost savings, of the amounts appropriated or reappropriated from any Green Acres bond act, any annual appropriations act, or the Garden State Green Acres Preservation Trust Fund for State projects to acquire or develop lands for recreation and conservation purposes, for the purpose of providing additional funding, as determined by the Department of Environmental Protection, to any State project that previously received funding appropriated or reappropriated from any Green Acres bond act, any annual appropriations act, or the Garden State Green Acres Preservation Trust Fund for recreation and conservation purposes or that receives funding approved pursuant to section 1 of this act, subject to the approval of the Joint Budget Oversight Committee or its successor. Any such additional funding provided from a Green Acres bond act may include administrative costs.

b. There is appropriated to the Department of Environmental Protection such sums as may be or become available on or before June 30, 2008 due to interest earnings in the "Garden State Green Acres Preservation Trust Fund," established pursuant to section 19 of P.L.1999, c.152 (C.13:8C-19), the "1995 New Jersey Green Acres Fund" established pursuant to section 22 of the "Green Acres, Farmland and Historic Preservation, and Blue Acres Bond Act of 1995," P.L.1995, c.204, in the "1992 New Jersey Green Acres Fund" established pursuant to section 21 of the "Green Acres, Clean Water, Farmland and Historic Preservation Bond Act of 1992," P.L.1992, c.88, and in the "1989 New Jersey Green Acres Fund" established pursuant to section 18 of the "Open Space Preservation Bond Act of 1989," P.L.1989, c.183, for the purpose of providing additional funding, as determined by the Department of Environmental Protection, to any State project that previously received funding appropriated or reappropriated from any Green Acres bond act, any annual appropriations act, or the Garden State Green Acres Preservation Trust Fund for recreation and conservation purposes or that receives funding approved pursuant to section 1 of this act,

subject to the approval of the Joint Budget Oversight Committee or its successor, and for the purpose of administrative costs associated with any such projects.

c. For the purposes of this section, "Green Acres bond act" means P.L.1995, c.204, P.L.1992, c.88, and P.L.1989, c.183.

3. This act shall take effect July 1, 2007 or on the date of enactment, whichever is later.

Approved September 27, 2007.

CHAPTER 182

AN ACT appropriating \$11,000,000 from the "Garden State Historic Preservation Trust Fund" for the purpose of providing grants, as awarded by the New Jersey Historic Trust, for certain historic preservation projects.

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

1. a. There is appropriated from the "Garden State Historic Preservation Trust Fund," established pursuant to section 21 of the "Garden State Preservation Trust Act," P.L.1999, c.152 (C.13:8C-21), to the New Jersey Historic Trust the sum of \$11,000,000 for the purpose of providing capital preservation grants as listed in subsection b. of this section and historic site management grants as listed in subsection c. of this section, as awarded by the New Jersey Historic Trust, for historic preservation projects approved as eligible for such funding.

b. The following historic preservation projects are eligible for funding in the form of capital preservation grants, as awarded by the New Jersey Historic Trust, using moneys appropriated pursuant to this section:

County	Municipality	Name of Organization	Project Name	Grant Award
Bergen	Rutherford	Felician College	Castle at Felician College	\$750,000
Cape May	Cape May City	Center for Community Arts, Inc	Franklin Street School	\$750,000
Cape May	Lower Township	Naval Air Station Wildwood Aviation Museum	Hangar No. 1	\$103,784

Cape May	North Wildwood City	North Wildwood City	Hereford Inlet Light Station	\$120,000
Cumberland	Bridgeton City	First Presbyterian Church, Bridgeton	First Presbyterian Church, Bridgeton	\$100,000
Essex	Millburn Twp	Greenwood Gardens	Greenwood Gardens	\$750,000
Essex	Newark City	Community Agencies Corporation of NJ	Feigenspan Mansion	\$500,000
Essex	Newark City	Lincoln Park/Coast Cultural District, Inc.	South Park Calvary Presbyterian Church	\$300,000
Essex	Newark City	Newark Gospel Tabernacle	Stanley Theater	\$30,000
Essex	Orange City Twp	Orange Public Library	Orange Public Library	\$750,000
Hudson	Hoboken City	United Synagogue of Hoboken	Star of Israel Synagogue	\$280,707
Hudson	Jersey City	Jersey City Division of Architecture	Van Wagenen/Apple Tree House	\$575,000
Hudson	Jersey City	Saints Peter and Paul Orthodox Church	Saints Peter and Paul Orthodox Church, JC	\$33,990
Hunterdon	Bethlehem Twp	West Portal Historical Society, Inc.	Bethlehem Township Old Town Hall	\$7,800
Mercer	Princeton Twp	Princeton Historical Society	Updike Farmstead	\$605,825
Monmouth	Manasquan Boro	Manasquan Boro	Squan Beach Life Saving Station	\$450,000
Monmouth	Rumson Boro	First Presbyterian Church of Rumson	First Presbyterian Church of Rumson	\$83,333
Monmouth	Shrewsbury Boro	Christ Episcopal Church, Shrewsbury	Christ Episcopal Church, Shrewsbury	\$50,000
Morris	Harding Twp	Harding Twp	Glen Alpin	\$750,000
Morris	Madison Boro	Madison Boro	Hartley Dodge Memorial	\$660,719
Morris	Mendham Boro	Community of St. John Baptist	Community of St. John Baptist	\$560,202
Salem	Mendham Twp	Salem Old House Foundation	Abel Nicholson House	\$42,027
Salem	Elsinboro Twp	Salem County Historical Society	Alphonso Eakin House and Bathhouse	\$75,000
Somerset	South Bound Brook Boro	South Bound Brook Boro	Abraham Staats House	\$339,898
Union	Elizabeth City	First Presbyterian Church, Elizabeth	First Presbyterian Church of Elizabeth	\$750,000
Union	Plainfield City	Plainfield Historical Society	Nathaniel Drake House Museum	\$177,985
Union	Union Twp	Liberty Hall Foundation	Liberty Hall Carriage House	\$199,612

Warren	Hope Twp	Saint Luke's Episcopal Church, Hope	Saint Luke's Episcopal Church, Hope	<u>\$25,108</u>

TOTAL **\$9,820,990**

c The following historic preservation projects are eligible for funding in the form of historic site management grants, as awarded by the New Jersey Historic Trust, using moneys appropriated pursuant to this section:

County	Municipality	Name of Organization	Project Name	Grant Award
Bergen	Mahwah Twp	New York - New Jersey Trail Conference	Darlington Schoolhouse	\$50,000
Burlington	Burlington City	Burlington County Historical Society	Presidents, Printers and Patriots	\$24,000
Burlington	Maple Shade Twp	Maple Shade Township	Chesterford School	\$35,813
Burlington	Medford Twp	South Jersey Tourism Corp.	James Still Office	\$50,000
Burlington	Mount Holly Twp	Nat. Soc. of the Colonial Dames/NJ	Old School House, Mount Holly	\$5,139
Burlington	Riverton Boro	Calvary Presbyterian Church, Riverton	Calvary Presbyterian Church, Riverton	\$14,494
Burlington	Springfield Twp	Mount Holly Monthly Mtg. Rel. Soc. of Friends	Arney's Mount Meetinghouse	\$35,287
Camden	Lawnside Boro	Lawnside Historical Society, Inc.	Mount Peace Cemetery	\$13,632
Essex	Montclair Twp	Presby Memorial Iris Gardens	Walther House/Presby Memorial Iris Gardens	\$49,500
Essex	Orange City Twp	Episcopal Church of the Epiphany	Episcopal Church of the Epiphany, Orange	\$27,750
Essex	Orange City Twp	Orange Municipality	Orange City Hall	\$43,758
Hunterdon	Flemington Boro	Hunterdon Land Trust Alliance	Dvoor Farm	\$50,000
Mercer	Hopewell Twp	Mercer County - Planning Division	Upper Bellemont Farm	\$48,750
Mercer	Trenton City	First Presbyterian Church of Trenton	First Presbyterian Church of Trenton	\$50,000
Mercer	Trenton City	Port of Trenton Museum Foundation, Inc.	Delaware Inn	\$50,000
Mercer	Trenton City	Trenton Free Public Library	Trenton Public Library, Main Branch	\$37,434
Middlesex	Woodbridge Twp	Trinity Episcopal Church, Woodbridge	Trinity Episcopal Church, Woodbridge	\$49,955
Monmouth	Spring Lake Boro	Spring Lake Boro	First Aid and Emergency Building	\$46,125

Morris	Madison Boro	Presbyterian Church of Madison	Webb Memorial Chapel, Madison	\$19,070
Morris	Roxbury Twp	Roxbury Historical Trust, Inc.	King Store and Homestead	\$49,051
Morris	Wharton Boro	Borough of Wharton	Morris Canal, Lock 2 East	\$37,424
Ocean	Plumsted Township	Plumsted Township	Singleton Farm	\$16,920
Ocean	Stafford Twp	Stafford Township Historical Society	Old Manahawkin Baptist Church	\$50,000
Somerset	Bridgewater Twp	Heritage Trail Association	70 Miles of Legend and Lore	\$38,740
Somerset	Franklin Twp	Ukrainian Orthodox Church of the U.S.A.	Hendrick Fisher House	\$27,338
Somerset	Hillsborough Twp	Hillsborough Township	Van der Veer - Harris House	\$50,000
Somerset	Rocky Hill Boro	First Reformed Church of Rocky Hill	First Reformed Church of Rocky Hill	\$19,372
Union	Fanwood Boro	Fanwood Boro	Fanwood Park Historic District	\$30,000
Union	Plainfield City	First Unitarian Society of Plainfield	First Unitarian Society of Plainfield	\$41,033
Union	Scotch Plains Twp	Fanwood-Scotch Plains Rotary	Elizabeth and Gershom Frazee House	\$22,824
Union	Summit City	Playhouse Association, Inc.	Summit Public Library	\$6,713
Warren	Allamuchy Twp	Canal Society of New Jersey	Morris Canal Lock 4 to 5 West	\$38,888
Warren	Harmony Twp	Harmony Township Historic Pres. Comm.	Hoff-Vannatta Farmstead	<u>\$50,000</u>
TOTAL				<u>\$1,179,010</u>

d. Any transfer of any funds, or change in project sponsor, site, or type, listed in subsection b. or c. of this section shall require the approval of the Joint Budget Oversight Committee or its successor.

e. To the extent that moneys remain available after the projects listed in subsection b. or c. of this section are offered funding pursuant thereto, any project of a local government unit or qualifying tax exempt nonprofit organization that previously received funding for historic preservation purposes appropriated or reappropriated from any Green Acres bond act, any annual appropriations act, or the Garden State Historic Preservation Trust Fund, or that receives funding pursuant to this act shall be eligible to receive additional funding, as determined by the New Jersey Historic Trust, subject to the approval of the Joint Budget Oversight Committee or its successor.

For the purposes of this subsection, "Green Acres bond act" means P.L.1995, c.204, P.L.1992, c.88, and P.L.1987, c.265.

2. This act shall take effect July 1, 2007 or on the date of enactment, whichever is later.

Approved September 27, 2007.

CHAPTER 183

AN ACT concerning farmland preservation, appropriating \$30,660,000 from the "Garden State Farmland Preservation Trust Fund" for farmland preservation purposes, canceling certain prior appropriations for withdrawn farmland preservation projects, and appropriating \$393,103 and certain interest earnings from farmland preservation bond funds to provide grants for soil and water conservation projects.

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

1. a. There is appropriated from the "Garden State Farmland Preservation Trust Fund," established pursuant to section 20 of P.L.1999, c.152 (C.13:8C-20), to the State Agriculture Development Committee the following sums to pay the cost of acquisition by the committee of development easements on, or fee simple titles to, farmland, to provide grants to counties and municipalities for up to 80% of the cost of acquisition of fee simple titles to farmland, and to provide grants to qualifying tax exempt nonprofit organizations for up to 50% of the cost of acquisition of fee simple titles to farmland, for farmland preservation purposes for projects approved as eligible for such funding pursuant to the "Agriculture Retention and Development Act," P.L.1983, c.32 (C.4:1C-11 et seq.) and the "Garden State Preservation Trust Act," P.L.1999, c.152 (C.13:8C-1 et seq.):

(1) \$13,967,975 from the "Garden State Farmland Preservation Trust Fund";

(2) \$14,550,000 from the "Garden State Farmland Preservation Trust Fund," made available due to project withdrawals, canceled obligations, and reallocation of previously appropriated monies for fee simple acquisitions; and

(3) \$2,082,025 from the "Garden State Farmland Preservation Trust Fund," made available from proceeds received from the resale or lease of farmland previously acquired in fee simple by the committee.

b. Any farmland acquired in fee simple with monies appropriated pursuant to this section shall be offered for resale or lease with agricultural deed restrictions approved by the committee.

2. There is appropriated from the "Garden State Farmland Preservation Trust Fund," established pursuant to section 20 of P.L.1999, c.152 (C.13:8C-20), to the State Agriculture Development Committee such sums from any additional proceeds which may become available by the effective date of this act due to the resale or lease of farmland previously acquired in fee simple by the committee, for the purpose of providing for the cost of acquisition by the committee of fee simple titles to farmland for farmland preservation purposes. Any such farmland acquired in fee simple with moneys appropriated pursuant to this section shall be offered for resale or lease with agricultural deed restrictions approved by the committee.

3. Of the moneys appropriated or reappropriated pursuant to P.L.2001, c.103, P.L.2001, c.104, P.L.2001, c.306, P.L.2002, c.38, P.L.2003, c.80, P.L.2003, c.81, P.L.2003, c.83, P.L.2003, c.273, P.L.2005, c.14, and P.L.2005, c.18 from the "Garden State Farmland Preservation Trust Fund," established pursuant to section 20 of P.L.1999, c.152 (C.13:8C-20), the sum of \$14,550,000 is canceled due to project withdrawals, canceled obligations, and the reallocation of previously appropriated monies for fee simple acquisitions.

4. The expenditure of the sums appropriated by sections 1 and 2 of this act is subject to the provisions and conditions of P.L.1999, c.152 (C.13:8C-1 et seq.) and P.L.1983, c.32 (C.4:1C-11 et seq.), as appropriate.

5. There is appropriated to the State Agriculture Development Committee the following sums for the purpose of providing grants to landowners for up to 50% of the cost of soil and water conservation projects approved as eligible for such funding:

a. \$61,122 from the "1992 Farmland Preservation Fund," established pursuant to section 24 of the "Green Acres, Clean Water, Farmland and Historic Preservation Bond Act of 1992," P.L.1992, c.88, made available due to interest earnings;

b. \$331,981 from the "1995 Farmland Preservation Fund," established pursuant to section 25 of the "Green Acres, Farmland and Historic Preser-

vation, and Blue Acres Bond Act of 1995," P.L.1995, c.204, made available due to interest earnings; and

c. such additional funds as may become available by the effective date of this act from interest earnings from the "1992 Farmland Preservation Fund," established pursuant to section 24 of the "Green Acres, Clean Water, Farmland and Historic Preservation Bond Act of 1992," P.L.1992, c.88, and the "1995 Farmland Preservation Fund," established pursuant to section 25 of the "Green Acres, Farmland and Historic Preservation, and Blue Acres Bond Act of 1995," P.L.1995, c.204.

6. There is appropriated from the "Garden State Farmland Preservation Trust Fund," established pursuant to section 20 of P.L.1999, c.152 (C.13:8C-20), to the State Agriculture Development Committee the sum of \$60,000 for the purpose of purchasing and erecting farmland preservation signs on preserved farmland.

7. This act shall take effect July 1, 2007 or on the date of enactment, whichever is later.

Approved September 27, 2007.

CHAPTER 184

AN ACT appropriating \$45,150,000 and certain interest earnings from the "Garden State Farmland Preservation Trust Fund" for farmland preservation purposes, canceling certain prior appropriations for withdrawn farmland preservation projects, and amending P.L.2006, c.71 and P.L.2001, c.181.

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

1. a. There is appropriated to the State Agriculture Development Committee the following sums for the purpose of providing grants to counties and municipalities for up to 80% of the cost of acquisition of development easements on farmland for projects approved as eligible for such funding pursuant to subsection b. of this section:

(1) \$42,850,000 from the "Garden State Farmland Preservation Trust Fund," established pursuant to section 20 of P.L.1999, c.152 (C.13:8C-20); and

(2) \$933,777 from the Garden State Farmland Preservation Trust Fund," made available due to project withdrawals and canceled obligations;

(3) \$414,955 from the "1995 Farmland Preservation Fund," established pursuant to section 25 of the "Green Acres, Farmland and Historic Preservation, and Blue Acres Bond Act of 1995," P.L.1995, c.204, made available from previous funds that were appropriated for administrative costs of the State Agriculture Development Committee; and

(4) \$801,268 from the Open Space-Local Match program established pursuant to P.L.1998, c.45, made available due to project withdrawals and canceled obligations.

The total expenditure by the State Agriculture Development Committee from the list of eligible projects in subsection b. of this section totaling \$70,900,000 shall not exceed \$45,000,000.

b. The following projects are eligible for funding with the monies appropriated pursuant to subsection a. of this section:

County	Municipality	Project	Acres (+/-)	Amount of (Farm) Grant Not to Exceed
Atlantic Burlington	Hamilton Twp	Liepe, A. G.	20	\$200,000
	Evesham Twp/ Mansfield Twp	Burlington Cty/ Aaronson, G. & J.	30	200,000
Burlington	Medford Twp	Burlington Cty/ Indian Acres Tree Farm	140	675,000
Burlington	New Hanover Twp	Burlington Cty/ Hlubik, J. & E.	88	950,000
Burlington	Pemberton Twp	Burlington Cty/ Estate of M. Blaetz	69	275,000
Burlington	Pemberton Twp	Burlington Cty/ Jones, R. & R.	28	175,000
Burlington	Pemberton Twp	Burlington Cty/ Pettit, C.	109	675,000
Burlington	Springfield Twp	Burlington Cty/ Graban, P.	92	525,000
Burlington	Springfield Twp	Burlington Cty/ McLaren, E. & E.	88	425,000
Burlington	Springfield Twp	Burlington Cty/ Nicholson, G. & T.	71	500,000
Burlington	Springfield Twp	Burlington Cty/ Pettit, W., Sr.	23	200,000
Cape May	Dennis Twp	Cape May Cty/ Frie, L., D. & D.	29	175,000
Cape May	Lower Twp	Cape May Cty/ Gaver, E.	17	1,150,000

Cape May	Middle Twp	Cape May Cty/ Nicole-Kirstie, LLC	20	800,000
Cumberland	Fairfield Twp	Fields, W. & R.	19	125,000
Cumberland	Greenwich Twp	Sheppard, A.	71	250,000
Cumberland	Greenwich Twp	Watson, R. & P.	407	1,075,000
Cumberland	Hopewell Twp	Strosnider, S. & P.	43	250,000
Cumberland	Lawrence Twp	Kates, T.	26	150,000
Cumberland	Lawrence Twp	Sheppard, D. & C.	97	250,000
Cumberland	Lawrence Twp	Sorantino, D.	422	900,000
Cumberland	Stow Creek Twp	Riggins, R. & D. #1	19	100,000
Cumberland	Stow Creek Twp	Riggins, R. & D. #2	79	250,000
Cumberland	Upper Deerfield Twp	Henry, J., Jr. & H.	154	825,000
Cumberland	Upper Deerfield Twp	Maxwell, C.	38	225,000
Cumberland	Upper Deerfield Twp	Mooneyham, C. & G. #1	23	150,000
Gloucester	East Greenwich Twp	Gloucester Cty/ Leone, J. & S.	75	625,000
Gloucester	East Greenwich Twp	Grasso, J. & M.	34	125,000
Gloucester	East Greenwich Twp	Grasso, T. & M.	11	200,000
Gloucester	East Greenwich Twp	Pool, E. & G.	69	925,000
Gloucester	Elk Twp	Hawk, C. & S.	22	100,000
Gloucester	Elk Twp	Hughes, M.	20	325,000
Gloucester	Elk Twp	Luccarella, J.	81	325,000
Gloucester	East Greenwich Twp/ Harrison Twp/ Mantua Twp	Tomarchio, J. & A.	116	1,500,000
Gloucester	Franklin Twp	Nichols, J.	23	150,000
Gloucester	Harrison Twp	Gloucester Cty/ Butler, A. & Sconyers, D.	80	525,000
Gloucester	Harrison Twp	Datz, J. & D.	22	300,000
Gloucester	Harrison Twp/ South Harrison Twp	Eachus, E.	63	850,000
Gloucester	Monroe Twp	Nicolary, L. & K.	27	150,000
Hunterdon	Alexandria Twp	Frick, T./Levick, S.	42	225,000
Hunterdon	Alexandria Twp	Muhs, E./Kelly, R.	39	200,000
Hunterdon	Alexandria Twp	Muhs, W. and G.	24	150,000
Hunterdon	Clinton Twp	LeCompte, R.	39	425,000
Hunterdon	Holland Twp	Cain, R.	48	275,000
Hunterdon	Kingwood Twp	Crouse, R. & M.	54	275,000
Hunterdon	Lebanon Twp	Schroder, P. & S.	55	250,000
Hunterdon	Readington Twp	Chesla, K. & K.	42	550,000
Hunterdon	Readington Twp	Holland Brook Realty, LLC	24	300,000
Hunterdon	Readington Twp	Orlando, M.	22	275,000
Hunterdon	Readington Twp	Readington Twp/ Little, C. & S.	32	425,000
Hunterdon	West Amwell Twp	Fulper Preservation LLC (Stoy Farm)	88	450,000

Hunterdon	West Amwell Twp	Janyszeski, M. & B./ Kutz, C. & A.	36	250,000
Mercer	Washington Twp	Mercer Cty/ Silver Decoy	12	300,000
Mercer	Washington Twp	Mercer Cty/ Tindall Farm	56	1,100,000
Mercer	Washington Twp	Mercer Cty/Updike/ Herman Farm	141	5,725,000
Middlesex	Monroe Twp	Winter, G. & L.	9	325,000
Monmouth	Freehold Twp	Clayton Family Limited Partnership	146	6,050,000
Monmouth	Freehold Twp	Virag-Non, C. & Non, D., Jr.	40	1,150,000
Monmouth	Marlboro Twp	Flemers, J.	79	3,125,000
Monmouth	Millstone Twp	Millstone Twp/ Hom, F. & W.	169	2,700,000
Monmouth	Millstone Twp	Millstone Twp/ Wong Family	117	2,250,000
Monmouth	Millstone Twp	Nurko, A. & P.	30	900,000
Monmouth	Upper Freehold Twp	Casola, C., Sr.	74	950,000
Monmouth	Upper Freehold Twp	Fatigati, C.	31	450,000
Monmouth	Upper Freehold Twp	Herbert, K. & M. #1	49	1,050,000
Monmouth	Upper Freehold Twp	Herbert, K. & M. #2	49	675,000
Monmouth	Upper Freehold Twp	Herbert, K. & M. #3	34	850,000
Monmouth	Upper Freehold Twp	Hofling, A., Jr. & S.	37	800,000
Monmouth	Upper Freehold Twp	Langsam, S. & S.	13	200,000
Monmouth	Upper Freehold Twp	R. Infante & Sons	53	1,200,000
Monmouth	Upper Freehold Twp	Walnridge Farms, Inc./ Meirs, D. & R.	18	375,000
Morris	Chester Twp	Byrne, W. & S.	25	575,000
Ocean	Plumsted Twp	Clyne, J. & P.	23	425,000
Ocean	Plumsted Twp	Perry, A. & J.	22	550,000
Somerset	Bedminster Twp	Dunwalke Farm #1/ Allen, C.	70	1,225,000
Somerset	Bedminster Twp	Dunwalke Farm #2/ Allen, C.	57	925,000
Somerset	Bedminster Twp	Dunwalke Farm #3/ Allen, A.	76	925,000
Somerset	Bedminster Twp	Dunwalke Farm #4/ Allen, A.	47	750,000
Somerset	Bedminster Twp	Murphy, P. & V.	84	2,525,000
Somerset	Bedminster Twp	Piancone, L. (#4)	74	1,750,000
Somerset	Branchburg Twp	Stala, P.	31	300,000
Somerset	Montgomery Twp	Farkas, D. & R.	23	350,000
Sussex	Fredon Twp	Rosenbergh, E. & E.	45	275,000
Sussex	Lafayette Twp	Peck, H. & S.	35	275,000
Sussex	Lafayette Twp/ Sparta Twp	Demarest, J. & D.	45	300,000
Sussex	Sandyston Twp	Just-Cornelius, G.	70	225,000

Sussex	Sandyston Twp	Kurkjian, J. & D.	102	425,000
Sussex	Sparta Twp	Ashley, W.	20	300,000
Sussex	Wantage Twp	Caton, G.	13	100,000
Sussex	Wantage Twp	Caton, L.	16	100,000
Sussex	Wantage Twp	Decker, W.	39	250,000
Sussex	Wantage Twp	DenHoyer\	22	150,000
		Canton Estate		
Sussex	Wantage Twp	Harm, P.	33	175,000
Sussex	Wantage Twp	Hauck, M.	67	250,000
Sussex	Wantage Twp	Havens, R. & G. #2	38	225,000
Sussex	Wantage Twp	Kopec, J. & N.	36	225,000
Warren	Franklin Twp	Miller, J. & W.	49	300,000
Warren	Franklin Twp	Petty, J.	29	50,000
Warren	Franklin Twp	Riewerts, H.	36	250,000
Warren	Harmony Twp	Duckworth, R. #1	70	375,000
Warren	Harmony Twp	Duckworth, R. #3	25	150,000
Warren	Harmony Twp/ White Twp	Duckworth, R. #2	78	425,000
Warren	Hope Twp	Hayter, L. & M.	77	250,000
Warren	Liberty Twp	Kurnath, A. & J.	74	425,000
Warren	Mansfield Twp	Terhune Farm	77	225,000
		Partnership, LP #1		
Warren	Mansfield Twp	Terhune Farm	64	225,000
		Partnership, LP #2		
Warren	Washington Twp	McFadden, T. & R.	14	75,000
Warren	White Twp	Warren Cty/Pequest Development LLC	59	1,200,000
Warren	White Twp	Bullock, C. & C.	109	400,000
Warren	White Twp	Steinhardt, J.	51	200,000
Warren	White Twp	Steinhardt, T.	77	325,000

2. Of the monies appropriated or reappropriated pursuant to P.L.1998, c.45, P.L.1999, c.35, P.L.2000, c.49, P.L.2000, c.50, P.L.2000, c.176, P.L.2001, c.181, P.L.2001, c.182, P.L.2003, c.80, P.L.2003, c.81, P.L.2003, c.82, P.L.2003, c.83, P.L.2003, c.271, P.L.2005, c.14, P.L.2005, c.15, and P.L.2006, c.71 from the "Garden State Farmland Preservation Trust Fund," established pursuant to section 20 of P.L.1999, c.152 (C.13:8C-20), the sum of \$2,150,000 is canceled due to project withdrawals and canceled obligations.

3. The expenditure of the sums appropriated by this act is subject to the provisions and conditions of P.L.1999, c.152 (C.13:8C-1 et seq.) and P.L.1983, c.32 (C.4:1C-11 et seq.), as appropriate.

4. There is appropriated from the "Garden State Farmland Preservation Trust Fund," established pursuant to section 20 of P.L.1999, c.152 (C.13:8C-20), to the State Agriculture Development Committee the sum of \$150,000 for

the purpose of providing for the review of appraisals for all farmland preservation programs administered by the State Agriculture Development Committee.

5. There is appropriated to the State Agriculture Development Committee such sums as may be or become available on or before June 30, 2008 due to interest earnings in the "Garden State Farmland Preservation Trust Fund," established pursuant to section 20 of P.L.1999, c.152 (C.13:8C-20), for the purpose of providing funding for the administrative costs incurred by the State Agriculture Development Committee in administering farmland preservation programs.

6. Section 3 of P.L.2006, c.71 is amended to read as follows:

3. a. There is appropriated from the "Garden State Farmland Preservation Trust Fund," established pursuant to section 20 of P.L.1999, c.152 (C.13:8C-20), to the State Agriculture Development Committee the sum of \$3,500,000, made available due to project withdrawals and canceled obligations, for the purpose of providing grants to counties and municipalities for up to 80% of the cost of acquisition of development easements on farmland located in the pinelands area for the projects approved as eligible for such funding pursuant to subsection b. of this section, provided that any funds received for the transfer of a development easement shall be dedicated to the future purchase of development easements.

The total expenditure by the State Agriculture Development Committee from the list of eligible projects in subsection b. of this section totaling \$3,900,000 shall not exceed \$3,500,000.

b. The following projects are eligible for funding with the monies appropriated pursuant to subsection a. of this section:

Project	County	Municipality	Acres (+/-)	Amount of (Farm) Grant Not to Exceed
Berento, A. County Line	Atlantic	Hammonton Town	62	\$300,000
Blueberry	Atlantic	Hammonton Town	120	550,000
Siligato, J. & J. Wuillerman,	Atlantic	Hammonton Town	5	50,000
E., Jr.	Atlantic	Hammonton Town	19	125,000
Wuillerman,M.	Atlantic	Hammonton Town	72	375,000
Merlino, A.	Atlantic	Mullica Twp	65	325,000
Merlino, C. & M.	Atlantic	Mullica Twp	104	500,000

Variety Farms Atlantic Mullica Twp 410 1,675,000

7. Section 1 of P.L.2001, c.181 is amended to read as follows:

1. a. There is appropriated from the "Garden State Farmland Preservation Trust Fund," established pursuant to section 20 of P.L.1999, c.152 (C.13:8C-20), to the State Agriculture Development Committee the sum of \$26,500,000 for the purpose of providing grants to counties and municipalities for up to 80% of the cost of acquisition of development easements on farmland, provided that any funds received for the transfer of a development easement shall be dedicated to the future purchase of development easements, for projects approved as eligible for such funding pursuant to subsection b. of this section. The total expenditure by the State Agriculture Development Committee from the list of eligible projects in subsection b. of this section totaling \$30,125,000 shall not exceed \$26,500,000.

b. The following projects are eligible for funding with the monies appropriated pursuant to subsection a. of this section:

Project	County	Municipality	Acres (+/-)	Amount of Farm Grant Not to Exceed
Estate of F. L. Wehran, Sr.	Bergen	Mahwah Twp	218	\$ 3,050,000
Alexandria Twp/ Lyness	Hunterdon	Alexandria Twp	106	425,000
Alexandria Twp/ Swift	Hunterdon	Alexandria Twp	93	450,000
Kelly, R. & E.	Hunterdon	Alexandria Twp	16	75,000
Foley, E.	Hunterdon	Delaware Twp	217	1,125,000
Schenck, R. & M.	Hunterdon	Delaware Twp	63	325,000
Hunterdon County/ Kanach	Hunterdon	East Amwell Twp	106	550,000
Nielsen K. & Galloway, P.	Hunterdon	East Amwell Twp	88	450,000
Russell, N.	Hunterdon	East Amwell Twp	97	525,000
Volk, L.	Hunterdon	Franklin Twp	177	700,000
Chawat, S.	Hunterdon	Raritan Twp	110	400,000
Raritan Twp/ Adda	Hunterdon	Raritan Twp	104	675,000
Raritan Twp/ Everitt	Hunterdon	Raritan Twp	96	825,000
Raritan Twp/ Maraspin	Hunterdon	Raritan Twp	72	625,000

Zanetti, E.	Hunterdon	Raritan Twp	52	425,000
Readington Twp/ Bartles	Hunterdon	Readington Twp	95	325,000
Readington Twp/ Burjan	Hunterdon	Readington Twp	137	1,200,000
Readington Twp/ Reno	Hunterdon	Readington Twp	50	275,000
Readington Twp/ Schley	Hunterdon	Readington Twp	87	600,000
Union Twp/ Geiler	Hunterdon	Union Twp	57	450,000
Amwell Valley Conservancy	Hunterdon	West Amwell Twp	605	2,675,000
Cranbury Twp/ Jamieson	Middlesex	Cranbury Twp	189	1,850,000
White, D.	Middlesex	Plainsboro Twp	24	225,000
Morris County/ Wightman	Morris	Harding Twp	41	2,125,000
Morris County/ Clapp	Morris	Washington Twp	61	475,000
Morris County/ Lindaberry B	Morris	Washington Twp	95	575,000
Morris County/ Lindaberry C	Morris	Washington Twp	107	750,000
Morris County/ Peppas	Morris	Washington Twp	28	150,000
Washington Twp/ Burd	Morris	Washington Twp	77	625,000
Staats, W. P.	Somerset	Bedminster Twp/ Bridgewater Twp	54	900,000
Dressler, H. & B.	Somerset	Montgomery Twp	29	225,000
Jaeger, A.	Sussex	Frankford Twp	119	200,000
Hoitsma, J. & A.	Sussex	Green Twp	75	300,000
Fairclough, A.	Sussex	Hampton Twp	66	200,000
Fairclough, J. L.	Sussex	Hampton Twp	45	125,000
Scott, E. & J.	Sussex	Lafayette Twp/ Sparta Twp	128	425,000
Ardeljan, P. & D.	Sussex	Wantage Twp	108	200,000
Brooks, H. & H.	Sussex	Wantage Twp	71	150,000
Cagno, L. & A.	Sussex	Wantage Twp	100	200,000
Steinetz, B. & J.	Sussex	Wantage Twp	159	250,000
Ulrich, A. & J.	Sussex	Wantage Twp	28	100,000
Wallerius, M.	Sussex	Wantage Twp	35	100,000
Warren County/ Bockbrader, K.	Warren	Allamuchy Twp	86	175,000

Warren County/ Bockbrader, R.	Warren	Allamuchy Twp	139	200,000
Warren County/ Handel	Warren	Blairstown Twp	98	350,000
Warren County/ Pehowski	Warren	Blairstown Twp	170	550,000
Warren County/ Arvystas	Warren	Franklin Twp	49	200,000
Natyzak, B. & H.	Warren	Frelinghuysen Twp	131	325,000
Warren County/ Oberly, C. & M.	Warren	Greenwich Twp	124	525,000
Warren County/ Nykun	Warren	Independence Twp	94	250,000
Warren County/ Flitcroft	Warren	Knowlton Twp	174	425,000
Warren County/ Munniksmas	Warren	Mansfield Twp	95	400,000
Warren County/ Horizon Associates	Warren	Pohatcong Twp	117	425,000

8. This act shall take effect July 1, 2007 or on the date of enactment, whichever is later.

Approved September 27, 2007.

CHAPTER 185

AN ACT appropriating \$15,375,000 from the "Garden State Farmland Preservation Trust Fund" for farmland preservation purposes, and canceling certain prior appropriations for withdrawn farmland preservation projects.

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

1. a. There is appropriated from the "Garden State Farmland Preservation Trust Fund," established pursuant to section 20 of P.L.1999, c.152 (C.13:8C-20), to the State Agriculture Development Committee the following sums for the purpose of providing planning incentive grants to counties and municipalities pursuant to the provisions of P.L.1999, c.180 (C.4:1C-43.1 et seq.) and approved as eligible for such funding pursuant to subsection b. of this section:

(1) \$5,739,129 from the "Garden State Farmland Preservation Trust Fund," established pursuant to section 20 of P.L.1999, c.152 (C.13:8C-20); and

(2) \$9,635,871 from the "Garden State Farmland Preservation Trust Fund," made available due to project withdrawals, canceled obligations, and reallocation of previously appropriated funds.

b. The following projects are eligible for funding with the monies appropriated pursuant to subsection a. of this section:

Applicant	County	Municipality	Amount of Grant Not to Exceed
Burlington Cty - Berry Production Area Pemberton, Tabernacle, Washington & Woodland Twps	Burlington	Pemberton Twp Tabernacle Twp Washington Twp Woodland Twp	\$3,000,000
Burlington Cty - Pinelands Edge Southampton & Pemberton Twps	Burlington	Pemberton Twp Southampton Twp	525,000
Delaware Twp Hunterdon Cty	Hunterdon	Delaware Twp	1,000,000
Readington Twp Hunterdon Cty	Hunterdon	Readington Twp	1,500,000
Colts Neck Twp Monmouth Cty	Monmouth	Colts Neck Twp	1,200,000
Howell Twp Monmouth Cty	Monmouth	Howell Twp	1,200,000
Millstone Twp Monmouth Cty	Monmouth	Millstone Twp	700,000
Upper Freehold Twp Monmouth Cty	Monmouth	Upper Freehold Twp	1,500,000
Morris Cty Mendham Valley Project Area Mendham Boro & Twp	Morris	Mendham Boro Mendham Twp	175,000
Morris Cty Rockaway Valley Project Area Boonton, Denville & Rockaway Twps	Morris	Boonton Twp Denville Twp Rockaway Twp	175,000

Pilesgrove Twp Salem Cty	Salem	Pilesgrove Twp	1,500,000
Franklin Twp Somerset Cty	Somerset	Franklin Twp	1,500,000
Montgomery Twp Somerset Cty	Somerset	Montgomery Twp	1,300,000
Harmony Twp Warren Cty	Warren	Harmony Twp	100,000

2. Of the monies appropriated or reappropriated pursuant to P.L.2000, c.78, P.L.2000, c.79, P.L.2000, c.168, P.L.2001, c.105, P.L.2001, c.185, P.L.2001, c.306, P.L.2003, c.272, P.L.2005, c.16, P.L.2005, c.182, and P.L.2006, c.74 from the "Garden State Farmland Preservation Trust Fund," established pursuant to section 20 of P.L.1999, c.152 (C.13:8C-20), the sum of \$9,635,871 is made available due to project withdrawals, canceled obligations, and reallocation of previously appropriated funds.

3. The expenditure of the sums appropriated by this act is subject to the provisions and conditions of P.L.1999, c.152 (C.13:8C-1 et seq.), P.L.1983, c.32 (C.4:1C-11 et seq.), and P.L.1999, c.180 (C.4:1C-43.1 et seq.), as appropriate.

4. This act shall take effect July 1, 2007 or on the date of enactment, whichever is later.

Approved September 27, 2007.

CHAPTER 186

AN ACT appropriating \$6,000,000 from the "Garden State Farmland Preservation Trust Fund" for grants to qualifying tax exempt nonprofit organizations for farmland preservation purposes.

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

1. a. There is appropriated from the "Garden State Farmland Preservation Trust Fund," established pursuant to section 20 of P.L.1999, c.152 (C.13:8C-20), to the State Agriculture Development Committee the sum of \$6,000,000 for the purpose of providing grants to qualifying tax exempt

nonprofit organizations listed in subsection b. of this section for up to 50% of the cost of acquisition of development easements on farmland or for up to 50% of the cost of acquisition of fee simple titles to farmland for resale or lease with agricultural deed restrictions approved by the committee.

b. The following projects are eligible for funding with the monies appropriated pursuant to subsection a. of this section:

Applicant (Project)	Farm	County	Municipality	Amount of Grant Not to Exceed
Delaware & Raritan Greenway Inc				\$1,500,000
	O'Brien	Mercer	Hopewell Twp	
	Waldman	Mercer	Hopewell Twp	
	Perlman	Monmouth	Millstone Twp	
	Carpenter	Salem	Mannington Twp	
	DePalma	Salem	Mannington Twp	
	Sparks 1	Salem	Mannington Twp	
	Sparks 2	Salem	Mannington Twp	
Monmouth Conservation Foundation				\$1,500,000
	Gimbel	Monmouth	Middletown Twp	
	Reid	Monmouth	Middletown Twp	
	Casola	Monmouth	Millstone Twp	
	McNeill	Monmouth	Millstone Twp	
	Planned Residential Communities	Monmouth	Upper Freehold Twp	
Morris Land Conservancy				\$1,500,000
	Marancon	Morris	Mount Olive Twp	
	Guidi	Sussex	Green Twp	
	Santini 1	Warren	Franklin Twp	
	Santini 2	Warren	Franklin Twp	
	Sonzogni	Warren	Franklin Twp	
	Midkiff	Warren	Frelinghuysen Twp	
	Polowy	Warren	Frelinghuysen Twp	
	Woodcock	Warren	Frelinghuysen Twp	
	Maffenbeier	Warren	Hardwick Twp	
New Jersey Conservation Foundation				\$1,500,000
	String	Gloucester	South Harrison Twp	
	Jungblut/Kasper	Hunterdon	Delaware Twp	
	Poles/Bodine	Hunterdon	Delaware Twp	

D'Angelo	Hunterdon	Kingwood Twp
Kurtz	Salem	Pilesgrove Twp
Kern	Salem	Upper Pittsgrove Twp

2. The expenditure of the sums appropriated by this act is subject to the provisions and conditions of P.L.1999, c.152 (C.13:8C-1 et seq.), and P.L.1983, c.32 (C.4:1C-11 et seq.), as appropriate.

3. This act shall take effect July 1, 2007 or on the date of enactment, whichever is later.

Approved September 27, 2007.

CHAPTER 187

AN ACT concerning penalties for a driver's license suspension and amending R.S.39:3-40.

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

1. R.S.39:3-40 is amended to read as follows:

Penalties for driving while license suspended, etc.

39:3-40. No person to whom a driver's license has been refused or whose driver's license or reciprocity privilege has been suspended or revoked, or who has been prohibited from obtaining a driver's license, shall personally operate a motor vehicle during the period of refusal, suspension, revocation, or prohibition.

No person whose motor vehicle registration has been revoked shall operate or permit the operation of such motor vehicle during the period of such revocation.

Except as provided in subsections i. and j. of this section, a person violating this section shall be subject to the following penalties:

a. Upon conviction for a first offense, a fine of \$500.00 and, if that offense involves the operation of a motor vehicle during a period when the violator's driver's license is suspended for a violation of R.S.39:4-50 or section 2 of P.L.1981, c.512 (C.39:4-50.4a), revocation of the violator's motor

vehicle registration privilege in accordance with the provisions of sections 2 through 6 of P.L.1995, c.286 (C.39:3-40.1 through C.39:3-40.5);

b. Upon conviction for a second offense, a fine of \$750.00, imprisonment in the county jail for at least one but not more than five days and, if the second offense involves the operation of a motor vehicle during a period when the violator's driver's license is suspended and that second offense occurs within five years of a conviction for that same offense, revocation of the violator's motor vehicle registration privilege in accordance with the provisions of sections 2 through 6 of P.L.1995, c.286 (C.39:3-40.1 through C.39:3-40.5);

c. Upon conviction for a third offense or subsequent offense, a fine of \$1,000.00 and imprisonment in the county jail for 10 days. If the third or a subsequent offense involves the operation of a motor vehicle during a period when the violator's driver's license is suspended and the third or subsequent offense occurs within five years of a conviction for the same offense, revocation of the violator's motor vehicle registration privilege in accordance with the provisions of sections 2 through 6 of P.L.1995, c.286 (C.39:3-40.1 through C.39:3-40.5);

d. Upon conviction, the court shall impose or extend a period of suspension not to exceed six months;

e. Upon conviction, the court shall impose a period of imprisonment for not less than 45 days or more than 180 days, if while operating a vehicle in violation of this section a person is involved in an accident resulting in bodily injury to another person;

f. (1) In addition to any penalty imposed under the provisions of subsections a. through e. of this section, any person violating this section while under suspension issued pursuant to section 2 of P.L.1972, c.197 (C.39:6B-2), upon conviction, shall be fined \$500.00, shall have his license to operate a motor vehicle suspended for an additional period of not less than one year nor more than two years, and may be imprisoned in the county jail for not more than 90 days.

(2) In addition to any penalty imposed under the provisions of subsections a. through e. of this section and paragraph (1) of this subsection, any person violating this section under suspension issued pursuant to R.S.39:4-50, section 2 of P.L.1981, c.512 (C.39:4-50.4a) or P.L.1982, c.85 (C.39:5-30a et seq.), shall be fined \$500, shall have his license to operate a motor vehicle suspended for an additional period of not less than one year or more than two years, and shall be imprisoned in the county jail for not less than 10 days or more than 90 days.

(3) In addition to any penalty imposed under the provisions of subsections a. through e. of this section and paragraphs (1) and (2) of this subsection, a person shall have his license to operate a motor vehicle suspended for an additional period of not less than one year or more than two years, which period shall commence upon the completion of any prison sentence imposed upon that person, shall be fined \$500 and shall be imprisoned for a period of 60 to 90 days for a first offense, imprisoned for a period of 120 to 150 days for a second offense, and imprisoned for 180 days for a third or subsequent offense, for operating a motor vehicle while in violation of paragraph (2) of this subsection 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.

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 this paragraph.

It shall not be relevant to the imposition of sentence pursuant to subparagraph (a) or (b) of this paragraph 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 relevant to the imposition of sentence 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;

g. In addition to the other applicable penalties provided under this section, a person violating this section whose license has been suspended pursuant to section 6 of P.L.1983, c.65 (C.17:29A-35) or the regulations adopted thereunder, shall be fined \$3,000. The court shall waive the fine upon proof that the person has paid the total surcharge imposed pursuant to section 6 of P.L.1983, c.65 (C.17:29A-35) or the regulations adopted thereunder. Notwithstanding the provisions of R.S.39:5-41, the fine imposed pursuant to this subsection shall be collected by the Motor Vehicle Commission pursuant to section 6 of P.L.1983, c.65 (C.17:29A-35), and distrib-

uted as provided in that section, and the court shall file a copy of the judgment of conviction with the chief administrator and with the Clerk of the Superior Court who shall enter the following information upon the record of docketed judgments: the name of the person as judgment debtor; the commission as judgment creditor; the amount of the fine; and the date of the order. These entries shall have the same force and effect as any civil judgment docketed in the Superior Court;

h. A person who owns or leases a motor vehicle and permits another to operate the motor vehicle commits a violation and is subject to suspension of his license to operate a motor vehicle and to revocation of registration pursuant to sections 2 through 6 of P.L.1995, c.286 (C.39:3-40.1 through C.39:3-40.5) if the person:

(1) Knows that the operator's license to operate a motor vehicle has been suspended for a violation of R.S.39:4-50 or section 2 of P.L.1981, c.512 (C.39:4-50.4a); or

(2) Knows that the operator's license to operate a motor vehicle is suspended and that the operator has been convicted, within the past five years, of operating a vehicle while the person's license was suspended or revoked;

i. If the violator's driver's license to operate a motor vehicle has been suspended pursuant to section 9 of P.L.1985, c.14 (C.39:4-139.10) or for failure to comply with a time payment order, the violator shall be subject to a maximum fine of \$100 upon proof that the violator has paid all fines and other assessments related to the parking violation that were the subject of the Order of Suspension, or if the violator makes sufficient payments to become current with respect to payment obligations under the time payment order;

j. If a person is convicted for a second or subsequent violation of this section and the second or subsequent offense involves a motor vehicle moving violation, the term of imprisonment for the second or subsequent offense shall be 10 days longer than the term of imprisonment imposed for the previous offense.

For the purposes of this subsection, a "motor vehicle moving violation" means any violation of the motor vehicle laws of this State for which motor vehicle points are assessed by the chief administrator pursuant to section 1 of P.L.1982, c.43 (C.39:5-30.5).

2. This act shall take effect on the first day of the third month after enactment.

Approved October 12, 2007.

CHAPTER 188

AN ACT concerning gang education seminars for school administrators and supplementing Title 52 of the Revised Statutes.

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

C.52:17B-4.7 Gang education seminars for school administrators.

1. a. The Attorney General shall develop and maintain, in coordination with the Commissioner of Education, a gang education seminar program to educate public and nonpublic school administrators on how to recognize signs of gang involvement or activity. A seminar shall be offered annually in each county and shall be held in the office of the county superintendent of schools or such other facility as the Attorney General or Commissioner of Education shall designate.

b. A superintendent, assistant superintendent, principal or other administrator employed by a public school district shall attend a gang education seminar offered pursuant to this section within the first year of initial employment as an administrator with a public school district. An administrator employed by a school district prior to the effective date of this act shall attend the first seminar offered in the county subsequent to its enactment. A superintendent, assistant superintendent, principal or other administrator shall be exempt from the requirements of this section if that person has successfully completed a gang education seminar conducted by a public school district which is substantially equivalent to the seminar required pursuant to this section.

c. A gang education seminar offered pursuant to this section shall be open to all public and nonpublic school administrators.

2. This act shall take effect immediately.

Approved October 12, 2007.

CHAPTER 189

AN ACT concerning the Youth Employment and After School Incentive Pilot Program and amending P.L.2001, c.446, and making an appropriation.

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

1. Section 1 of P.L.2001, c.446 (C.34:15F-12) is amended to read as follows:

C.34:15F-12 Youth Employment and After School Incentive Pilot Program.

1. a. There is established in the Department of Labor and Workforce Development a Youth Employment and After School Incentive Pilot Program which shall be administered by the Commissioner of Labor and Workforce Development, pursuant to the provisions of P.L.2001, c.446 (C.34:15F-12 et seq.). The program shall provide for employment opportunities for disadvantaged youth with private and nonprofit employers. The purpose of the program shall be to enable disadvantaged youth to acquire job knowledge and skills and an understanding of the linkage between the skills, behaviors, and attitudes necessary to function as an adult in the workplace.

As used in P.L.2001, c.446 (C.34:15F-12 et seq.), "disadvantaged youth" means public and nonpublic school students as well as youth who are not students who reside in municipalities where both the rates of unemployment and violent crime significantly exceed the Statewide rates of unemployment and violent crime by percentages which shall be designated by the commissioner. The term shall include youth in these municipalities who are participating in a program of aftercare following their release from juvenile detention or community facilities.

b. There is established in, but not of, the Department of Labor and Workforce Development the Disadvantaged Youth Employment Opportunities Council. Notwithstanding the allocation of the council to the Department of Labor and Workforce Development, the council shall directly report to the Chairperson of the State Employment and Training Commission established by section 5 of P.L.1989, c.293 (C.34:15C-2). The council shall consist of 18 members: the Commissioner of Labor and Workforce Development, the Commissioner of Education, the Executive Director of the New Jersey Commission on Higher Education, the Chief Executive Officer and Secretary of the New Jersey Commerce, Economic Growth and Tourism Commission, the Secretary of State and the Executive Director of the Juvenile Justice Commission, or their designees, who shall serve ex officio and as nonvoting members; and 12 public members appointed by the Governor, the President of the Senate and the Speaker of the General Assembly. The Governor shall appoint two religious leaders and two representatives of

education organizations. The President of the Senate and the Speaker of the Assembly shall each appoint a leader of the business community, a labor leader, a representative of a county vocational-technical school, and a person representing organizations that have expertise serving the needs of disadvantaged youth. The public members shall serve for terms of three years, may be reappointed and may serve until a successor has been appointed. Of the public members first appointed, six shall be appointed for terms of three years, and six shall be appointed for terms of two years. A vacancy in the membership, occurring other than by expiration of a term, shall be filled in the same manner as the original appointment, but for the unexpired term only. The members shall serve without compensation, but the council may, within the limits of funds appropriated or otherwise made available to it, reimburse members for actual expenses necessarily incurred in the discharge of their official duties.

The council shall organize as soon as its members are appointed and shall select a chairman and vice-chairman from among its members and may select a secretary, who need not be a member of the council. The council shall meet monthly, and at such other times as may be necessary.

The council may employ, prescribe the duties and fix and pay the compensation of such persons it may deem necessary to carry out the duties of the council within the limits of available appropriations.

It shall be the duty of the council to:

- (1) Develop a master plan to increase employment opportunities for disadvantaged youth;
- (2) Enlist the commitment of the State's business leadership to provide employment opportunities for disadvantaged youth;
- (3) Enlist the support of the State's key unions which operate apprenticeship and similar programs;
- (4) Develop proposals for innovative efforts to assist economically disadvantaged youth to enroll in and successfully complete employment programs;
- (5) Involve all sectors of the community, including high level representatives of business, youth-serving agencies, foundations, local school systems, the communications media, and the religious community in an effort to promote and coordinate employment opportunities for disadvantaged youth; and
- (6) In conjunction with the Department of Labor and Workforce Development and the Commerce, Economic Growth and Tourism Commission, seek to identify and maximize any available federal funding for the

purpose of enhancing employment opportunities provided under P.L.2001, c.446 (C.34:15F-12 et seq.).

The council shall be entitled to call to its assistance and avail itself of the services of such 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 these purposes.

The Commissioner of Labor and Workforce Development, in consultation with the State Employment and Training Commission and the council, may promulgate rules and regulations necessary to effectuate the purposes of P.L.2001, c.446 (C.34:15F-12 et seq.).

2. Section 2 of P.L.2001, c.446 (C.34:15F-13) is amended to read as follows:

C.34:15F-13 Development, administration of program.

2. a. In cooperation with the Disadvantaged Youth Employment Opportunities Council established in section 1 of P.L.2001, c.446 (C.34:15F-12), the Commissioner of Labor and Workforce Development, in consultation with the State Employment and Training Commission shall develop and administer the employment program established under this act. The commissioner shall, to the greatest extent feasible, attempt to achieve a balance of enrolled disadvantaged youth from the northern, central, and southern parts of the State.

b. The Commissioner of Labor and Workforce Development, in consultation with the State Employment and Training Commission, the Department of Education, the Juvenile Justice Commission, and the council, shall develop procedures relating to the program referral process; establish the selection criteria for participants which shall include the identification of local disadvantaged youths assessed by local law enforcement and juvenile corrections authorities as being at risk of gang membership or involvement or reinvolvement in the criminal justice system and students who are not meeting minimal district standards of behavior and academic achievement; provide a listing of employers who have agreed to participate in the program; and establish the process which will be utilized for matching disadvantaged youth to employment opportunities that will enhance the self-esteem and assimilation of life skills necessary for productive functioning in the school setting and society.

3. Section 3 of P.L.2001, c.446 (C.34:15F-14) is amended to read as follows:

C.34:15F-14 Maximum hours of employment for youths.

3. a. The State's limitations on hours of employment for child labor shall govern the maximum hours of employment for youths employed through the program. For participation in the employment program, the youth shall receive from the employer compensation of not less than the minimum wage rate pursuant to section 5 of P.L.1966, c.113 (C.34:11-56a4).

b. The Commissioner of Labor and Workforce Development, in conjunction with the State Employment and Training Commission and the council, shall endeavor to work with the Secretary of State, the Commissioner of Education, major Statewide education organizations, and non-profit organizations providing specialized services to youth to publicize the opportunities available under the program and promote the voluntary participation therein of school districts and students.

4. Section 4 of P.L.2001, c.446 (C.34:15F-15) is amended to read as follows:

C.34:15F-15 Plan to collect data on effectiveness of program.

4. a. The Commissioner of Labor and Workforce Development shall implement a plan to collect data on the effectiveness of the program in meeting the needs and conditions of disadvantaged youths which place them at risk of academic or social failure or both. The plan shall include a system to track participants to determine if they successfully completed the school year and whether such students and other youth participants succeed in making productive contributions to their communities.

b. Within two years following the effective date of P.L.2001, c.446 (C.34:15F-12 et seq.), the Commissioners of Labor and Workforce Development and Education, in concert with the State Employment and Training Commission and the council established in section 1 of P.L.2001, c.446 (C.34:15F-12), shall submit to the Governor and the Legislature an evaluation of the Youth Employment and After School Incentive Pilot Program and recommendations to the Legislature that will enable them to better coordinate and improve the effectiveness of their efforts.

5. There is appropriated \$50,000 from the General Fund to the Department of Labor and Workforce Development for the costs of administering the Youth Employment and After School Incentive Pilot Program established by P.L.2001, c.446 (C.34:15F-12 et seq.).

6. This act shall take effect the first day of the fourth month after an enactment.

Approved October 12, 2007.

CHAPTER 190

AN ACT concerning hazardous substances in flood plains, amending P.L.1983, c.315, and supplementing Title 58 of the Revised Statutes.

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

1. Section 14 of P.L.1983, c.315 (C.34:5A-14) is amended to read as follows:

C.34:5A-14 Labeling of containers.

14. a. Every employer shall have until October 30, 1985 to take any action necessary to assure that every container at the employer's facility containing a hazardous substance shall bear a label indicating the chemical name and Chemical Abstracts Service number of the hazardous substance or the trade secret registry number assigned to the hazardous substance. The labels on all containers except pipelines and underground storage tanks shall be designed and affixed in such a manner to ensure that if there is a flood or other natural disaster when the container is transported or stored, the label shall remain in place and visible. Employers may label containers in a research and development laboratory by means of a code or number system, if the code or number system will enable an employee to readily make a cross-reference to a hazardous substance fact sheet which will provide the employee with the chemical name and Chemical Abstracts Service number of the hazardous substance contained in the container, or the trade secret registry number assigned to the hazardous substance. The code or number system shall be designed to allow the employee free and ready access at all times to the chemical name and Chemical Abstracts Service number of the hazardous substance in the container, shall be designed to allow the employee access to this information without the permission or assistance of management, and shall be available to the employee at close proximity to the employee's specific job location or locations. Employers shall be required to label pipelines only at the valve or valves located at the point at which a hazardous substance enters a facility's pipeline system, and

at normally operated valves, outlets, vents, drains and sample connections designed to allow the release of a hazardous substance from the pipeline.

b. Within two years of the effective date of this act, every employer shall take any action necessary to assure that every container at the employer's facility bears a label indicating the chemical name and Chemical Abstracts Service number of the substance in the container, except as provided in subsection d. of this section, or the trade secret registry number assigned to the substance. Employers may label containers in a research and development laboratory by means of a code or number system, if the code or number system will enable an employee to readily make a cross-reference to documentary material retained on file by the employer at the facility which will provide the employee with the chemical name and Chemical Abstracts Service number of the substance contained in the container, except as provided in subsection d. of this section, or the trade secret registry number assigned to the substance. The code or number system shall be designed to allow the employee free and ready access at all times to the chemical name and Chemical Abstracts Service number of the substance in the container, shall be designed to allow the employee access to this information without the permission or assistance of management, and shall be available to the employee at close proximity to the employee's specific job location or locations. If a container contains a mixture, an employer shall be required to insure that the label identify the chemical names and Chemical Abstracts Service numbers, except as provided in subsection d. of this section, or the trade secret registry numbers, of the five most predominant substances contained in the mixture. The provisions of this subsection shall not apply to any substance constituting less than 1% of a mixture unless the substance is present at the facility in an aggregate amount of 500 pounds or more. Employers shall be required to label pipelines only at the valve or valves located at the point at which a substance enters a facility's pipeline system, and at normally operated valves, outlets, vents, drains and sample connections designed to allow the release of a substance from the pipeline. One year after the effective date of this act the Department of Health and Senior Services shall establish criteria for containers which, because of the finished and durable characteristics of their contents, shall be exempt from the provisions of this subsection. These standards shall be consistent with the intent of this subsection to provide for the labeling of every container which may contain a substance which is potentially hazardous.

c. The labeling requirements of subsections a. and b. of this section shall not apply to containers labeled pursuant to the "Federal Insecticide, Fungicide, and Rodenticide Act," 61 Stat. 163 (7 U.S.C. s.121 et al.), except

that the label for any such container except pipelines and underground storage tanks shall be designed and affixed in such a manner to ensure that if there is a flood or other natural disaster when the container is transported or stored, the label shall remain in place and visible. The Department of Health and Senior Services may, by rule and regulation, certify containers labeled pursuant to any other federal act as labeled in compliance with the provisions of this section.

d. One year after the effective date of this act the Department of Health and Senior Services shall adopt, pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), a list of substances the containers of which may be labeled with the common names and Chemical Abstracts Service numbers of their contents. The department shall include on the list adopted pursuant to this subsection only substances which are widely recognized by their common names. An employer shall provide the chemical name of a substance in a container labeled pursuant to this subsection within five working days of the request therefor.

C.58:16A-55.8 Hazardous substances, placing, storing in certain flood plains, prohibited.

2. a. No person shall place or store, or cause to be placed or stored, any containers holding hazardous substances as defined in section 3 of P.L.1976, c.141 (C.58:10-23.11b) in a 100-year flood plain, as defined by the Commissioner of Environmental Protection in rules and regulations adopted pursuant to the provisions of the "Flood Hazard Area Control Act," P.L.1962, c.19 (C.58:16A-50 et seq.), unless:

(1) The facility at which any containers holding hazardous substances are to be placed or stored is in compliance with flood protection measures to prevent the release of hazardous substances due to flooding, as follows: (a) an approved engineering design of site-specific flood protection devices designed to prevent washout; or (b) an approved written plan of emergency procedures for removing the containers to safety or out of the facility before the facility is flooded; and

(2) Every container is visibly marked in a manner determined in rules and regulations adopted by the department pursuant to the "Administrative Procedure Act" with a label designed and affixed to ensure that the label shall remain visible and in place if there is a flood or other natural disaster stating the following:

Caution: Hazardous Contents

To be handled and opened only by authorized personnel

If found, please contact
The New Jersey Department of Environmental Protection
1-877-927-6337

b. The labeling requirements of subsection a. of this section shall not apply to containers required to be labeled pursuant to other State or federal laws or containers labeled pursuant to the "Federal Insecticide, Fungicide, and Rodenticide Act," 7 U.S.C. s.136 et seq.

c. For the purposes of this section, "container" means a receptacle used to hold a liquid, solid, or gaseous substance, including, but not limited to, bottles, bags, barrels, boxes, cans, cylinders, drums, cartons, vessels, vats, and stationary or mobile storage tanks; except that "container" shall not include process containers, pipelines or underground storage tanks.

3. This act shall take effect immediately.

Approved October 18, 2007.

CHAPTER 191

AN ACT allowing certain local units to provide broadband telecommunications service via wireless community networks and supplementing Title 40 of the Revised Statutes.

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

C.40:9D-1 Definitions relative to provision of broadband telecommunications service.

1. As used in this act:

"Broadband telecommunications infrastructure" means information equipment and facilities, information systems, and information technology used for the purpose of providing broadband telecommunications service.

"Broadband telecommunications service" means any telecommunications service using broadband telecommunications infrastructure for the purpose of offering high speed, switched, broadband wireline or wireless telecommunications capability that enables users to originate and receive high-quality voice, data, graphics or video telecommunications through the Internet and using any technology.

"Governing body" means (1) in the case of the county, the board of chosen freeholders or, if the county is 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, (2) in the case of a joint meeting of counties, the management committee appointed to exercise the powers of the joint meeting or local governing body to which the authority to exercise those powers shall have been delegated under section 14 of P.L.2007, c.63 (C.40A:65-14), or (3) 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.

"Internet" means the international computer network of both federal and non-federal interoperable packet switched data networks.

"Joint meeting of counties" or "joint meeting" means a joint meeting formed by two or more counties under a joint contract entered into pursuant to the provisions of P.L.2007, c.63 (C.40A:65-1 et al.).

"Local Finance Board" means the Local Finance Board, in the Division of Local Government Services, in the Department of Community Affairs, as constituted pursuant to section 1 of P.L.1974, c.35 (C.52:27D-18.1).

"Local unit" means any county, any joint meeting of counties, any municipality, any special district or any public body corporate and politic created or established under any law of this State by or on behalf of any one or more counties or individual municipalities, as appropriate, or any agency or other instrumentality thereof, including any local authority, board, commission, department or agency of any of the foregoing having custody of funds, but shall not include a school district or regional school district.

"Related competitive business segment" means a structurally separate business unit established by the governing body of a local unit that offers to install, construct, maintain, repair, renew, relocate, or remove broadband telecommunications infrastructure, or offers to provide or provides broadband telecommunications service via a wireless community network.

"Telecommunications" means the transmission, between or among points specified by the user, of information of the user's choosing, without change in the form or content of the information as sent and received.

"Telecommunications service" means the offering of telecommunications directly to the public, or to such classes of users as to be effectively available directly to the public, regardless of the facilities used, and regardless of whether a fee is charged for the use of such service.

"Wireless community network" means a local shared network consisting of a series of interlinked computers that allow persons with wireless equipped devices within the area served by the network to gain entry to the

wider Internet through wireless Internet service connections provided by broadband telecommunications infrastructure at designated access points.

C.40:9D-2 Authority of local unit.

2. a. Consistent with federal law, the governing body of a local unit, through the establishment of a related competitive business segment, is authorized to:

(1) construct, own or operate broadband telecommunications infrastructure to provide broadband telecommunications service via a wireless community network; or

(2) provide broadband telecommunications service via a wireless community network.

b. Consistent with federal law, the governing body of a local unit may enter into a contract with a private entity to provide broadband telecommunications service via a wireless community network or to construct, own, use, acquire, deliver, grant, operate, maintain, sell, purchase, lease, or equip broadband telecommunications infrastructure used for the purpose of providing broadband telecommunications service via a wireless community network.

By written contract or lease, such governing body may sell capacity in, or grant other similar rights for a private entity to use, broadband telecommunications infrastructure owned or operated by the local unit that provides broadband telecommunications service via a wireless community network.

c. The governing body of a local unit, exercising powers under subsections a. and b. of this section, may enter into a written agreement with any person owning or having the right to use any poles, street lights, posts, towers or other structures erected along any public right-of-way within the boundaries of such local unit for the use of those structures by that local unit, upon such terms and conditions as may be agreed upon by such local unit and such person. To the extent that State, county or municipal approval, or the approval of another public entity or any private entity is required for the placement of broadband telecommunications infrastructure used for the purpose of providing broadband telecommunications service via a wireless community network along a public right-of-way, such approval shall not unreasonably be withheld. The provisions of this section shall not affect the terms and conditions by which the State may give consent, grant or franchise to a person for use of the right-of-way along any State highway, or the terms and conditions by which a public body may give consent, grant or franchise to a person for use of the right-of-way within the boundaries of the geographical area over which such public body has jurisdiction.

d. The provision of broadband telecommunications service via a wireless community network pursuant to this section and any broadband telecommunications infrastructure used for such purpose shall not be deemed to be a public utility or to constitute operating any form of public utility service pursuant to Title 48 of the Revised Statutes to the extent that the local unit is engaged in the provision of broadband telecommunications service via a wireless community network.

e. The governing body of a municipality within a county of the first class, where the county exercises powers under subsections a. and b. of this section, may provide that the municipality not participate in the provision of broadband telecommunications service via a wireless community network established under this section by that county.

C.40:9D-3 Responsibilities of local unit relative to provision of broadband telecommunications service.

3. If a governing body of a local unit exercises powers under subsection a. or b. of section 2 of this act, whether by contracting with a private entity or by establishing a related competitive business segment, then:

a. the costs of providing broadband telecommunications service via a wireless community network shall not adversely impact the ability of the local unit to offer those services otherwise required by law;

b. the local unit shall be prohibited from reducing the rate of providing those services otherwise required by law when these services are purchased in conjunction with broadband telecommunications service via a wireless community network;

c. in all instances in which resources are deployed by the local unit to provide both broadband telecommunications service via a wireless community network and any other services of the local unit required by law, where resource constraints arise, the provision of the other services shall receive a higher priority;

d. the price which the local unit charges for broadband telecommunications service via a wireless community network shall not be less than the fully allocated cost of providing broadband telecommunications service via a wireless community network, as subject to review and approval of the Local Finance Board, which cost shall include an allocation of the cost of all equipment, vehicles, labor, related fringe benefits and overheads, and administration utilized, and all other assets utilized and costs incurred, directly or indirectly, in providing broadband telecommunications service via a wireless community network;

e. the installation, construction, maintenance, repair, renewal, relocation, or removal of broadband telecommunications infrastructure, when undertaken directly by the related competitive business segment of the local unit, shall be subject to the provisions of the "Local Public Contracts Law," P.L.1971, c.198 (C.40A:11-1 et seq.);

f. provision of broadband telecommunications service via a wireless community network shall be subject to the provisions of the "Local Public Contracts Law," P.L.1971, c.198 (C.40A:11-1 et seq.) and, where appropriate, the "Local Authorities Fiscal Control Law," P.L.1983, c.313 (C.40A:5A-1 et seq.);

g. the local unit shall not use the rates of those services required to be provided by law, or any revenue received in payment for those services or any interest or other earnings realized from the deposit or investment of such revenue, to subsidize broadband telecommunications service via a wireless community network offered by the local unit, and expenses incurred in conjunction with the provision of broadband telecommunications service via a wireless community network shall not be borne by any resident or business not choosing to receive such broadband telecommunications service via a wireless community network;

h. each such local unit shall maintain books and records, and provide accounting entries as may be required by the Local Finance Board, to show that there is strict separation and allocation of the local unit's revenues, costs, assets, risks and functions, between the services of the local unit required to be provided by law and the provision of broadband telecommunications service via a wireless community network; and

i. each such local unit shall annually prepare, or have prepared, a report available to the public, and such report shall include, but not be limited to, a summary of revenues and expenditures, the prices charged to subscribers, the areas of the local unit served, and the number of subscribers.

C.40:9D-4 Plan for proposed activities.

4. a. Prior to the exercise by the governing body of a local unit of any powers under subsections a. and b. of section 2 of this act, the local unit shall have developed a plan which sets forth the local unit's or private entity's proposed activities, as appropriate, that would be necessary to implement the deployment of broadband telecommunications infrastructure and the provision of broadband telecommunications service via a wireless community network. The plan shall identify all relevant financial and operational information, including, but not limited to:

New Jersey State Library

(1) the costs and source of funding for those costs that are associated with the installation, maintenance and operation of broadband telecommunications infrastructure and broadband telecommunications service via a wireless community network;

(2) the amount of any charges expected to be imposed on subscribers to the broadband telecommunications service via a wireless community network;

(3) a projected implementation schedule for the broadband telecommunications service via a wireless community network and the projected location of the broadband telecommunications infrastructure;

(4) the process by which the plan for broadband telecommunications service via a wireless community network deployment will be evaluated, which process shall include at least one public hearing prior to the decision on the plan;

(5) a description of how the broadband telecommunications service via a wireless community network is to be provided and what geographic area is to be covered by such service;

(6) an evaluation of the current availability of broadband service provided by private entities within the area of interest to identify appropriate broadband service linkages, partners, and applications;

(7) a review of the risks, financial and otherwise, associated with the deployment of broadband telecommunications infrastructure and broadband telecommunications service via wireless community network;

(8) a study that considers other alternatives for the deployment of broadband telecommunications infrastructure and broadband telecommunications service via wireless community network, including, but not limited to, other business models and use of different private entities; and

(9) a review to determine the most appropriate technology and feasibility, including the design of broadband telecommunications infrastructure and related equipment used for such deployment.

b. The plan described in subsection a. of this section shall be made available to the public and submitted for review and comment to the Local Finance Board, which shall seek comments about the plan from other appropriate State agencies and the public. In addition, the Local Finance Board shall forward the plan to any State agency with a potential interest in assisting, and statutory authority to assist with, project financing. Any agency which has an interest in assisting with such financing shall give notice of its interest to the appropriate local unit, which shall maintain a list of all agencies interested in assisting with such financing.

c. The Local Finance Board shall review the plan and provide comments to the governing body of the local unit within 60 days after receipt thereof. If the Local Finance Board fails to act within the 60-day period, or within such other time period as may be mutually agreed upon by the Local Finance Board and the local unit, the plan shall be deemed approved.

C.40:9D-5 Authority to issue revenue bonds.

5. a. The governing body of a local unit exercising powers under subsection a. or subsection b. of section 2 of this act is authorized, pursuant to the provisions of the "Local Bond Law" (N.J.S.40A:2-1 et seq.), to issue revenue bonds of the local unit, to pay a portion or all of the costs of the broadband telecommunications infrastructure used for the purpose of providing broadband telecommunications service via a wireless community network; provided, however, that the principal of and the interest on such revenue bonds shall be payable solely from revenues derived by the local unit from the provision of broadband telecommunications service via that network and any other revenues related thereto. A local unit is permitted to provide a full faith and credit guarantee on such revenue bonds.

b. A State agency that assists in project financing shall not assist in financing the costs of constructing, operating or maintaining any broadband telecommunications infrastructure used for the purpose of providing broadband telecommunications service via a wireless community network, if such network is offered commercially to the public.

C.40:9D-6 Due diligence required prior to contract.

6. The governing body of a local unit exercising powers under subsection a. or subsection b. of section 2 of this act shall not enter into or implement any contract regarding broadband telecommunications infrastructure or broadband telecommunications service without first performing due diligence on the plan required under subsection a. of section 4 of this act. Due diligence shall include, but not be limited to, research that supports formal conclusions that the local unit or private entity, as appropriate, is creditworthy and that the provision of broadband telecommunications service via that network would not proceed in the absence of financing from the local unit or private entity, as appropriate. The conclusions of this analysis shall be reduced to writing and made available to the public before the governing body of the local unit formally considers any financing authorized pursuant to section 5 of this act or enters into a contract with a private entity pursuant to subsection b. of section 2 of this act.

C.40:9D-7 Additional competitive contracting provisions; terms; negotiations.

7. a. In addition to the purposes set forth in section 1 of P.L.1999, c.440 (C.40A:11-4.1), a local contracting unit may use the competitive contracting provisions set forth in the "Local Public Contracts Law," P.L.1971, c.198 (C.40A:11-1 et seq.) as modified under this section, in lieu of public bidding, for the purpose of entering into a contract pursuant to subsection b. of section 2 of this act concerning broadband telecommunications infrastructure for the provision of broadband telecommunications service via a wireless community network.

b. Contracts awarded pursuant to this section may be for a term not to exceed seven years, however, a contract awarded pursuant to this section may be extended for an additional term of three years by mutual agreement of the parties to the contract if the ability to extend was set forth in the original request for proposals documentation.

c. Notwithstanding the provisions of section 5 of P.L.1999, c.440 (C.40A:11-4.5) to the contrary, after proposals have been evaluated pursuant to subsection d. of that section, the purchasing agent or counsel or administrator may issue an interim report recommending that specific details be negotiated further with one or more of the potential vendors who submitted a proposal for the purpose of modifying the original proposal. After the conclusion of negotiations, and evaluation of all proposals as modified in accordance with this subsection, the purchasing agent or counsel or administrator shall prepare a final report evaluating proposals and recommending the award of a contract or contracts in accordance with the provisions of section 5 of P.L.1999, c.440 (C.40A:11-4.5) that are not contrary to the provisions of this subsection.

C.40:9D-8 Payment of prevailing wage rate.

8. Any contract awarded in connection with any project authorized pursuant to the provisions of this act shall provide that not less than the prevailing wage rate shall be paid to workers employed in the performance of such contract. The prevailing wage rate shall be the rate determined by the Commissioner of Labor and Workforce Development pursuant to the provisions of P.L.1963, c.150 (C.34:11-56.25 et seq.).

9. This act shall take effect immediately.

Approved October 18, 2007.

CHAPTER 192

AN ACT concerning continuing care retirement communities and amending P.L.1986, c.103.

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

1. Section 16 of P.L.1986, c.103 (C.52:27D-345) is amended to read as follows:

C.52:27D-345 Residents' organizations; quarterly meeting.

16. a. Residents living in a facility which holds a certificate of authority issued pursuant to this act have the right of self-organization. No retaliatory conduct shall be permitted against a resident for organization or membership or participation in a residents' organization; for the resident's lawful efforts to secure or enforce his rights under the continuing care agreement, the laws of the State of New Jersey or its governmental subdivisions, or of the United States; or for the resident's good faith complaint to a governmental authority of the provider's alleged violation of any health or safety law, regulation, code or ordinance or State law or regulation which has as its objective the regulation of the facility or the delivery of health care services.

b. The board of directors or other governing body, or a designated representative who is not the chief executive officer or other staff member, of a continuing care facility shall hold quarterly meetings with the residents or their elected representatives of the facility, for the purpose of free discussion of subjects which may include income, expenditures and financial matters as they apply to the facility and proposed changes in policies, programs and services. Any questions on these subjects may be raised at each quarterly meeting, except for confidential personnel matters, and shall be answered or explained promptly when possible, or within a reasonable period of time. Residents shall be given at least seven days' notice of each quarterly meeting.

c. The provider shall designate and make knowledgeable personnel available to address resident complaints about the operation and management of the facility.

d. The board of directors or other governing body of a facility shall consult and discuss with the representatives of the residents any proposed action that might significantly affect the well-being of the residents or the financial stability of the facility, before taking the proposed action.

e. The board of directors or other governing body of a facility shall include at least one resident as a full voting member of the board or body. Resident members shall be nominated by the elected representatives of the residents and selected by the board of directors or other governing body. If the board of directors or other governing body governs more than one facility, the occupancy of each seat on that body that is reserved for a resident member shall rotate among the facilities governed by that body on a term-by-term basis.

2. Section 28 of P.L.1986, c.103 (C.52:27D-357) is amended to read as follows:

C.52:27D-357 Continuing Care Advisory Council.

28. a. There is created a Continuing Care Advisory Council which consists of 13 members as follows: the Commissioners of the Departments of Community Affairs, Health and Senior Services and Banking and Insurance, or their designees, who shall serve ex officio and shall be non-voting members; 10 public members appointed by the Governor, with the advice and consent of the Senate, who are residents of the State and two of whom are administrators of continuing care facilities in this State, one of whom is a representative of the business community and knowledgeable in the area of management, one of whom is a certified public accountant, one of whom is an attorney licensed to practice in this State, three of whom are residents of continuing care retirement communities in this State who are recommended by the Organization of Residents Associations of New Jersey, one of whom is a trustee or director of a continuing care retirement community in this State and one of whom is a representative of the New Jersey Association of Non-Profit Homes for the Aging.

b. The term of office for each public member is three years, or until the member's successor has been appointed; except that of the public members first appointed, two shall be appointed for a term of one year, two for a term of two years and three for a term of three years.

A vacancy in the membership of the council shall be filled in the same manner as the original appointment, but for the unexpired term. A member of the council is eligible for reappointment.

The members of the council shall serve without compensation, but the council shall reimburse the members for the reasonable expenses incurred in the performance of their duties.

c. The council shall hold an organizational meeting within 30 days after the appointment of its members. The members of the council shall elect from among them a chairman, who shall be the chief executive officer

of the council, and the members shall elect a secretary, who need not be a member of the council.

d. The council shall meet at least four times a year but may meet more frequently at the discretion of the chairman or the commissioner.

e. The council may call to its assistance and avail itself of the services and assistance of any officials and employees of the Department of Community Affairs or other State agency and political subdivisions and their departments, boards, bureaus, commissions and agencies as it requires and as is available to it for this purpose and may expend any funds that are appropriated or otherwise made available to it pursuant to this act.

f. The council shall:

(1) Advise and provide information to the commissioner on matters pertaining to the operation and regulation of continuing care retirement facilities, upon request of the commissioner;

(2) Review and comment upon, as appropriate, any proposed rules and regulations and legislation pertaining to continuing care retirement facilities;

(3) Make recommendations to the commissioner about any needed changes in rules and regulations and State and federal laws pertaining to continuing care retirement facilities; and

(4) Assist in the rehabilitation of a continuing care retirement facility, upon request of the commissioner.

g. The commissioner shall report annually to the Governor and the Legislature, the commissioner's and the council's findings and recommendations concerning continuing care retirement communities and the implementation of this act.

3. This act shall take effect on the 90th day after enactment.

Approved October 22, 2007.

CHAPTER 193

AN ACT concerning towing and towing operators and supplementing P.L.1960, c.39 (C.56:8-1 et seq.) and amending various parts of statutory law.

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

C.56:13-7 Short title.

1. This act shall be known and may be cited as the “Predatory Towing Prevention Act.”

C.56:13-8 Findings, declarations relative to towing, towing operators.

2. The Legislature finds and declares that:

a. While the majority of tow truck operators in New Jersey are reputable service providers, some unscrupulous towers are engaged in predatory practices victimizing consumers whose vehicles are parked on public streets and private property;

b. Predatory towing practices include charging unwarranted or excessive fees, particularly in connection with towing vehicles from private parking lots which do not display any warnings to the vehicle owners, or overcharging consumers for towing services provided under circumstances where the consumer has no meaningful opportunity to withhold consent;

c. The legitimate business interests of tow truck operators and the needs of private property owners for relief from unauthorized parking must be balanced with the interest in providing appropriate protection to consumers;

d. Whatever authority exists in the law to regulate towing and towing companies is fragmented among various State agencies and local governments, so that inconsistent or inadequate regulation often results, with insufficient recourse provided under the law; and

e. Therefore, it is in the public interest to create a coordinated, comprehensive framework to establish and enforce minimum standards for tow truck operators.

C.56:13-9 Definitions relative to towing, towing operators.

3. As used in this act:

“Basic towing service” means towing as defined in this section and other ancillary services as may be specified by the director by regulation.

“Consumer” means a natural person.

“Contract rate” means fees for towing services established under a contract between a towing company and a State agency or political subdivision, including, but not limited to, independent authorities and instrumentalities thereof.

“Decoupling fee” means a charge by a towing company for releasing a motor vehicle to its owner or operator when the vehicle has been, or is about to be, hooked or lifted by a tower, but prior to the vehicle actually having been moved or removed from the property.

“Division” means the Division of Consumer Affairs in the Department of Law and Public Safety.

“Director” means the Director of the Division of Consumer Affairs.

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

“Non-consensual towing” means the towing of a motor vehicle from private or public property without the consent of the owner or operator of the vehicle.

“Person” means an individual, a sole proprietorship, partnership, corporation, limited liability company or any other business entity.

“Person with a substantial interest” means a director, officer or partner of, or any other person having an economic interest of 10 percent or more in, an applicant for, or holder of, a registration as a towing company, or any parent or subsidiary thereof.

“Towing” means the moving or removing from public or private property or from a storage facility by a motor vehicle of a consumer’s motor vehicle that is damaged as a result of an accident or otherwise disabled, recovered after being stolen, or is parked illegally or otherwise without authorization, or the immobilization of or preparation for moving or removing of such motor vehicle, for which a service charge is made, either directly or indirectly. Dues or other charges of clubs or associations which provide towing services to club or association members shall not be considered a service charge for purposes of this definition.

“Towing company” means a person offering or performing towing services.

“Vehicle” means any device in, upon or by which a person or property is or may be transported upon a highway.

C.56:13-10 Registration required to engage in business of towing.

4. a. No person shall offer to perform, or engage, or attempt to engage in the business of towing unless registered with the division.

b. An application for registration shall be made annually, or at such other interval as the director may determine, in writing to the director in the form prescribed by the director and shall be accompanied by a fee, set by the director in a reasonable amount sufficient to defray the division’s expenses incurred in administering and enforcing P.L.2007, c.193 (C.56:13-7 et al.).

c. The applicant shall state the complete street address of the location or locations from which the business of towing shall be conducted, indicating which is the principal location.

d. The applicant shall state the complete street address of the location of each of its storage facilities and whether each is secured or unsecured.

e. The applicant shall enumerate the types of towing services that the applicant intends to provide and a description of the vehicles, including vehicle registration number, weight, number of wheels and purpose, with which the applicant intends to provide the services.

f. The application shall include a valid original certificate of insurance from an insurer authorized to do business in the State and a schedule of insured motor vehicles that are to be utilized by the applicant, including the amounts of the garage keeper's legal liability coverage and any "on hook" coverage as an endorsement or contained in a separate schedule, and liability insurance coverage which meets or exceeds the requirements set forth in section 6 of P.L.2007, c.193 (C.56:13-12).

g. The applicant shall include a tariff listing the services that the applicant provides and the fee charged for each service, which meets the requirements of section 8 of P.L.2007, c.193 (C.56:13-14).

h. The applicant shall disclose whether the applicant or a person with a substantial interest in the applicant, or any towing company in which such person was a person with a substantial interest and serving in that capacity at the time the conduct or conviction required to be disclosed pursuant to this subsection occurred, has engaged in any of the conduct, or was convicted of a crime, specified in subsection a. of section 5 of P.L.2007, c.193 (C.56:13-11).

i. The applicant shall furnish any additional information as may be required by the director.

j. If any of the information required to be included in the application changes, or if additional information should be added after the filing of the application, the applicant shall provide that information to the director, in writing, within 30 calendar days of the change or addition.

k. Upon issuance of the registration, the division shall provide the registrant with decals and accompanying notices to be affixed to each motor vehicle identified in the application as owned or leased by the registrant to be used to perform towing services.

C.56:13-11 Refusal to issue, suspension, revocation of registration.

5. a. The director may refuse to issue or may suspend or revoke, any registration issued by him upon proof that the applicant or holder of the registration or, if the applicant is an entity, a person with a substantial interest in the applicant or holder of a registration, or any towing company in which such person was a person with a substantial interest and was serving

in such capacity at the time the conduct or conviction required to be disclosed pursuant to this subsection occurred:

(1) has obtained a registration through fraud, deception or misrepresentation;

(2) has engaged in the use or employment of dishonesty, fraud, deception, misrepresentation, false promise or false pretense;

(3) has engaged in gross negligence or gross incompetence;

(4) has engaged in repeated acts of negligence or incompetence;

(5) has engaged in professional or occupational misconduct as may be determined by the director;

(6) has had his authority to engage in the activity regulated by the director revoked or suspended by any other state, agency or authority for reasons consistent with this section;

(7) has violated or failed to comply on more than three occasions with the provisions of section 8 of P.L.2007, c.193 (C.56:13-14) or violated or failed to comply with the provisions of any other act or regulation administered by the director; or

(8) has been convicted of:

(a) a crime under Chapter 11, 12, 13, 14 or 15 of Title 2C of the New Jersey Statutes;

(b) motor vehicle theft or any crime involving a motor vehicle under Chapter 20 of Title 2C of the New Jersey Statutes; or

(c) any other crime under Title 2C of the New Jersey Statutes relating adversely to the performance of towing services or the storage of motor vehicles as determined by the director by regulation.

b. A final refusal to register, or the suspension or revocation of a registration shall not be made except upon reasonable notice to the applicant or registrant, and an opportunity for the applicant or registrant to be heard.

C.56:13-12 Maintenance of liability insurance by towing company.

6. a. A towing company shall maintain liability insurance which meets or exceeds the requirements of this section, or such other amounts as the director may determine by regulation, including in the case of each light-medium duty tow truck, motor vehicle liability insurance coverage for the death of, or injury to, persons and damage to property for each accident or occurrence in the amount of at least \$750,000 single limit, and in the case of each heavy-duty tow truck, motor vehicle liability insurance coverage for the death of or injury to persons and damage to property for each accident or occurrence in the amount of at least \$1,000,000 single limit.

b. The director shall be named as an additional insured under each insurance policy required under subsection a. of this section and each policy shall provide that the issuer give the director at least 10 days' written notice of its intention to cancel or not renew the policy.

c. Nothing in this section shall preclude a State agency or political subdivision, or the independent authorities or instrumentalities thereof, from requiring additional or higher liability insurance coverage or amounts with respect to contracts for towing and storage services awarded under the authority of such agency, subdivision, authority or instrumentality.

C.56:13-13 Registration, consent required for towing from privately owned property.

7. a. No person shall tow any motor vehicle parked for an unauthorized purpose from any privately owned parking lot, from other private property or from any common driveway without the consent of the motor vehicle owner or operator, unless the person is registered with the division pursuant to section 4 of P.L.2007, c.193 (C.56:13-10) and there is posted in a conspicuous place at all vehicular entrances to the property which can easily be seen by the public, a sign no smaller than 36 inches high and 36 inches wide stating:

(1) the purpose or purposes for which parking is authorized and the times during which such parking is permitted;

(2) that unauthorized parking is prohibited and unauthorized motor vehicles will be towed at the owner's expense;

(3) the name, address, and telephone number of the towing company that will perform the towing;

(4) the charges, which shall not exceed the fee specified in the tariff on file with the director, for the towing and storage of towed motor vehicles; and

(5) the street address of the storage facility where the towed vehicles can be redeemed after payment of the posted charges and the times during which the vehicle may be redeemed.

b. A towing company shall not remove a motor vehicle from private property without the consent of the owner or operator of the vehicle, without first obtaining the written authorization from the property owner or lessee, or its employee or agent, who shall be present at the time of removal and verify the alleged violation if it occurs during normal business hours of any premises at the location operated by the property owner or lessee authorizing the removal of the vehicle, except that general authorization in writing shall be sufficient for the removal of a motor vehicle parked on private property within 15 feet of a fire hydrant, standpipe or other water source for fighting fires; in a fire lane; in a manner that interferes with the

entrance to or exit from the property; or if the violation occurs at a time other than during normal business hours of the premises of the property owner or lessee authorizing the removal of the vehicle.

c. Except as provided in subsection d. of this section, the owner or person in lawful possession of private property may cause the removal of the motor vehicle parked on the property to a storage facility within a reasonable distance of the property if signs are posted on the property as required under section a. of this section and the towing company complies with the requirements of this act.

d. The provisions of subsection a. shall not apply to a motor vehicle parked on a lot or parcel on which is situated a single-family unit or an owner occupied multi-unit structure of not more than six units or in front of any driveway where the motor vehicle is blocking access to that driveway.

C.56:13-14 Schedule of services eligible for charging a fee; reasonable fees; tariffs.

8. a. The director by regulation shall establish a schedule of towing and storage services for which a towing company may charge a service fee, and shall specify services that are ancillary to and included as part of basic towing services for which no fees in addition to the basic towing service fee may be charged.

b. All towing companies shall file with the division a tariff which lists the services the towing company provides and the fee that the towing company charges for each service, which fees shall be reasonable and not excessive.

(1) A towing company shall file its tariffs at least annually, in the manner prescribed by the director, and may amend the services it provides or the fees it charges for services provided by filing an amended tariff with the division, provided however that a towing company may not charge amended fees set forth in an amended tariff until the division provides confirmation of receipt of the amended tariff. A towing company may not modify its tariff more than once during any three-month period, except to add or delete a service, reduce a fee or conform to the requirements of this section.

(2) A towing company's fee for a towing service shall be presumed unreasonable and excessive if the fee exceeds 150%, or a different percentage established by the director by regulation, of the average fee for such service charged in the county of the towing company's principal location, which figure shall be calculated based upon the fees charged for such service as reported in the tariffs filed by all towing companies with principal locations in the same county and shall be published on an Internet website in accordance with subsection c. of this section.

(3) The presumption set forth in paragraph (2) of this subsection shall not apply until the first day of the third month after the Internet website authorized by subsection c. of this section becomes operative.

c. The division shall collect and maintain the tariffs filed pursuant to subsection a. of this section in an electronic system, and the director shall cause the tariff data to be organized and made available to the public on an Internet website in a format that enables consumers to review the fees for towing services charged by each registered towing company in the State. The electronic system shall calculate annually and make available on the website the average cost, broken down by towing service and county, of the fees for each towing service charged by the towing companies operating in each county in the State.

d. Nothing in this section shall be deemed to limit the authority of a State agency or political subdivision, or the independent authorities or instrumentalities thereof, to establish contract rates for towing and storage services in accordance with a contract awarded under the authority of such agency, subdivision, authority, or instrumentality.

C.56:13-15 Requirements for storage facility used by towing company.

9. a. No person shall tow a motor vehicle pursuant to section 7 of P.L.2007, c.193 (C.56:13-13) to a storage facility or store such vehicle at a storage facility unless the storage facility:

(1) has a business office open to the public between 8 a.m. and 6 p.m. at least five (5) days a week, excluding holidays; and

(2) is secured and, if it is an outdoor storage facility, lighted from dusk to dawn.

b. A towing company shall provide reasonable accommodations for after-hours release of stored motor vehicles and shall not charge a release fee or other charge for releasing motor vehicles to their owners after normal business hours or on weekends.

C.56:13-16 Unlawful practices for towing company.

10. It shall be an unlawful practice for any towing company:

a. To fail to affix on a motor vehicle used to provide towing services the proper decal issued by the division and a notice stating:

“This tow truck is registered with the New Jersey Division of Consumer Affairs. The driver is required to provide you with a written schedule of the fees charged for towing and storage services before providing that service to you, including those services for which there is no fee. If the fee charged is in excess of the fee listed on the schedule, please notify the Division of Consumer Affairs at 800-242-5846.”

b. (1) Except as otherwise provided in paragraph (2) of this subsection, to fail to provide the person whose motor vehicle is to be towed, prior to providing any towing services, a written schedule of fees, the information contained in the notice required under subsection a. above, the following legend, and such other information as determined by the director:

“The fees set forth in the schedule may not exceed the tariff filed with the Division of Consumer Affairs. You may review the tariff on the Division’s website at www.State.nj.us/lps/ca/home. The filing of a tariff with the Division of Consumer Affairs does not imply endorsement of the fees and charges set forth in the tariff.”

(2) To fail to provide the schedule and information required under paragraph (1) of this subsection immediately upon being contacted by the person whose motor vehicle was towed, if that person was not present at the time the towing services were provided.

c. To make, give, or cause any undue or unreasonable preference or advantage, or undue or unreasonable prejudice or disadvantage, to any person in any particular locality, with respect to providing towing services. The provision of towing services by a club or association to its members in exchange for the payment of dues or similar membership charges, which club or association membership is generally available to the public, shall not be deemed an undue or unreasonable preference or advantage within the meaning of this section.

d. To give any benefit or advantage, including a pecuniary benefit, to any person for providing information about motor vehicles parked for unauthorized purposes on privately owned property or otherwise in connection with towing from privately owned property motor vehicles parked without authorization.

e. To fail, when so requested by the owner or operator of a vehicle subject to non-consensual towing, to release a vehicle to the owner or operator that has been, or is about to be, hooked or lifted but has not actually been moved or removed from the property when the vehicle owner or operator returns to the vehicle, or to charge the owner or operator requesting release of the vehicle more than the decoupling fee specified in the tariff.

f. To charge any fee other than any applicable contract rate or, in the absence of an applicable contract rate, the lesser of the rate set forth in an applicable schedule of fees or other charges established by municipal ordinance adopted pursuant to section 1 of P.L.1979, c.101 (C.40:48-2.49) or the rate specified in the towing company's tariff on file with the director, or to charge a fee in an amount or for a service not listed on the tariff on file with the director at the time except as may be permitted by the director by regulation. Nothing in this section shall preclude a towing company, acting on behalf of a club or association, from charging members of the club or

association a fee at a rate established by contract between the towing company and the club or association which is lower than the rate specified in the towing company's tariff on file with the director, provided that membership in such club or association is generally available to the public and that such rates are filed with the director pursuant to section 8 of this act.

g. To refuse to accept for payment in lieu of cash or an insurance company check for towing or storage services a debit card, charge card or credit card if the operator ordinarily accepts such card at his place of business, unless such refusal is authorized in accordance with section 4 of P.L.2002, c.67 (C.56:13-4) as amended by section 21 of P.L.2007, c.193.

C.56:13-17 Availability of records.

11. Every towing company shall retain and make available for inspection by the division for a period of three years, invoices, job orders, logs, claims for reimbursement from insurance companies and other documentation relating to towing services performed and rates charged for the services.

C.56:13-18 "Towing and Storage Administration and Enforcement Fund."

12. There is created in the Department of the Treasury a special dedicated, non-lapsing fund to be known as the "Towing and Storage Administration and Enforcement Fund." The fund shall be the depository for fees, cost recoveries and penalties collected under P.L.2007, c.193 (C.56:13-7 et al.). Monies deposited in the fund and the interest earned thereon shall be used for the administration of this act. The Legislature shall annually appropriate from the fund monies to the division for the administration of this act.

C.56:13-19 Rules, regulations; contracts, certain.

13. a. The director, pursuant to 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.

b. The division may contract with a public or private entity for the purpose of developing, administering and maintaining the registration process and the electronic data base for tariffs provided for in section 8 of P.L.2007, c.193 (C.56:13-14).

C.56:13-20 Effect of act on local government, toll road authority powers.

14. a. The provisions of this act shall preempt any political subdivision from requiring or issuing any registration or license of any towing company in addition to that which is required by section 4 of this act.

This section shall not limit the existing authority of a political subdivision to:

(1) license and collect a general and nondiscriminatory tax upon all businesses; or

(2) impose any additional requirements or conditions as part of any contract to perform towing and recovery services for that jurisdiction.

b. The provisions of this act shall not be deemed to limit the authority of the New Jersey Turnpike Authority or the South Jersey Transportation Authority to establish rules and regulations governing the provision of towing and storage services on the roadways and properties under each entity's respective control.

C.56:13-21 Unlawful practice, violation.

15. a. It is an unlawful practice and a violation of P.L.1960, c.39 (C.56:8-1 et seq.) to violate any provision of this act.

b. In addition to any penalties or other remedies provided in P.L.1960, c.39 (C.56:8-1 et seq.), the director may order a towing company that has billed a consumer or insurer an amount in excess of the fee specified in its filed tariff for the service provided to reimburse the consumer or insurer for the excess cost with interest.

16. Section 2 of P.L.2002, c.77 (C.27:23-6.2) is amended to read as follows:

C.27:23-6.2 Registration of towing operators with New Jersey Turnpike Authority.

2. a. An operator awarded a contract for towing and storage services by the New Jersey Turnpike Authority shall register with the authority. In order to be eligible to bid for the award of such a contract, an operator shall have registered with the Division of Consumer Affairs in the Department of Law and Public Safety pursuant to section 4 of P.L.2007, c.193 (C.56:13-10). Upon issuance of the registration, the authority shall provide the operator with two decals and accompanying notices for each tow truck owned or leased by that operator and to be used under the terms of the contract. The decals and the accompanying notices, which shall be of a distinctive design and color, shall be conspicuously displayed on the exterior of each such tow truck in a manner and location prescribed by the authority.

The decals shall set forth a specific registration number for each registered tow truck. The notices shall include a statement indicating substantially the following: "This tow truck is registered with the New Jersey Highway Authority. The driver is required to provide you with a written

schedule of the fees charged for towing and storage services before providing that service to you, including those services for which there is no fee. If the fee charged is in excess of the fee listed on the schedule, please notify the authority or the New Jersey Division of Consumer Affairs.” An operator shall file a copy of the schedule of fees with the authority. Upon request of the Division of Consumer Affairs in the Department of Law and Public Safety, the authority shall provide a list of the registered tow trucks to the division, in addition to a copy of the schedule of fees.

b. Prior to providing any towing services, a driver of a tow truck shall provide the person whose vehicle is to be towed a written schedule of fees and shall recite the information contained in the notice.

c. An operator who fails to display the decals and notices required by subsection a. of this section or the driver of a tow truck who fails to provide a person to be towed the written schedule of fees or recite the information contained in the notice prior to providing a towing service as required by subsection b. of this section shall be subject to a fine of \$300 for the first offense. For the second and any subsequent offense the operator or the driver, as the case may be, shall be subject to a fine of \$600.

d. It shall be an unlawful practice and a violation of P.L.1960, c.39 (C.56:8-1 et seq.) for any person to charge a fee in excess of the fee listed in the written schedule of fees provided pursuant to subsection a. of this section.

e. If an operator or the driver of an operator’s tow truck is convicted a third time for violation of any provisions of this section, the authority may, in its discretion, terminate the operator’s contract for towing and storage services with the authority.

17. Section 3 of P.L.2002, c.77 (C.27:25A-8.1) is amended to read as follows:

C.27:25A-8.1 Registration of towing operators with South Jersey Transportation Authority.

3. a. An operator awarded a contract for towing and storage services by the South Jersey Transportation Authority shall register with the authority. In order to be eligible to bid for the award of such a contract, an operator shall have registered with the Division of Consumer Affairs in the Department of Law and Public Safety pursuant to section 4 of P.L.2007, c.193 (C.56:13-10). Upon issuance of the registration, the authority shall provide the operator with two decals and accompanying notices for each tow truck owned or leased by that operator and to be used under the terms of the contract. The decals and the accompanying notices, which shall be of a distinc-

tive design and color, shall be conspicuously displayed on the exterior of each such tow truck in a manner and location prescribed by the authority.

The decals shall set forth a specific registration number for each registered tow truck. The notices shall include a statement indicating substantially the following: "This tow truck is registered with the New Jersey Highway Authority. The driver is required to provide you with a written schedule of the fees charged for towing and storage services before providing that service to you, including those services for which there is no fee. If the fee charged is in excess of the fee listed on the schedule, please notify the authority or the New Jersey Division of Consumer Affairs." An operator shall file a copy of the schedule of fees with the authority. Upon request of the Division of Consumer Affairs in the Department of Law and Public Safety, the authority shall provide a list of the registered tow trucks to the division, in addition to a copy of the schedule of fees.

b. Prior to providing any towing services, a driver of a tow truck shall provide the person whose vehicle is to be towed a written schedule of fees and shall recite the information contained in the notice.

c. An operator who fails to display the decals and notices required by subsection a. of this section or the driver of a tow truck who fails to provide a person to be towed the written schedule of fees or recite the information contained in the notice prior to providing a towing service as required by subsection b. of this section shall be subject to a fine of \$300 for the first offense. For the second and any subsequent offense the operator or the driver, as the case may be, shall be subject to a fine of \$600.

d. It shall be an unlawful practice and a violation of P.L.1960, c.39 (C.56:8-1 et seq.) for any person to charge a fee in excess of the fee listed in the written schedule of fees provided pursuant to subsection a. of this section.

e. If an operator or the driver of an operator's tow truck is found to have been convicted a third time for violation of any provisions of this section, the authority may, in its discretion, terminate the operator's contract for towing and storage services with the authority.

18. Section 3 of P.L.1999, c.396 (C.39:3-84.8) is amended to read as follows:

C.39:3-84.8 Information contained in application for tow truck registration.

3. a. An application for tow truck registration shall contain the following information:

(1) The name and address of the towing company's principal owner or owners;

(2) The address of the principal business office of the towing company;

(3) The location of any garage, parking lot, or other storage area, where motor vehicles or other objects moved by the towing company may be stored or placed;

(4) A valid certificate of insurance and a schedule of insured vehicles that are to be utilized by the towing company from an insurer authorized to do business in the State, including the amounts of the garage keeper's legal liability coverage and any "on hook" coverage as an endorsement or contained in a separate schedule, and liability insurance coverage, including in the case of each light-medium duty tow truck, motor vehicle liability insurance coverage for the death of, or injury to, persons and damage to property for each accident or occurrence in the amount of at least \$750,000 single limit, and in the case of each heavy-duty tow truck, motor vehicle liability insurance coverage for the death of, or injury to, persons and damage to property for each accident or occurrence in the amount of at least \$1,000,000 single limit; and

(5) Documentation of the manufacturer's gross vehicle weight rating for each tow truck.

The towing company shall include in the application a copy of the registration issued to it pursuant to section 4 of P.L.2007, c.193 (C.56:13-10).

Except as otherwise provided in this act, the registration for these vehicles shall be issued and renewed pursuant to the provisions of this Title.

19. Section 1 of P.L.2002, c.67 (C.56:13-1) is amended to read as follows:

C.56:13-1 Definitions relative to operators engaged in repair or removal of inoperable, illegally parked vehicles.

1. As used in this act:

"Charge card" means a credit card on an account for which no periodic rate is used to compute a finance charge.

"Credit card" means any card, plate, coupon book, or other single credit device that may be used from time to time to obtain credit.

"Operator" means a person who engages in the business of transporting motor vehicles that are inoperable or parked illegally or otherwise without authorization from public or private property to a site where repairs may be made or the vehicle may be stored and who may also perform motor vehicle repairs.

20. Section 3 of P.L. 2002, c. 67 (C.56:13-3) is amended to read as follows:

C.56:13-3 Transport, repair; payment rights of operator, motorist.

3. If the operator cannot repair the inoperable vehicle to the satisfaction of the motorist he shall, with the motorist's consent, subject to the provisions of P.L.2007, c.193 (C.56:13-7 et al.), transport the vehicle to the operator's place of business or to another mutually agreed upon location. The vehicle, once repaired, may be retained in the possession of the operator or other repairer, as the case may be, pending payment, pursuant to N.J.S.2A:44-20 et seq. The operator, if other than the repairer, shall be eligible for reimbursement for transporting the vehicle to the repair site. If the estimated cost of repairs exceeds \$50, the motorist shall be given a written estimate of the repair costs.

21. Section 4 of P.L. 2002, c.67 (C.56:13-4) is amended to read as follows:

C.56:13-4 Acceptability of payment; forms.

4. a. For services rendered, or to redeem a motor vehicle from storage, the operator shall accept in payment either cash, a check issued by an insurance company, a valid debit card, or a valid major credit card or charge card subject to the provisions of subsection b. of this section.

b. The operator may request additional identification, as determined by the Director of the Division of Consumer Affairs, before proceeding with repairs or towing. Unless the motorist is unable to produce such identification, or the operator has a bona fide reason to believe the card or other identification is fictitious, altered, stolen, expired or revoked or not valid for any other cause or is clearly offered with intent to defraud the issuer, the debit card, charge card or credit card shall be deemed an acceptable form of payment in lieu of cash if the operator ordinarily accepts the card at his place of business. Nothing in this act shall preclude payment by a motorist in the form of check or money order, if this form of payment is acceptable to the operator.

22. Section 1 of P.L.1973, c.137 (C.39:4-56.6) is amended to read as follows:

C.39:4-56.6 Abandonment of vehicle on private property; removal by owner of property; costs; sale of vehicle.

1. No person shall park or leave unattended a vehicle on private property without the consent of the owner or other person in control or possession of the property or for a period in excess of that for which consent was

given, except in the case of emergency or disablement of the vehicle in which case the owner or operator thereof shall arrange for the expeditious removal of the vehicle. This section shall not apply to manufactured or mobile homes left unattended and for which there exists or existed a rental agreement to occupy a space on the property.

Subject to the requirements of section 7 of P.L.2007, c.193 (C.56:13-13), the owner or other person in control or possession of the property on which a vehicle is parked or left unattended in violation of this section may remove or hire another person to remove and store the vehicle. It shall be the obligation of the owner of the vehicle to pay the reasonable costs for the removal and for any storage which may result from such removal before he shall be entitled to recover the possession of the vehicle. If the owner of the vehicle refuses to pay such costs or fails to make any claim for the return of the vehicle within 90 days after such removal, the vehicle may be sold at public auction in accordance with the provisions of N.J.S.2A:44-20 through N.J.S.2A:44-31.

23. Section 1 of P.L.1979, c.101 (C.40:48-2.49) is amended to read as follows:

C.40:48-2.49 Regulation of operators engaged in removal of motor vehicles.

1. Notwithstanding the provisions of section 1 of P.L.1973, c.137 (C.39:4-56.6) or any other law, a municipality may regulate, by ordinance, the removal of motor vehicles from private or public property by operators engaged in such practice, including, but not limited to, the fees charged for storage following removal in accordance with section 3 of P.L.1987, c.127 (C.40:48-2.50), fees charged for such removal, notice requirements therefor, and the mercantile licensing of such operators.

The ordinance shall set forth non-discriminatory and non-exclusionary regulations governing operators engaged in the business of removing and storing motor vehicles. The regulations shall include, but not be limited to:

- a. A schedule of fees or other charges which an operator may charge vehicle owners for towing services, storage services or both;
- b. Minimum standards of operator performance, including but not limited to standards concerning the adequacy of equipment and facilities, availability and response time, and the security of vehicles towed or stored;
- c. The designation of a municipal officer or agency to enforce the provisions of the ordinance in accordance with due process of law;
- d. The requirement that such regulations and fee schedules of individual towers shall be made available to the public during normal business hours of the municipality.

Nothing in this section shall be construed to authorize a municipality to establish charges for services that are not included in the schedule of towing and storage services for which a towing company may charge a service fee established by the Director of Consumer Affairs pursuant to section 8 of P.L.2007, c.193 (C.56:13-14). Nothing in this section shall be construed to exempt an operator from complying with the requirements of P.L.2007, c.193 (C.56:13-7 et al.).

Repealer.

24. The following sections are repealed:

Section 4 of P.L.1999, c.396 (C. 39:3-84.9);

Section 4 of P.L.1997, c. 387 (C.40:48-2.55); and

Section 5 of P.L. 1997, c.387 (C.56:8-2.26).

C.56:13-22 Severability.

25. If any section, subsection, clause or provision of this act shall be adjudged unconstitutional or to be ineffective in whole or in part, to the extent that it is not adjudged unconstitutional or is not ineffective it shall be valid and effective and no other section, subsection, clause or provision of this act shall on account thereof be deemed invalid or ineffective, and the applicability or invalidity of any section, subsection, clause or provision of this act in any one or more instances or under any one or more circumstances shall not be taken to affect or prejudice in any way its applicability or validity in any other instance or under any other circumstances.

C.56:13-23 Effective date.

26. This act shall take effect on the 360th day following enactment, except that section 4 shall remain inoperative for 180 days following the effective date, but the director may take such anticipatory action as may be necessary to effectuate those provisions of this act.

Approved October 24, 2007.

CHAPTER 194

AN ACT concerning reimbursement for certain ambulance services and supplementing Title 17B of the New Jersey Statutes.

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

C.17B:30-58 Definitions relative to reimbursement for certain ambulance services.**1. As used in this act:**

"Ambulance service" means the provision of emergency health care services, basic life support services, advanced life support services, critical care services, mobile intensive care services, or emergency medical transportation in a vehicle that is licensed, equipped and staffed in accordance with the requirements set forth by the Commissioner of Health and Senior Services.

"Assignment of benefits" means any written instrument executed by the covered person or his authorized representative which assigns a service provider the covered person's right to receive reimbursement for a covered service rendered to the covered person.

"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.

"Claim" means a claim by a covered person for payment of benefits under a health benefits plan.

"Commissioner" means the Commissioner of Banking and Insurance.

"Covered person" means a person on whose behalf a carrier offering the health benefits plan is obligated to pay benefits or provide services pursuant to the health benefits plan.

"Covered service" means an ambulance service provided to a covered person under a health benefits plan for which the carrier is obligated to pay benefits or provide services.

"Health benefits plan" means a hospital and medical expense insurance policy; health service corporation contract; hospital service corporation contract; medical service corporation contract; health maintenance organization subscriber contract; or other plan for medical care delivered or issued for delivery in this State. For purposes of this act, health benefits plan shall not include one or more, or any combination of, the following: coverage only for accident, or disability income insurance, or any combination thereof; coverage issued as a supplement to liability insurance; liability insurance, including general liability insurance and automobile liability insurance; stop loss or excess risk insurance; workers' compensation or similar insurance; automobile medical payment insurance; credit-only insurance; coverage for on-site medical clinics; coverage for Medicaid services pursuant to a contract with the State; and any other similar insurance coverage, as specified in federal regulations, under which benefits for medical care are secondary or incidental to other insurance benefits. Health benefits plans shall not include the following benefits if they are provided under a

separate policy, certificate or contract of insurance or are otherwise not an integral part of the plan: limited scope dental or vision benefits; benefits for long-term care, nursing home care, home health care, community-based care, or any combination thereof; and such other similar, limited benefits as are specified in federal regulations. Health benefits plan shall not include hospital confinement indemnity coverage if the benefits are provided under a separate policy, certificate or contract of insurance, there is no coordination between the provision of the benefits and any exclusion of benefits under any group health benefits plan maintained by the same plan sponsor, and those benefits are paid with respect to an event without regard to whether benefits are provided with respect to such an event under any group health plan maintained by the same plan sponsor.

"Payer" means a carrier or any agent thereof who is doing business in the State and is under a contractual obligation to pay claims.

"Service provider" means any person, public or private institution, agency, or business concern lawfully providing an ambulance service.

C.17B:30-59 Assignment of benefits to service provider of right to receive reimbursement for ambulance service.

2. a. Notwithstanding any provision of law to the contrary, a covered person may, through an assignment of benefits, assign to a service provider his right to receive reimbursement for any ambulance service rendered by the service provider, regardless of whether the service provider is under contract with the carrier to provide services to the covered person.

b. A service provider provided an assignment of benefits by a covered person, pursuant to subsection a. of this section, shall submit a copy of that assignment of benefits, or provide other notice of that assignment of benefits acceptable to the commissioner pursuant to regulation, to the payer with any claim for payment for any ambulance service rendered to the covered person.

c. The payer, based upon the claim and notice of the assignment of benefits submitted by the service provider, shall remit payment of the claim directly to the service provider within the timeframe established by P.L.1999, c.154 (C.17B:30-23 et al.) for remitting payment on a claim submitted by electronic means, or by other than electronic means, as applicable, and provide written notice, within the same applicable timeframe, of the payment to the covered person.

d. If a covered person executes an assignment of benefits, and the service provider submits notice of that assignment of benefits with its claim for payment pursuant to subsection b. of this section, but the payer remits payment of the claim to the covered person, rather than the service pro-

vider, the claim shall not be considered paid. The payer shall, notwithstanding the incorrect payment of the claim to the covered person, remain liable for remitting payment of the claim to the service provider pursuant to the assignment of benefits.

e. Any overdue payment on the claim to the service provider pursuant to the assignment of benefits shall accrue interest at the rate established by P.L.1999, c.154 (C.17B:30-23 et al.) for an overdue payment.

3. This act shall take effect 90 days after enactment, and shall apply to all health benefits plans that are delivered, issued, executed or renewed, or approved for issuance or renewal in this State, on or after the effective date.

Approved October 26, 2007.

CHAPTER 195

AN ACT prohibiting regulation of certain aspects of Voice over Internet Protocol and Internet Protocol-enabled services and supplementing Title 48 of the Revised Statutes.

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

C.48:17-32 Short title.

1. This act shall be known and may be cited as the “Voice over Internet Freedom Act.”

C.48:17-33 Findings, declarations relative to Voice over Internet Protocol, Protocol-enabled services.

2. The Legislature finds and declares that:

a. The growth and enhancement of services using Internet Protocol technology provide consumers more choice in voice, data, and video service than at any other time;

b. The proliferation of new technologies and applications and the growth in the number of providers developing and offering innovative services using Internet Protocol are due in large part to a light regulatory touch, including freedom from traditional telephone regulation that these new technologies and services and the companies that offer them have enjoyed in New Jersey; and

c. These economic benefits, including consumer choice, new jobs, and significant capital investment, will be jeopardized and competition minimized by the imposition of traditional State entry and rate regulation on Voice over Internet Protocol service and Internet Protocol-enabled service.

C.48:17-34 Definitions relative to Voice over Internet Protocol, Protocol-enabled services.

3. As used in this act:

“Circuit switched local exchange access service” means circuit switched local “telephone exchange service” as that term is defined in 47 U.S.C. s.153.

“Cramming” means the practice of placing unauthorized, misleading or deceptive charges on a consumer's telephone bill for any communications service, which service the consumer did not order or authorize in advance.

“Internet Protocol-enabled service” or “IP-enabled service” means, except as provided in the definition hereunder of “Voice over Internet Protocol service,” any service, capability, functionality, or application provided using Internet Protocol, or any successor protocol, that enables an end user to send or receive a communication in Internet Protocol format, or any successor format, regardless of whether the communication is voice, data or video.

“Slamming” means the changing of a communications service provider, including a customer's telephone service provider, whether for long distance, regional toll or local calls, without the customer's knowledge or permission.

“Telecommunications relay service” means a telephone transmission service that provides the ability for an individual who has a hearing impairment or speech impairment to engage in communication with a hearing individual in a manner that is functionally equivalent to the ability of an individual who does not have a hearing impairment or speech impairment to communicate using voice communication services.

“Voice over Internet Protocol service” or “VoIP service” means any service that:

- a. enables real-time, two-way voice communications from the user's location in Internet Protocol or any successor protocol;
- b. uses a broadband connection from the user's location; and
- c. permits users generally to receive calls that originate on the public switched telephone network and to terminate calls to the public switched telephone network.

C.48:17-35 Regulation of VoIP limited to this act.

4. Except as otherwise provided in this act, notwithstanding any other provision of law, rule, regulation or order to the contrary, neither the State, nor any department, agency, board or commission thereof, nor any political subdivision of the State shall enact, adopt or enforce any law, ordinance, resolution, rule, regulation, order, standard or other provision, either directly or indirectly, having the force and effect of law that regulates, or has the effect of regulating, the rates, terms and conditions of VoIP service or IP-enabled service offered to customers.

C.48:17-36 Construction of act.

5. Nothing in this act shall be construed to:

a. affect the application or enforcement of criminal or other statutes or regulations that apply generally to the conduct of business in the State, consumer protection, or unfair or deceptive trade practices, including, but not limited to, any statutes or regulations that prohibit cramming or slamming, affect the provisions of the "Underground Facility Protection Act," P.L.1994, c.118 (C.48:2-73 et seq.), or any law or regulation concerning any easement on any real property or the extension of any telecommunications service to any customer;

b. affect the authority of the State or its agencies to enforce such requirements as are otherwise expressly provided for by federal law, including, but not limited to, the collection of enhanced 9-1-1 fees, telecommunications relay service fees, or federal Universal Service Fund fees on VoIP or IP-enabled services that may be determined to apply or to affect any rights or duties the State or its agencies may have under the provisions of 47 U.S.C. s.251 or 47 U.S.C. s.252;

c. affect the authority of the State or its political subdivisions, including municipalities, as appropriate, to set forth the requirements of providing cable service or operating a cable television system as pursuant to the provisions of the "Cable Communications Policy Act of 1984," Pub.L.98-549 (47 U.S.C. s.521 et seq.) or the "Cable Television Act," P.L.1972, c.186 (C.48:5A-1 et seq.);

d. affect the authority of the State or its political subdivisions, as applicable, to manage the use of public rights-of-way, including, but not limited to, any requirement for the joint use of poles or other structures in such rights-of-way; or

e. affect the authority of the Board of Public Utilities in regulating the rates, terms and conditions of circuit switched local exchange access service, consistent with federal law.

6. This act shall take effect immediately.

Approved October 26, 2007.

CHAPTER 196

AN ACT concerning general hospitals, and supplementing Title 26 of the Revised Statutes and P.L.2004, c.9 (C.26:2H-12.23 et seq.).

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

C.26:2H-12.39 Short title.

1. Sections 1 through 7 of this act shall be known and may be cited as the “Health Care Facility-Associated Infection Reporting and Prevention Act.”

C.26:2H-12.40 Findings, declarations relative to reporting of infection rates by hospitals.

2. The Legislature finds and declares:

a. Health care facility-associated infections constitute a major public health problem in this country, affecting from 5% to 10% of hospitalized patients annually, resulting in an estimated two million infections, and 90,000 deaths, and adding an estimated \$4.5 to \$5.7 billion in health care costs;

b. Many health care facility-associated infections can be prevented, and a goal of zero health care facility-associated infections is desirable. There are many simple and effective practices in hospitals that can dramatically reduce the incidence of health care facility-associated infections, such as hand washing, using gloves and properly sterilized equipment, and following the same established best practices, every time, for procedures such as the insertion of an intravenous tube to deliver fluids and medication;

c. The uniform reporting of health care facility-associated infections to the State, and the review and analysis of this data by the Department of Health and Senior Services, will provide a measurable means to assist hospitals in improving patient outcomes;

d. The federal Centers for Disease Control and Prevention recommends that states establishing public reporting systems for health care facility-associated infections focus on major site categories to report rates of

health care facility-associated infections related to procedures and conditions including, but not limited to, urinary tract infections, surgical site infections, ventilator-associated pneumonia, and central line-related bloodstream infections. A focus on major site categories helps ensure that data collection is concentrated in populations where health care facility-associated infections are more prevalent, and that the infection rates reported are most useful for targeting prevention practices and making comparisons among hospitals and within hospitals, over time;

e. The Department of Health and Senior Services currently provides comparative hospital performance data in its annual New Jersey Hospital Performance Report, and including information about hospital infection rates will further enhance the value of the report to the public and health care providers; and

f. Therefore, it is a matter of public health and fiscal policy that patients in New Jersey's hospitals receive health care that incorporates best practices in infection control, not only to protect their health and lives, but also to ensure the economic viability of New Jersey's hospitals.

C.26:2H-12.41 Quarterly reports by general hospital to DHSS.

3. A general hospital licensed pursuant to P.L.1971, c.136 (C.26:2H-1 et al.) shall be required to report quarterly to the Department of Health and Senior Services, in a form and manner prescribed by the Commissioner of Health and Senior Services:

a. process quality indicators of hospital infection control that have been identified by the federal Centers for Medicare and Medicaid Services, as selected by the commissioner in consultation with the Quality Improvement Advisory Committee within the department; and

b. beginning 30 days after the adoption of regulations pursuant to this act, data on infection rates for the major site categories that define health care facility-associated infection locations, multiple infections, and device-related and non-device related infections, identified by the federal Centers for Disease Control and Prevention, as selected by the commissioner in consultation with the Quality Improvement Advisory Committee within the department.

The information shall be transmitted in such a manner as to not include identifying information about patients.

C.26:2H-12.42 Prompt advice to hospital from commissioner to improve performance.

4. The commissioner shall promptly advise a hospital in the event the commissioner determines that based on information reported by the facility, a change in facility practices or policy is necessary to improve performance

in the prevention of health care facility-associated infection and quality of care provided at the facility.

C.26:2H-12.43 Information available to public on Internet website.

5. The commissioner shall make available to members of the public, on the official Internet website of the Department of Health and Senior Services, the information reported pursuant to this act, in such a format as the commissioner deems appropriate to enable comparison among hospitals, with respect to the information, and shall include information in the New Jersey Hospital Performance Report annually issued by the commissioner that measures the performance of general hospitals in the State with respect to process quality indicators and health care facility-associated infection among patients.

C.26:2H-12.44 Expansion of reporting requirements.

6. The commissioner may, by regulation, expand the health care facility-associated infection reporting requirements in this act to other types of health care facilities, as the commissioner determines appropriate.

C.26:2H-12.45 Rules, regulations.

7. The Commissioner of Health and Senior Services, in consultation with the Quality Improvement Advisory Committee in the department, pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), shall adopt rules and regulations to effectuate the purposes of this act.

The regulations shall: establish standard methods for identifying and reporting health care facility-associated infections; identify the major site categories for which infections shall be reported, taking into account the categories most likely to improve the delivery and outcome of health care in the State; and specify the methodology for presenting the data to the public, including procedures to adjust for differences in case mix and severity of infections among hospitals.

C.26:2H-12.25a Compilation of findings on patient safety; annual reports.

8. The Commissioner of Health and Senior Services and the Commissioner of Human Services shall compile their findings and recommendations for operational changes related to patient safety in health care facilities, based on information reported to the commissioners pursuant to the "Patient Safety Act," P.L.2004, c.9 (C.26:2H-12.23 et seq.).

The commissioners shall jointly issue an annual report of their 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), to be made available on the official Internet website of the Department of Health and Senior Services.

9. This act shall take effect on the 90th day after enactment, except that the Commissioner of Health and Senior Services may take such anticipatory administrative action in advance as shall be necessary for the implementation of the act.

Approved October 31, 2007.

CHAPTER 197

AN ACT prohibiting political contributions by public agencies and supplementing P.L.1973, c.83 (C.19:44A-1 et seq.).

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

C.19:44A-11.9 Political contributions by public agencies prohibited; definition.

1. A public agency shall not pay or make any contribution of money or other thing of value, whether out of public funds or any other funds which the public agency may control, to any candidate, candidate committee, joint candidates committee, political committee, continuing political committee, political party committee, or legislative leadership committee, and no such candidate or committee shall accept such contribution.

Any person who willfully and intentionally makes or accepts a contribution in violation of this section shall be liable to the penalties set forth in subsections e. and f. of section 22 of P.L.1973, c.83 (C.19:44A-22).

As used in this section, "public agency" means any of the principal departments in the Executive Branch of State Government, and any division, board, bureau, office, commission or other instrumentality within or created by such department; the Legislature of the State and any office, board, bureau or commission within or created by the Legislative Branch; and any independent State authority, commission, instrumentality or agency, including any public institution of higher education. The terms also mean any political subdivision of the State or combination of political subdivisions, and any division, board, bureau, office, commission or other instrumentality within or created by a political subdivision of the State or combination of political subdivisions, and any independent authority, commission, in-

strumentality or agency created by a political subdivision or combination of political subdivisions.

2. This act shall take effect immediately.

Approved November 2, 2007.

CHAPTER 198

AN ACT concerning the use of wireless telephones and electronic communication devices in motor vehicles and amending P.L.2003, c.310.

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

1. Section 1 of P.L.2003, c.310 (C.39:4-97.3) is amended to read as follows:

C.39:4-97.3 Use of wireless telephone, electronic communication device in moving vehicle; definitions; enforcement.

1. a. The use of a wireless telephone or electronic communication device by an operator of a moving motor vehicle on a public road or highway shall be unlawful except when the telephone is a hands-free wireless telephone or the electronic communication device is used hands-free, provided that its placement does not interfere with the operation of federally required safety equipment and the operator exercises a high degree of caution in the operation of the motor vehicle. For the purposes of this section, an "electronic communication device" shall not include an amateur radio.

b. The operator of a motor vehicle may use a hand-held wireless telephone while driving with one hand on the steering wheel only if:

(1) The operator has reason to fear for his life or safety, or believes that a criminal act may be perpetrated against himself or another person; or

(2) The operator is using the telephone to report to appropriate authorities a fire, a traffic accident, a serious road hazard or medical or hazardous materials emergency, or to report the operator of another motor vehicle who is driving in a reckless, careless or otherwise unsafe manner or who appears to be driving under the influence of alcohol or drugs. A hand-held wireless telephone user's telephone records or the testimony or written statements from appropriate authorities receiving such calls shall be deemed sufficient

evidence of the existence of all lawful calls made under this paragraph.

As used in this act, "hands-free wireless telephone" means a mobile telephone that has an internal feature or function, or that is equipped with an attachment or addition, whether or not permanently part of such mobile telephone, by which a user engages in a conversation without the use of either hand; provided, however, this definition shall not preclude the use of either hand to activate, deactivate, or initiate a function of the telephone.

"Use" of a wireless telephone or electronic communication device shall include, but not be limited to, talking or listening to another person on the telephone, text messaging, or sending an electronic message via the wireless telephone or electronic communication device.

c. (Deleted by amendment, P.L.2007, c.198).

d. A person who violates this section shall be fined \$100.

e. No motor vehicle points or automobile insurance eligibility points pursuant to section 26 of P.L.1990, c.8 (C.17:33B-14) shall be assessed for this offense.

f. The Chief Administrator of the New Jersey Motor Vehicle Commission shall develop and undertake a program to notify and inform the public as to the provisions of this act.

g. Whenever this section is used as an alternative offense in a plea agreement to any other offense in Title 39 of the Revised Statutes that would result in the assessment of motor vehicle points, the penalty shall be the same as the penalty for a violation of section 1 of P.L.2000, c.75 (C.39:4-97.2), including the surcharge imposed pursuant to subsection f. of that section, and a conviction under this section shall be considered a conviction under section 1 of P.L.2000, c.75 (C.39:4-97.2) for the purpose of determining subsequent enhanced penalties under that section.

2. Section 3 of P.L.2003, c.310 (C.39:4-97.5) is amended to read as follows:

C.39:4-97.5 Supersedure, preemption of local ordinances.

3. This act supersedes and preempts all ordinances of any county or municipality with regard to the use of a wireless telephone or electronic communication device by an operator of a motor vehicle.

3. This act shall take effect on the first day of the fourth month following enactment.

Approved November 2, 2007.

CHAPTER 199

AN ACT concerning the dispensing of medications and supplementing P.L.2003, c.280 (C.45:14-40 et seq.).

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

C.45:14-67.1 Duty of pharmacy to fill certain prescriptions.

1. a. A pharmacy practice site has a duty to properly fill lawful prescriptions for prescription drugs or devices that it carries for customers, without undue delay, despite any conflicts of employees to filling a prescription and dispensing a particular prescription drug or device due to sincerely held moral, philosophical or religious beliefs.

b. If a pharmacy practice site does not have in stock a prescription drug or device that it carries, and a patient presents a prescription for that drug or device, the pharmacy practice site shall offer:

(1) to obtain the drug or device under its standard expedited ordering procedures; or

(2) to locate a pharmacy that is reasonably accessible to the patient and has the drug or device in stock, and transfer the prescription there in accordance with the pharmacy practice site's standard procedures.

The pharmacy practice site shall perform the patient's chosen option without delay. If the patient so requests, the pharmacist shall return an unfilled prescription to the patient.

c. If a pharmacy practice site does not carry a prescription drug or device, and a patient presents a prescription for that drug or device, the pharmacy practice site shall offer to locate a pharmacy that is reasonably accessible to the patient and has the drug or device in stock.

d. A person who believes that a violation of this section has occurred may report the violation to the New Jersey State Board of Pharmacy.

2. This act shall take effect immediately.

Approved November 2, 2007.

CHAPTER 200

AN ACT concerning disclosure of information related to development subsidies and supplementing Title 52 of the Revised Statutes.

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

C.52:39-1 Short title.

1. This act shall be known and may be cited as “The Development Subsidy Job Goals Accountability Act.”

C.52:39-2 Findings, declarations relative to development subsidies.

2. The Legislature finds and declares that:

a. Although the State has granted numerous tax incentives, grants and other economic development subsidies during the last 25 years, the inflation-adjusted wage level for a large portion of New Jersey workers has declined, as has the percentage of working families in New Jersey with health care coverage;

b. Some programs providing economic development subsidies lack measurable job creation goals, and in some cases, businesses have closed, relocated or outsourced facilities or jobs for which subsidies were provided to sites outside of the State;

c. Citizen participation in economic development has been impeded by a lack of readily accessible information regarding expenditures and outcomes; and

d. It is therefore appropriate, in order to improve the effectiveness of expenditures for economic development and to ensure that they achieve the goal of raising living standards for working families, that the State collect, analyze and make public information regarding those expenditures.

C.52:39-3 Definitions relative to development subsidies.

3. For the purposes of this act:

“Corporate parent” means either: a person, association, corporation, joint venture, partnership, or other business entity, that owns or controls 50% or more of a recipient corporation; or the recipient corporation itself, if no other person, association, corporation, joint venture, partnership, or other entity, owns or controls 50% or more of the recipient corporation.

“Date of development subsidy” means the initial date that a granting body provides the monetary value of a development subsidy to a recipient corporation provided, however, that if the development subsidy is for the installation of new equipment, the date shall be the date the recipient corporation puts the equipment into service and provided, further, that if the development subsidy is for improvements to property, the date shall be the date the improvements are finished or the date the recipient corporation

occupies the property, whichever is earlier.

“Development subsidy” means the authorizing of the provision or providing to a recipient corporation of an amount of funds by or from a public body with a value of not less than \$25,000 for the purpose of stimulating economic development in New Jersey, including, but not limited to, any bond, grant, loan, loan guarantee, matching fund or any tax expenditure. “Development subsidy” does not refer to any contract under which a public body purchases or otherwise procures goods, services or construction on an unsubsidized basis, including any contract solely for the construction or renovation of a facility owned by a public body. “Development subsidy” does not mean any authorizing or providing of funds by or from a public body to a recipient corporation, including by means of a tax expenditure, for the exclusive purpose of the development or production of affordable housing, for the exclusive purpose of subsidizing site remediation, recycling, commuter transportation assistance, pollution reduction, energy conservation or other programs to improve the environment, or for the exclusive purpose of providing benefits to employees of the recipient corporation. “Development subsidy” does not mean any authorizing or providing of funds by or from a public body to a non-profit organization, including by means of a tax expenditure, for the exclusive purpose of subsidizing the development of facilities used to provide recreational, educational, arts or cultural programs or childcare or healthcare services.

“Employee benefits” means the average rate of benefit costs paid by a recipient corporation to or for its employees, including, but not limited to, the cost to the recipient corporation of health care benefits, pension benefits and apprenticeship or other training and education benefits, but excluding any costs to the recipient corporation of unemployment compensation, workers’ compensation or temporary disability benefits, Social Security benefits, or any other employee benefits which the recipient corporation is required by State or federal law to pay. “Employee benefits” do not include any payroll deductions or other costs paid by employees for the benefits.

“Full-time job” means a job in which an individual is employed by a recipient corporation for at least 35 hours per week.

“Granting body” means a public body that provides or authorizes a development subsidy and, in the case of a tax expenditure related to any tax paid to the State, means the State Treasurer.

“Health benefits” means health benefits provided under a group health plan as defined in section 14 of P.L.1997, c.146 (C.17B:27-54), a health benefits plan as defined in 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 is-

sued pursuant to Title 17B of the New Jersey Statutes.

"Part-time job" means a job in which an individual is employed by a recipient corporation for less than 35 hours per week.

"Project site" means the site of a project inside New Jersey for which any development subsidy is provided.

"Public body" or "State" means the State of New Jersey or any agency, instrumentality or authority of the State, but not a political subdivision of the State.

"Recipient corporation" means any non-governmental person, association, corporation, joint venture, partnership or other entity that receives a development subsidy.

"Tax expenditure" means the amount of foregone tax collections due to any abatement, reduction, exemption or credit against any State tax, including, but not limited to, taxes on raw materials, inventories or other assets, taxes on gross receipts, income or sales, and any use, excise or utility tax. "Tax expenditure" does not refer to any credit against any tax liability of an employee or any personal exemption, homestead rebate, credit or deduction for the expenses of a household or individual, or other reduction of the tax liability of an individual or household.

"Temporary job" means a job for which an individual is hired for a limited period of time, which shall include all jobs for construction at the project site.

"Value of a development subsidy" means the dollar value of the development subsidy provided to the recipient corporation. In the case of a loan or loan guarantee provided by a public body to a recipient corporation or tax-exempt financing authorized by a public body, the "value of a development subsidy" means the amount loaned.

C.52:39-4 Application for development subsidy, required information.

4. a. Each applicant for a development subsidy shall submit to the granting body an application for the development subsidy on a form prepared by the State Treasurer. The information required on the application, or in supplements accompanying the application, shall include the following:

- (1) An application tracking number provided by the granting body;
- (2) The names, street and mailing addresses and phone numbers of the chief officer of the granting body, the chief officer of the applicant's corporate parent and the applicant and the street address and three-digit North American Industry Classification System number of the project site;
- (3) The start date and the end date, if any, of the development subsidy;
- (4) A list of all development subsidies that the applicant is requesting or receiving, the name of any other granting body from which development

subsidies are sought or obtained, the value of each development subsidy and the aggregate value of all development subsidies requested or received from all sources;

(5) A signed certification by the chief officer of the recipient corporation that the application is accurate and meets the requirements of this act;

(6) The total number of individuals employed by the applicant at the project site on the date of the application, the anticipated number of jobs that will be retained as a result of the development subsidy and the number of new jobs to be created by the applicant at the project site if the development subsidy is granted, broken down by full-time, part-time and temporary jobs;

(7) The average annual wage and benefit rates of current employees and the anticipated average annual wage and benefit rates of new employees;

(8) The number of current employees provided health benefits, and the number of new employees anticipated to be provided health benefits;

(9) How many of the current employees and how many of the anticipated new employees are represented by a collective bargaining unit;

(10) The average total number of individuals employed in New Jersey during the calendar year preceding the submission of the application by the applicant's corporate parent and all subsidiaries thereof, broken down by full-time, part-time and temporary jobs;

(11) A statement as to whether the development subsidy may reduce employment at any other site controlled by the applicant or its corporate parent, inside the State, resulting from automation, merger, acquisition, corporate restructuring or other business activity;

(12) A statement as to whether or not the project involves the relocation of work from another address and if so, the number of jobs to be relocated and the address from which they are to be relocated; and

(13) Any other information deemed useful or necessary by the State Treasurer for the implementation of this act.

b. Any granting body, other than the State Treasurer approving the application, shall send a copy to the State Treasurer not more than 15 business days after approval. If the application is not approved, the granting body shall retain the application.

C.52:39-5 Progress report filed by recipient of development subsidy; violations, fines.

5. a. Each recipient corporation of a development subsidy shall file with the granting body, on a form prepared by the State Treasurer, a progress report no later than 30 business days after the end of each State fiscal year, beginning with the end of the first full State fiscal year after the date of the development subsidy, for the duration of the development subsidy or for

five years, whichever period is longer. The report shall include the following information for the State fiscal year just ended:

(1) The application tracking number, except in the case of a development subsidy which has no application tracking number because the development subsidy was in effect prior to the 180th day after the effective date of this act;

(2) The name, street and mailing addresses, phone number and chief officers of the granting body and the recipient corporation;

(3) A summary of the number of jobs created, retained or lost inside New Jersey, broken down by full-time, part-time and temporary jobs, and the average annual rates of pay and benefits;

(4) The number of current employees provided health benefits, and the number of new employees anticipated to be provided health benefits;

(5) The comparison of the total employment in New Jersey by the corporate parent of the recipient corporation on the date of the application and the date of the report, broken down by full-time, part-time and temporary jobs;

(6) A statement as to whether the use of the development subsidy during the previous fiscal year has reduced employment at any New Jersey site controlled by the recipient corporation or its corporate parent; and

(7) A signed certification by the chief officer of the recipient corporation that the progress report is accurate.

b. Not later than 30 days after the end of the second full State fiscal year after the date of the development subsidy, the recipient corporation shall file with the granting body a two-year progress report, certified by the chief officer of the recipient corporation, which shall include:

(1) The same information as required to be included in reports filed pursuant to subsection a. of this section;

(2) A statement of whether the recipient corporation has achieved the job creation and retention and wage and benefit rate goals projected in the recipient corporation's application; and

(3) If the goals are not met, a full disclosure of the amount of any shortfall in job creation and retention rates at the project site inside New Jersey and wage and benefit rates compared to the goals and compared to job creation and retention goals and wage and benefit rates projected in the recipient corporation's application.

c. The granting body shall review each report filed by the recipient corporation and conduct such further investigations as may be required to verify or correct the information in the report and submit the verified or corrected report to the State Treasurer not later than 30 business days after the report is filed by the recipient corporation.

d. The recipient corporation shall provide the granting body and the State Treasurer access to the project site and records at reasonable times as needed to monitor the project and verify the accuracy of the information provided in reports made by the recipient corporation. If a recipient corporation fails to file a report by the required due date, the granting body may impose an administrative fine of not more than \$500 per day to commence upon the tenth working day after the due date, and not more than \$1,000 per day to commence on the twentieth working day after the due date. If a recipient corporation fails to provide the required access, the granting body may impose an administrative fine of not more than \$500 per day to commence upon the fifth working day that access is denied, and of not more than \$1,000 per day to commence upon the tenth working day that access is denied.

e. A granting body may assess from recipient corporations whatever fees it determines to be necessary, but in no case fees greater than 0.25% of the value of a development subsidy if the development subsidy is a loan provided by the granting body, 0.1% of the value of the development subsidy if the development subsidy is a loan guarantee provided by the granting body or tax-exempt financing authorized by the granting body, or greater than 1.0% of the value if the development subsidy is not a loan, tax-exempt financing or loan guarantee, to pay for the costs of the granting body to carry out its responsibilities under this act, including the processing of applications for development subsidies, reviewing and verifying reports of recipient corporations and monitoring the compliance of recipient corporations with the requirements of this act, maintaining and making available records and, in the case of the State Treasurer, producing the annual Unified Economic Development Budget Report as provided in section 6 of this act and providing, as part of the annual budget request of the Governor, a comprehensive presentation of the costs of all development subsidies to the State.

C.52:39-6 Annual Unified Economic Development Budget Report.

6. a. The State Treasurer shall, not more than four months after the end of each State fiscal year, compile and publish, in printed and electronic form, including on the Internet, an annual Unified Economic Development Budget Report with regard to the fiscal year just concluded. The report shall provide the following comprehensive information regarding the costs and benefits of all development subsidies of the State:

(1) Information regarding tax expenditures resulting from any development subsidy, including the name of each recipient corporation receiving one or more tax expenditures with a combined total value equal to or greater than \$100,000, the value of all tax expenditures received by each recipient corpora-

tion and summaries of the number of full-time and part-time jobs created or retained, employee benefits provided and the degree to which job creation and retention, wage and benefit goals and requirements of recipient corporations and parent corporations have been met. Any tax expenditure received by a corporation receiving tax expenditures with a total value of less than \$100,000 shall not be itemized. The report shall include aggregate dollar amounts for each category of tax expenditure, each geographical area, the number of companies for each category of tax expenditure, the number of full-time and part-time jobs created or retained, the employee benefits provided, and the degree to which job creation and retention, wage and benefit rate goals and requirements have been met for each category of tax expenditure; and

(2) The costs of all expenditures of development subsidies appropriated by any granting body, including, but not limited to, the Department of Labor and Workforce Development, the Department of Education, the New Jersey Economic Development Authority, the New Jersey Commerce, Economic Growth and Tourism Commission, the New Jersey Commission on Higher Education, the New Jersey Commission on Science and Technology, and research and business assistance programs of public institutions of higher education, together with the cost to the granting bodies and the value of the development subsidies received by each recipient corporation, and summaries of the number of full-time and part-time jobs created or retained, employee benefits provided, and the degree to which job creation and retention, wage and benefit rate goals and requirements of recipient corporations and parent corporations have been met.

b. The State Treasurer shall provide to the Legislature, as part of the annual budget request of the Governor, a comprehensive presentation of the costs of all development subsidies to the State during the prior fiscal year, an estimate of the anticipated costs of development subsidies for the then current fiscal year and an estimate of the costs of all development subsidies for the fiscal year of the requested budget, including, but not limited to:

(1) The total cost to the State of tax expenditures resulting from the development subsidies, the costs for each category of tax expenditure, and the amounts of tax expenditures by geographical area; and

(2) The cost to the State of all appropriated expenditures for development subsidies, including line-item budgets for every State-funded entity concerned with economic development, including, but not limited to, the Department of Labor and Workforce Development, the Department of Education, the New Jersey Economic Development Authority, the New Jersey Commerce, Economic Growth and Tourism Commission, the New Jersey Commission on Higher Education, the New Jersey Commission on Science

and Technology, and research and business assistance programs of public institutions of higher education.

C.52:39-7 Availability of documents, records.

7. All documents or records submitted to or maintained by the State Treasurer or any granting body pursuant to this act, including, but not limited to, applications, progress reports, recapture notices and any other related records or proceedings, shall be available in a manner consistent with the provisions of P.L.2001, c.404 (C.47:1A-5 et al.) for review by any member of the public, and copies of the records shall be provided upon request.

C.52:39-8 Information required from recipient corporation.

8. Each granting body shall, not later than 60 days after the effective date of this act, provide, to every recipient corporation receiving a development subsidy from the granting body which was awarded during the three years prior to the effective date of this act, written notification that the recipient corporation is required to submit to the granting body, not less than 120 days after receiving the notification, the information required of applicants pursuant to section 4 of this act and that the recipient corporation is required to comply with the reporting requirements of section 5 of this act.

C.52:39-9 Withholding of payments to granting body.

9. If a granting body fails to submit any report required by this act to the State Treasurer within the time prescribed by this act, the State Treasurer may, to the extent possible, withhold payments of any State-funded development subsidy to the granting body or any recipient corporation which has a project site located in the jurisdiction of the granting body until the public body submits the report with the State Treasurer.

C.52:39-10 False material misrepresentation by recipient, refund to granting body.

10. Any recipient corporation that knowingly makes a false material misrepresentation in any application, report or other disclosure that the recipient corporation is required to make pursuant to this act shall refund any development subsidy to the granting body. The granting body may include provisions for the refund as part of an agreement to provide a development subsidy and may pursue an action to collect the amount of the refund plus any attorney fees and other costs of the action.

C.52:39-11 Construction of act.

11. Nothing in this act shall be construed as requiring a recipient corporation to reduce wage or benefit rates of any employee or be construed as permitting a recipient corporation:

- a. To reduce wage or benefit rates established by a collective bargaining agreement or required by any law or regulation; or
- b. To provide, in return for a development subsidy, jobs with lower wage or benefit rates, a smaller number of jobs, or jobs for a shorter period of time, than is required with respect to the development subsidy by any other law or regulation.

C.52:39-12 Rules, regulations.

12. The State Treasurer shall, in consultation with the Commissioner of Labor and Workforce Development, and pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), promulgate any rules and regulations necessary to implement the provisions of this act.

13. This act shall take effect immediately, but the provisions of sections 3 through 10 of this act shall remain inoperative until the 180th day after its enactment.

Approved November 2, 2007.

CHAPTER 201

AN ACT concerning the reporting of certain items by governmental affairs agents and amending P.L.1971, c.183.

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

1. Section 5 of P.L.1971, c.183 (C.52:13C-22) is amended to read as follows:

C.52:13C-22 Quarterly reports; contents.

5. a. Every governmental affairs agent shall file with the commission a signed quarterly report of his activity in attempting to influence legislation, regulation or governmental processes during each such quarter.

b. The quarterly reports required under this section shall be made in the form and manner prescribed by the commission and shall be filed between the first and tenth days of each calendar quarter for such activity during the preceding calendar quarter. The commission may, in its discretion, permit joint reports by persons subject to this act.

c. Each such quarterly report shall:

(1) describe the particular items of legislation, regulation, or governmental process, the particular items in the annual appropriation legislation or appropriation legislation that is supplemental to that legislation, and any general category or type of legislation, regulation or governmental process regarding which the governmental affairs agent acted as a governmental affairs agent during the quarter, and any particular items or general types of legislation, regulation, or governmental processes which he actively promoted or opposed during the quarter; and

(2) supply any information necessary to make the notice of representation filed by the governmental affairs agent pursuant to section 4 of P.L.1971, c.183 (C.52:13C-21), current and accurate as of the final day of the calendar quarter covered by the report.

2. This act shall take effect immediately.

Approved November 2, 2007.

CHAPTER 202

AN ACT prohibiting candidates for public office from contributing campaign funds to charitable organizations under certain circumstances and amending P.L.1993, c.65.

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

1. Section 17 of P.L.1993, c.65 (C.19:44A-11.2) is amended to read as follows:

C.19:44A-11.2 Permitted use of contributions.

17. a. All contributions received by a candidate, candidate committee, a joint candidates committee or a legislative leadership committee shall be used only for the following purposes:

(1) the payment of campaign expenses;

(2) contributions to any charitable organization described in section 170(c) of the Internal Revenue Code of 1954, as amended or modified, or nonprofit organization which is exempt from taxation under section 501(c) of the Internal Revenue Code of 1954, except any charitable organization of

which the candidate or a member of the candidate's immediate family is a paid officer, director or employee or receives compensation for goods or services provided to the organization;

(3) transmittal to another candidate, candidate committee, or joint candidates committee, or to a political committee, continuing political committee, legislative leadership committee or political party committee, for the lawful use by such other candidate or committee;

(4) the payment of the overhead and administrative expenses related to the operation of the candidate committee or joint candidates committee of a candidate or a legislative leadership committee;

(5) the pro rata repayment of contributors; or

(6) the payment of ordinary and necessary expenses of holding public office.

As used in this subsection, "campaign expenses" means any expense incurred or expenditure made by a candidate, candidate committee, joint candidates committee or legislative leadership committee for the purpose of paying for or leasing items or services used in connection with an election campaign, other than those items or services which may reasonably be considered to be for the personal use of the candidate, any person associated with the candidate or any of the members of a legislative leadership committee; and "member of the candidate's immediate family" means the candidate's spouse, child, parent, or sibling, and the child, parent, or sibling of the candidate's spouse.

b. No contribution received by a candidate or by the candidate committee or joint candidates committee of a candidate may be used for the payment of the expenses arising from the furnishing, staffing or operation of an office used in connection with that person's official duties as an elected public official.

c. Any funds remaining in the campaign depository of a candidate's candidate committee or joint candidates committee upon the death of the candidate shall be used only for one or more of the purposes established in subsection a. of this section by the committee's organizational treasurer or deputy treasurer or whoever has control of the depository upon the death of the candidate.

2. This act shall take effect immediately

Approved November 2, 2007.

CHAPTER 203

AN ACT concerning legislative ethics and amending parts of the statutory law.

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

1. Section 11 of P.L.1971, c.182 (C.52:13D-22) is amended to read as follows:

C.52:13D-22 Joint Legislative Committee on Ethical Standards; membership; powers; duties; penalties.

11. (a) The Joint Legislative Committee on Ethical Standards created pursuant to the provisions of P.L.1967, c.229, as continued and established pursuant to P.L.1971, c.182, is continued and established in the Legislative Branch of State Government with the addition of the public members as set forth in this section.

(b) Commencing with the second Tuesday in January of the next even numbered year following the effective date of P.L.2004, c.24, the joint committee shall be composed of sixteen members as follows: four members of the Senate, appointed by the President thereof, no more than two of whom shall be of the same political party; four members of the General Assembly, appointed by the Speaker thereof, no more than two of whom shall be of the same political party; and eight public members, two appointed by the President of the Senate, two appointed by the Speaker of the General Assembly, two appointed by the Minority Leader of the Senate and two appointed by the Minority Leader of the General Assembly.

No public member shall be a lobbyist or governmental affairs agent as defined by the "Legislative and Governmental Process Activities Disclosure Act," P.L.1971, c.183 (C.52:13C-18 et seq.), a full-time State employee or an officer or director of any entity which is required to file a statement with the Election Law Enforcement Commission, and no former lobbyist or governmental affairs agent shall be eligible to serve as a public member for one year following the cessation of all activity by that person as a governmental affairs agent or lobbyist. The legislative members shall serve until the end of the two-year legislative term during which the members are appointed. The public members shall serve for terms of two years and until the appointment and qualification of their successors.

The terms of the public members shall run from the second Tuesday in January of an even-numbered year to the second Tuesday in January of the next even-numbered year, regardless of the original date of appointment.

Vacancies in the membership of the joint committee shall be filled in the same manner as the original appointments, but for the unexpired term only. Public members of the joint committee shall serve without compensation, but shall be entitled to be reimbursed for all actual and necessary expenses incurred in the performance of their duties.

(c) The joint committee shall organize as soon as may be practicable after the appointment of its members, by the selection of a chairman and vice chairman from among its membership and the appointment of a secretary, who need not be a member of the joint committee.

(d) The Legislative Counsel in the Office of Legislative Services shall act as legal adviser to the joint committee. The Executive Director of the Office of Legislative Services shall appoint another attorney in the Office of Legislative Services to serve as Ethics Counsel to the individual members of the Legislature and officers and employees in the Legislative Branch. The Ethics Counsel shall provide informal ethics advice to individual members of the Legislature and officers and employees in the Legislative Branch upon request, when the request is one fully answered by the New Jersey Conflicts of Interest Law or the Legislative Code of Ethics or is on a subject previously determined by the Joint Committee. Informal ethics advice from the Ethics Counsel to a member of the Legislature or an officer or employee in the Legislative Branch shall be confidential and subject to the attorney-client privilege. The Ethics Counsel may also assist members of the Legislature and officers or employees in the Legislative Branch in requesting formal advisory opinions from the joint committee on novel subject matters. The Legislative Counsel shall, upon request, assist and advise the joint committee in the rendering of formal advisory opinions by the joint committee, in the approval and review of codes of ethics adopted by State agencies in the Legislative Branch, and in the recommendation of revisions in codes of ethics or legislation relating to the conduct of members of the Legislature or State officers and employees in the Legislative Branch.

(e) The joint committee may, within the limits of funds appropriated or otherwise available to it for the purpose, employ other professional, technical, clerical or other assistants, excepting legal counsel, and incur expenses as may be necessary to the performance of its duties.

(f) The joint committee shall have all the powers granted pursuant to chapter 13 of Title 52 of the Revised Statutes.

(g) The joint committee is authorized to render formal advisory opinions as to whether a given set of facts and circumstances would, in its opinion, constitute a violation of the provisions of this act, of a code of ethics promulgated pursuant to the provisions of this act or of any rule of either or both Houses which gives the joint committee jurisdiction and the authority to investigate a matter.

(h) The joint committee shall have jurisdiction to initiate, receive, hear and review complaints regarding violations of the provisions of this act or of a code of ethics promulgated pursuant to the provisions of this act. It shall further have such jurisdiction as to enforcement of the rules of either or both Houses of the Legislature governing the conduct of the members or employees thereof as those rules may confer upon the joint committee. A complaint regarding a violation of a code of ethics promulgated pursuant to the provisions of this act may be referred by the joint committee for disposition in accordance with subsection 12(d) of this act.

(i) Any State officer or employee or special State officer or employee in the Legislative Branch found guilty by the joint committee of violating any provisions of this act, of a code of ethics promulgated pursuant to the provisions of this act or of any rule of either or both Houses which gives the joint committee jurisdiction and the authority to investigate a matter shall be fined not less than \$500.00 nor more than \$10,000, which penalty may 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.), and may be reprimanded and ordered to pay restitution where appropriate and may be suspended from office or employment by order of the joint committee for a period not in excess of one year. If the joint committee finds that the conduct of the officer or employee constitutes a willful and continuous disregard of the provisions of this act, of a code of ethics promulgated pursuant to the provisions of this act or of any rule of either or both Houses which gives the joint committee jurisdiction and the authority to investigate a matter, it may order that person removed from office or employment and may further bar the person from holding any public office or employment in this State in any capacity whatsoever for a period of not exceeding five years from the date on which the person was found guilty by the joint committee.

(j) A member of the Legislature who shall be found guilty by the joint committee of violating the provisions of this act, of a code of ethics promulgated pursuant to the provisions of this act or of any rule of either or both Houses which gives the joint committee jurisdiction and the authority to investigate a matter shall be fined not less than \$500.00 nor more than \$10,000, which penalty may be collected in a summary proceeding pursu-

ant to the "Penalty Enforcement Law of 1999," P.L.1999, c.274 (C.2A:58-10 et seq.), and shall be subject to such further action as may be determined by the House of which the person is a member. In such cases the joint committee shall report its findings to the appropriate House and shall recommend to the House such further action as the joint committee deems appropriate, but it shall be the sole responsibility of the House to determine what further action, if any, shall be taken against such member.

2. Section 4 of P.L.2003, c.255 (C.52:13D-28) is amended to read as follows:

C.52:13D-28 Online tutorial on legislative ethics; members of Legislature required to consult annually with Ethics Counsel.

4. The Legislature shall provide an online tutorial on legislative ethics for its members and State officers or employees and special State officers or employees in the Legislative Branch of government. Each member of the Legislature and officer or employee in the Legislative Branch shall take the tutorial no later than April 1 of every even-numbered year. In addition to the tutorial, all officers and employees in the Legislative Branch shall participate in annual ethics training as directed by their Executive Directors.

Each member of the Legislature shall consult with the Ethics Counsel each year regarding the requirements of the New Jersey Conflicts of Interest Law and the Legislative Code of Ethics and any other applicable law, rule or standard of conduct relating to the area of ethics. The assistance of the Ethics Counsel to members of the Legislature is subject to the attorney-client privilege. This assistance is intended as a service to the members of the Legislature and may not be deemed to diminish a member's personal responsibility for adherence to applicable laws, code provisions, rules and other standards of conduct. No privileged information provided to the Ethics Counsel by members of the Legislature or officers or employees in the Legislative Branch shall be used or admitted into evidence in any proceeding against them; but this shall not prohibit proceedings against them from evidence independently derived.

3. This act shall take effect on the second Tuesday in January next following enactment.

Approved November 2, 2007.

CHAPTER 204

AN ACT to eliminate the death penalty and allow for life imprisonment without eligibility for parole, revising various parts of the statutory law, repealing P.L.1983, c.245, 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:11-3 is amended to read as follows:

Murder.

2C:11-3. Murder.

a. Except as provided in N.J.S.2C:11-4, criminal homicide constitutes murder when:

(1) The actor purposely causes death or serious bodily injury resulting in death; or

(2) The actor knowingly causes death or serious bodily injury resulting in death; or

(3) It is committed when the actor, acting either alone or with one or more other persons, is engaged in the commission of, or an attempt to commit, or flight after committing or attempting to commit robbery, sexual assault, arson, burglary, kidnapping, carjacking, criminal escape or terrorism pursuant to section 2 of P.L.2002, c.26 (C.2C:38-2), and in the course of such crime or of immediate flight therefrom, any person causes the death of a person other than one of the participants; except that in any prosecution under this subsection, in which the defendant was not the only participant in the underlying crime, it is an affirmative defense that the defendant:

(a) Did not commit the homicidal act or in any way solicit, request, command, importune, cause or aid the commission thereof; and

(b) Was not armed with a deadly weapon, or any instrument, article or substance readily capable of causing death or serious physical injury and of a sort not ordinarily carried in public places by law-abiding persons; and

(c) Had no reasonable ground to believe that any other participant was armed with such a weapon, instrument, article or substance; and

(d) Had no reasonable ground to believe that any other participant intended to engage in conduct likely to result in death or serious physical injury.

b. (1) Murder is a crime of the first degree but a person convicted of murder shall be sentenced, except as provided in paragraphs (2), (3) and (4) of this subsection, by the court to a term of 30 years, during which the per-

son shall not be eligible for parole, or be sentenced to a specific term of years which shall be between 30 years and life imprisonment of which the person shall serve 30 years before being eligible for parole.

(2) If the victim was a law enforcement officer and was murdered while performing his official duties or was murdered because of his status as a law enforcement officer, the person convicted of that murder shall be sentenced by the court to a term of life imprisonment, during which the person shall not be eligible for parole.

(3) A person convicted of murder shall be sentenced to a term of life imprisonment without eligibility for parole if the murder was committed under all of the following circumstances:

(a) The victim is less than 14 years old; and

(b) The act is committed in the course of the commission, whether alone or with one or more persons, of a violation of N.J.S.2C:14-2 or N.J.S.2C:14-3.

(4) Any person convicted under subsection a.(1) or (2) who committed the homicidal act by his own conduct; or who as an accomplice procured the commission of the offense by payment or promise of payment of anything of pecuniary value; or who, as a leader of a narcotics trafficking network as defined in N.J.S.2C:35-3 and in furtherance of a conspiracy enumerated in N.J.S.2C:35-3, commanded or by threat or promise solicited the commission of the offense, or, if the murder occurred during the commission of the crime of terrorism, any person who committed the crime of terrorism, shall be sentenced by the court to life imprisonment without eligibility for parole, which sentence shall be served in a maximum security prison, if a jury finds beyond a reasonable doubt that any of the following aggravating factors exist:

(a) The defendant has been convicted, at any time, of another murder. For purposes of this section, a conviction shall be deemed final when sentence is imposed and may be used as an aggravating factor regardless of whether it is on appeal;

(b) In the commission of the murder, the defendant purposely or knowingly created a grave risk of death to another person in addition to the victim;

(c) The murder was outrageously or wantonly vile, horrible or inhuman in that it involved torture, depravity of mind, or an aggravated assault to the victim;

(d) The defendant committed the murder as consideration for the receipt, or in expectation of the receipt of anything of pecuniary value;

(e) The defendant procured the commission of the murder by payment or promise of payment of anything of pecuniary value;

(f) The murder was committed for the purpose of escaping detection, apprehension, trial, punishment or confinement for another offense committed by the defendant or another;

(g) The murder was committed while the defendant was engaged in the commission of, or an attempt to commit, or flight after committing or attempting to commit murder, robbery, sexual assault, arson, burglary, kidnapping, carjacking or the crime of contempt in violation of subsection b. of N.J.S.2C:29-9;

(h) The defendant murdered a public servant, as defined in N.J.S.2C:27-1, while the victim was engaged in the performance of his official duties, or because of the victim's status as a public servant;

(i) The defendant: (i) as a leader of a narcotics trafficking network as defined in N.J.S.2C:35-3 and in furtherance of a conspiracy enumerated in N.J.S.2C:35-3, committed, commanded or by threat or promise solicited the commission of the murder or (ii) committed the murder at the direction of a leader of a narcotics trafficking network as defined in N.J.S.2C:35-3 in furtherance of a conspiracy enumerated in N.J.S.2C:35-3;

(j) The homicidal act that the defendant committed or procured was in violation of paragraph (1) of subsection a. of N.J.S.2C:17-2;

(k) The victim was less than 14 years old; or

(l) The murder was committed during the commission of, or an attempt to commit, or flight after committing or attempting to commit, terrorism pursuant to section 2 of P.L.2002, c.26 (C.2C:38-2).

(5) A juvenile who has been tried as an adult and convicted of murder shall be sentenced pursuant to paragraph (1), (2) or (3) of this subsection.

c. (Deleted by amendment, P.L.2007, c.204).

d. (Deleted by amendment, P.L.2007, c.204).

e. (Deleted by amendment, P.L.2007, c.204).

f. (Deleted by amendment, P.L.2007, c.204).

g. (Deleted by amendment, P.L.2007, c.204).

h. (Deleted by amendment, P.L.2007, c.204).

i. For purposes of this section the term "homicidal act" shall mean conduct that causes death or serious bodily injury resulting in death.

j. In a sentencing proceeding conducted pursuant to this section, the display of a photograph of the victim taken before the homicide shall be permitted.

C.2C:11-3b Resentencing to term of life imprisonment.

2. An inmate sentenced to death prior to the date of the enactment of this act, upon motion to the sentencing court and waiver of any further ap-

peals related to sentencing, shall be resentenced to a term of life imprisonment during which the defendant shall not be eligible for parole. Such sentence shall be served in a maximum security prison.

Any such motion to the sentencing court shall be made within 60 days of the enactment of this act. If the motion is not made within 60 days the inmate shall remain under the sentence of death previously imposed by the sentencing court.

C.2C:11-3c Restitution.

3. In addition to the provisions of any other law requiring restitution, a person convicted of murder pursuant to N.J.S.2C:11-3 shall be required to pay restitution to the nearest surviving relative of the victim. The court shall determine the amount and duration of the restitution pursuant to N.J.S.2C:43-3 and the provisions of chapter 46 of Title 2C of the New Jersey Statutes.

4. N.J.S.2B:23-10 is amended to read as follows:

Examination of jurors.

2B:23-10. Examination of jurors. a. In the discretion of the court, parties to any trial may question any person summoned as a juror after the name is drawn and before the swearing, and without the interposition of any challenge, to determine whether or not to interpose a peremptory challenge or a challenge for cause. Such examination shall be permitted in order to disclose whether or not the juror is qualified, impartial and without interest in the result of the action. The questioning shall be conducted in open court under the trial judge's supervision.

b. (Deleted by amendment, P.L.2007, c.204).

5. N.J.S.2B:23-13 is amended to read as follows:

Peremptory challenges.

2B:23-13. Peremptory challenges.

Upon the trial of any action in any court of this State, the parties shall be entitled to peremptory challenges as follows:

a. In any civil action, each party, 6.

b. Upon an indictment for kidnapping, murder, aggravated manslaughter, manslaughter, aggravated assault, aggravated sexual assault, sexual assault, aggravated criminal sexual contact, aggravated arson, arson, burglary, robbery, forgery if it constitutes a crime of the third degree as defined by subsection b. of N.J.S.2C:21-1, or perjury, the defendant, 20 peremptory challenges if tried alone and 10 challenges if tried jointly and the

State, 12 peremptory challenges if the defendant is tried alone and 6 peremptory challenges for each 10 afforded the defendants if tried jointly.

c. Upon any other indictment, defendants, 10 each; the State, 10 peremptory challenges for each 10 challenges allowed to the defendants. When the case is to be tried by a jury from another county, each defendant, 5 peremptory challenges, and the State, 5 peremptory challenges for each 5 peremptory challenges afforded the defendants.

6. Section 7 of P.L.1979, c.441 (C.30:4-123.51) is amended to read as follows:

C.30:4-123.51 Eligibility for parole.

7. a. Each adult inmate sentenced to a term of incarceration in a county penal institution, or to a specific term of years at the State Prison or the correctional institution for women shall become primarily eligible for parole after having served any judicial or statutory mandatory minimum term, or one-third of the sentence imposed where no mandatory minimum term has been imposed less commutation time for good behavior pursuant to N.J.S.2A:164-24 or R.S.30:4-140 and credits for diligent application to work and other institutional assignments pursuant to P.L.1972, c.115 (C.30:8-28.1 et seq.) or R.S.30:4-92. Consistent with the provisions of the New Jersey Code of Criminal Justice (N.J.S.2C:11-3, 2C:14-6, 2C:43-6, 2C:43-7), commutation and work credits shall not in any way reduce any judicial or statutory mandatory minimum term and such credits accrued shall only be awarded subsequent to the expiration of the term.

b. Each adult inmate sentenced to a term of life imprisonment shall become primarily eligible for parole after having served any judicial or statutory mandatory minimum term, or 25 years where no mandatory minimum term has been imposed less commutation time for good behavior and credits for diligent application to work and other institutional assignments. If an inmate sentenced to a specific term or terms of years is eligible for parole on a date later than the date upon which he would be eligible if a life sentence had been imposed, then in such case the inmate shall be eligible for parole after having served 25 years, less commutation time for good behavior and credits for diligent application to work and other institutional assignments. Consistent with the provisions of the New Jersey Code of Criminal Justice (N.J.S.2C:11-3, 2C:14-6, 2C:43-6, 2C:43-7), commutation and work credits shall not in any way reduce any judicial or statutory mandatory minimum term and such credits accrued shall only be awarded subsequent to the expiration of the term.

c. Each inmate sentenced to a specific term of years pursuant to the "Controlled Dangerous Substances Act," P.L.1970, c.226 (C.24:21-1 et al.) shall become primarily eligible for parole after having served one-third of the sentence imposed less commutation time for good behavior and credits for diligent application to work and other institutional assignments.

d. Each adult inmate sentenced to an indeterminate term of years as a young adult offender pursuant to N.J.S.2C:43-5 shall become primarily eligible for parole consideration pursuant to a schedule of primary eligibility dates developed by the board, less adjustment for program participation. In no case shall the board schedule require that the primary parole eligibility date for a young adult offender be greater than the primary parole eligibility date required pursuant to this section for the presumptive term for the crime authorized pursuant to subsection f. of N.J.S.2C:44-1.

e. Each adult inmate sentenced for an offense specified in N.J.S.2C:47-1 shall become primarily eligible for parole as follows:

(1) If the court finds that the offender's conduct was not characterized by a pattern of repetitive, compulsive behavior or finds that the offender is not amenable to sex offender treatment, or if after sentencing the Department of Corrections in its most recent examination determines that the offender is not amenable to sex offender treatment, the offender shall become primarily eligible for parole after having served any judicial or statutory mandatory minimum term or one-third of the sentence imposed where no mandatory minimum term has been imposed. Neither such term shall be reduced by commutation time for good behavior pursuant to R.S.30:4-140 or credits for diligent application to work and other institutional assignments pursuant to R.S.30:4-92.

(2) All other offenders shall be eligible for parole pursuant to the provisions of N.J.S.2C:47-5, except no offender shall become primarily eligible for parole prior to the expiration of any judicial or statutory mandatory minimum term.

f. Each juvenile inmate committed to an indeterminate term shall be immediately eligible for parole.

g. Each adult inmate of a county jail, workhouse or penitentiary shall become primarily eligible for parole upon service of 60 days of his aggregate sentence or as provided for in subsection a. of this section, whichever is greater. Whenever any such inmate's parole eligibility is within six months of the date of such sentence, the judge shall state such eligibility on the record which shall satisfy all public and inmate notice requirements. The chief executive officer of the institution in which county inmates are held shall generate all reports pursuant to subsection d. of section 10 of

P.L.1979, c.441 (C.30:4-123.54). The parole board shall have the authority to promulgate time periods applicable to the parole processing of inmates of county penal institutions, except that no inmate may be released prior to the primary eligibility date established by this subsection, unless consented to by the sentencing judge. No inmate sentenced to a specific term of years at the State Prison or the correctional institution for women shall become primarily eligible for parole until service of a full nine months of his aggregate sentence.

h. When an inmate is sentenced to more than one term of imprisonment, the primary parole eligibility terms calculated pursuant to this section shall be aggregated by the board for the purpose of determining the primary parole eligibility date, except that no juvenile commitment shall be aggregated with any adult sentence. The board shall promulgate rules and regulations to govern aggregation under this subsection.

i. The primary eligibility date shall be computed by a designated representative of the board and made known to the inmate in writing not later than 90 days following the commencement of the sentence. In the case of an inmate sentenced to a county penal institution such notice shall be made pursuant to subsection g. of this section. Each inmate shall be given the opportunity to acknowledge in writing the receipt of such computation. Failure or refusal by the inmate to acknowledge the receipt of such computation shall be recorded by the board but shall not constitute a violation of this subsection.

j. Except as provided in this subsection, each inmate sentenced pursuant to N.J.S.2A:113-4 for a term of life imprisonment, N.J.S.2A:164-17 for a fixed minimum and maximum term or subsection b. of N.J.S.2C:1-1 shall not be primarily eligible for parole on a date computed pursuant to this section, but shall be primarily eligible on a date computed pursuant to P.L.1948, c.84 (C.30:4-123.1 et seq.), which is continued in effect for this purpose. Inmates classified as second, third or fourth offenders pursuant to section 12 of P.L.1948, c.84 (C.30:4-123.12) shall become primarily eligible for parole after serving one-third, one-half or two-thirds of the maximum sentence imposed, respectively, less in each instance commutation time for good behavior and credits for diligent application to work and other institutional assignments; provided, however, that if the prosecuting attorney or the sentencing court advises the board that the punitive aspects of the sentence imposed on such inmates will not have been fulfilled by the time of parole eligibility calculated pursuant to this subsection, then the inmate shall not become primarily eligible for parole until serving an additional period which shall be one-half of the difference between the primary parole eligibility date calculated pursuant to this subsection and the parole eligibility date calculated pursuant

to section 12 of P.L.1948, c.84 (C.30:4-123.12). If the prosecuting attorney or the sentencing court advises the board that the punitive aspects of the sentence have not been fulfilled, such advice need not be supported by reasons and will be deemed conclusive and final. Any such decision shall not be subject to judicial review except to the extent mandated by the New Jersey and United States Constitutions. The board shall, reasonably prior to considering any such case, advise the prosecuting attorney and the sentencing court of all information relevant to such inmate's parole eligibility.

k. Notwithstanding any provisions of this section to the contrary, a person sentenced to imprisonment pursuant to paragraph (2), (3) or (4) of subsection b. of N.J.S.2C:11-3 shall not be eligible for parole.

l. Notwithstanding the provisions of subsections a. through j. of this section, the appropriate board panel, as provided in section 1 of P.L.1997, c.214 (C.30:4-123.51c), may release an inmate serving a sentence of imprisonment on medical parole at any time.

Repealer.

7. P.L.1983, c.245 (C.2C:49-1 through 2C:49-12, inclusive) is repealed.

8. This act shall take effect immediately.

Approved December 17, 2007.

CHAPTER 205

AN ACT concerning fire drills during summer school and amending N.J.S.18A:41-1.

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

1. N.J.S.18A:41-1 is amended to read as follows:

Fire drills.

18A:41-1. Every principal of a school of two or more rooms, or of a school of one room, when located above the first story of a building, shall have at least two fire drills each month within the school hours, including any summer months during which the school is open for instructional programs, and shall require all teachers of all schools, whether occupying

buildings of one or more stories, to keep all doors and exits of their respective rooms and buildings unlocked during the school hours. Where school buildings have been provided with fire escapes, they shall be used by a part or all of the pupils performing every fire drill.

2. This act shall take effect immediately.

Approved December 20, 2007.

CHAPTER 206

AN ACT establishing the New Jersey Marine Sciences Consortium 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.52:18C-1 New Jersey Marine Sciences Consortium.

1. There is hereby established in but not of the Department of the Treasury a body corporate and politic to be known as the New Jersey Marine Sciences Consortium, hereinafter referred to as the consortium. The consortium, through its partnership of various institutions of higher education throughout the State and in neighboring states, shall seek as its principal purpose to foster the stewardship and wise use of the region's coastal resources. The consortium shall serve as the managing agent of the New Jersey Sea Grant College Program and shall provide effective leadership in marine affairs in the State and region by facilitating science literacy, contributing solutions to coastal issues, contributing to science-based policy and technology development, and promoting sustainability through balanced economic growth and environmental stewardship.

C.52:18C-2 Board of trustees.

2. The administration and conduct of the consortium shall be vested in a board of trustees. The board of trustees shall consist of 24 voting members as follows: the Commissioner of Environmental Protection, ex-officio, or a designee; the Executive Director of the Commission on Higher Education, ex-officio, or a designee; the State Treasurer, ex-officio, or a designee; the Commissioner of Transportation, ex-officio, or a designee; the Secretary of Agriculture, ex-officio, or a designee; the Chief Executive Officer and Secretary of the New Jersey Commerce, Economic Growth and Tourism Commis-

sion, ex-officio, or a designee; the Laboratory Director of the James J. Howard Marine Sciences Laboratory of the Northeast Fisheries Science Center, ex-officio, or a designee; six members representing institutions of higher education in the State, including one each selected by the New Jersey Association of State Colleges and Universities, Rutgers, The State University, the New Jersey Institute of Technology, the New Jersey Council of County Colleges, the Association of Independent Colleges and Universities in New Jersey, and the University of Medicine and Dentistry of New Jersey; a representative selected by the New Jersey Council of Vocational Schools; and 10 public trustees, including six trustees who shall be appointed by the Governor, two trustees who shall be appointed by the President of the Senate, and two trustees who shall be appointed by the Speaker of the General Assembly. To the greatest extent practicable, each of the public trustees shall be selected for their expertise, training, and interest in regional economics and business, marine transportation and harbor operations, ocean policy, recreational and commercial fishing, marine recreation and tourism, and other living marine resources. In addition to the 24 voting members, the board of trustees may elect emeritus trustees, who shall serve as nonvoting members on the board. The trustees representing institutions of higher education, the trustee selected by the New Jersey Council of Vocational Schools, and the public trustees shall be appointed for terms of three years and shall serve until the appointment of their successors, except for the initial terms which shall be staggered terms of one, two, and three years respectively as determined by the Governor. Members of the board shall serve without compensation but may be reimbursed for necessary expenses incurred in the performance of their duties.

C.52:18C-3 Annual meeting of board, appointment of president, report to Governor.

3. a. The board of trustees shall meet annually on or before April 30th and shall annually elect from among its members a chairman and a vice-chairman who shall continue to serve until their successors have been appointed.

b. The board of trustees shall appoint a president of the consortium who shall also serve as the chief executive officer and who shall be an ex-officio, nonvoting member of the board. The president shall serve at the pleasure of the board and shall, with the approval of the board and subject to the applicable laws, rules, and regulations of the State, appoint and remove all professional, research, technical, clerical, and stenographic employees of the consortium. The compensation of the president shall be fixed by the board. The president shall serve as secretary to the board, the executive committee, and any additional committees appointed by the board to assist in the implementation of the provisions of this act.

c. On or before June 30th of each year, the president shall submit a report of the activities of the consortium to the board of trustees together with any additional information the board of trustees may require.

d. A true copy of the minutes of every meeting of the board shall be delivered to the Governor. No action taken at the meeting by the board shall have force or effect until 10 days after the copy of the minutes has been delivered. If in the 10-day period the Governor returns the copy of the minutes with a veto of any action taken by the board or any member thereof at the meeting, the action shall be null and of no effect. If the Governor does not return the minutes within the 10-day period, any action therein recited shall have force and effect according to the wording thereof. At any time prior to the expiration of the 10-day period, the Governor may sign a statement of approval of any such action of the board, in which case the approved action shall not thereafter be disapproved.

C.52:18C-4 Responsibilities of consortium.

4. It shall be the responsibility of the consortium to administer the New Jersey Sea Grant College Program and to continue to implement the New Jersey Master Plan on Marine Sciences. The consortium shall have the responsibility, consistent with State and federal law, to:

a. undertake long-range planning to develop cooperative programs among member institutions through a solid Statewide organizational structure and function as a vehicle to assist member institutions individually and collectively;

b. promote and broker cooperative marine research, education, and advisory services utilizing the pooled resources of member institutions;

c. facilitate and organize research on problems of interest to State and federal government agencies;

d. provide for the operation of field stations and laboratories for research, education, and advisory services in all marine-related disciplines;

e. organize and sponsor graduate and undergraduate studies in all marine sciences;

f. provide facilities for research, instruction, and public service for visiting researchers, organized groups, and students, and for meetings, seminars, and workshops hosted to encourage dialogue among scientists and stakeholders;

g. encourage preparation of peer-reviewed papers and scholarly publications and provide for interpretation and dissemination of research findings in a manner most beneficial to the State;

- h. aid and encourage scholarly activities for research fellows and others by organizing and sponsoring programs and providing opportunities for basic and applied research;
- i. assign membership dues and user fees for consortium facilities;
- j. administer research funds acquired from cooperative programs through competitive grants and contracts;
- k. develop a consortium mini-grant program to encourage new researchers; and
- l. serve as the recipient agency for transfers of real property and offers of grants or equipment.

C.52:18C-5 Powers of board of trustees.

- 5. The board of trustees shall have the following powers:
 - a. to sue and be sued, including the right to recover all debts owing and to retain legal counsel therefor, as provided for under State law;
 - b. to actively seek and accept donations, bequests, or other forms of financial assistance for educational purposes from any public or private person or agency and comply with rules and regulations governing grants from the federal government or any other person or agency which are not in contravention of the constitution and State law;
 - c. to purchase equipment, and to properly maintain, and make improvements to facilities necessary for the use of the consortium in accordance with applicable State laws;
 - d. to adopt, amend, or repeal rules and regulations necessary or proper for the business of the consortium;
 - e. to affiliate with any institution giving any special course of instruction, upon such terms as the board of trustees deems expedient, which terms may include the retention by such institution of the control of property, faculty, and staff;
 - f. to enter into contracts and agreements with other public agencies with respect to cooperative enterprises and undertakings relating to or associated with college or university purposes and programs in accordance with applicable laws;
 - g. to perform such other functions as are necessary or incidental to the supervision and management of the consortium;
 - h. to employ the proceeds of all donations, grants, subscriptions, and bequests made to the consortium in accordance with the terms and conditions of the donations, grants, subscriptions, and bequests;
 - i. to establish such subcommittees as may be necessary to assist the board of trustees in the implementation of the provisions of this act;

j. to adopt necessary rules and regulations regarding the hours of employment and the accrual and use of sick leave and annual leave for all personnel employed by the consortium; and

k. to enter into contracts and agreements with any public agency for the establishment of State or other public offices on the property and in the buildings belonging to or under the control of the consortium. The board of trustees also may enter into contracts and agreements for joint construction, equipment, maintenance, and financing of the buildings, and enter into contracts and agreements for the joint financing, supervision, and conduct of cooperative enterprises and undertakings.

C.52:18C-6 Executive committee of the consortium.

6. The State Treasurer and the six public trustees of the consortium appointed by the Governor shall establish an executive committee of the consortium. The executive committee shall serve as the fiscal agent of the consortium and shall review and approve the consortium's budget requests and operating budget and shall review and approve all funds appropriately awarded or bequeathed to the consortium. The executive committee shall prepare and submit all budget requests and other budget documents required and shall review and approve all payments made from federal, State, private or other funds available to the consortium.

C.52:18C-7 Advisory committee to the consortium.

7. There is created an advisory committee to the consortium. The advisory committee shall consist of 11 members, who shall serve for terms of four years and shall serve until the appointment of their successors except for the initial terms which shall be staggered terms of two, three, and four years respectively as determined by the Governor. The Commissioner of Environmental Protection, the Secretary of Agriculture, the Commissioner of Transportation, and the Chief Executive Officer and Secretary of the New Jersey Commerce, Economic Growth and Tourism Commission shall each appoint one member to the advisory committee. The Governor shall appoint, with the advice and consent of the Senate, one member each from the maritime industry, commercial fishing and aquaculture industry, pharmaceutical industry, biotechnology industry, recreational fishing interests, and environmental organizations. The Laboratory Director of the James J. Howard Marine Science Laboratory of the Northeast Fisheries Science Center, Sandy Hook Laboratory, or his designee, shall also serve on the advisory committee.

C.52:18C-8 "New Jersey Marine Sciences Consortium Account."

8. a. There is established in the General Fund a special, dedicated, non-lapsing account to be known as the "New Jersey Marine Sciences Consortium Account," which shall be a dedicated fund to serve as a depository for monies collected by the consortium through grant funds, private contributions, awards, donations and other sources as are available. The monies in the fund shall be made available to the New Jersey Marine Sciences Consortium only for the purposes set forth in this act.

b. The fund shall be credited with the existing funds of the consortium and other funds to support the functions of the consortium as they become available.

9. This act shall take effect immediately.

Approved December 20, 2007.

CHAPTER 207

AN ACT canceling a portion of prior appropriations made to the Department of Environmental Protection from the "Clean Waters Fund" created pursuant to the "Clean Waters Bond Act of 1976," (P.L.1976, c.92) and the "Water Supply Fund" established pursuant to the "Water Supply Bond Act of 1981," (P.L.1981, c.261) for State projects, grants and loans, and appropriating moneys to the Department of Environmental Protection from the "Clean Waters Fund" for certain water quality treatment and wastewater treatment projects.

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

1. The following portions of amounts previously appropriated to the Department of Environmental Protection from the "Clean Waters Fund" created pursuant to section 14 of the "Clean Waters Bond Act of 1976," (P.L.1976, c.92) for State projects, grants and loans pursuant to section 1 of P.L.1977, c.450, section 1 of P.L.1979, c.474, section 1 of P.L.1981, c.116, section 1 of P.L.1981, c.234, section 2 of P.L.1985, c.243 and section 3 of P.L.1991, c.326 are canceled as follows:

a. Of the \$64,793,832 appropriated to the department pursuant to section 1 of P.L.1977, c.450 for local sewerage construction grants from which

no such moneys have been expended, other than for administrative or program purposes, in the five-year period immediately prior to the effective date of this act, a sum of \$3,018,128 shall be canceled and returned to the "Clean Waters Fund."

b. Of the \$125,000 appropriated to the department pursuant to section 1 of P.L.1979, c.474 for the Haledon Reservoir Dam repair and maintenance grant, a sum of \$57,386 shall be canceled and returned to the "Clean Waters Fund."

c. Of the \$720,000 appropriated to the department pursuant to section 1 of P.L.1981, c.116 for area water quality planning, a sum of \$2,870 shall be canceled and returned to the "Clean Waters Fund."

d. Of the \$60,000 appropriated to the department pursuant to section 1 of P.L.1981, c.234 for the Egg Harbor Township water supply facility loan, a sum of \$3,490 shall be canceled and returned to the "Clean Waters Fund."

e. Of the \$3,708,508 appropriated to the department pursuant to section 2 of P.L.1985, c.243 for the Lake Hopatcong and Lake Wawayanda water supply projects to alleviate the 1985 drought emergency, a sum of \$591,992 shall be canceled and returned to the "Clean Waters Fund."

f. Of the \$9,753,818 appropriated to the department pursuant to section 3 of P.L.1991, c.326 for sewerage infrastructure improvements at certain State facilities, a sum of \$345,488 shall be canceled and returned to the "Clean Waters Fund." Any additional moneys resulting from the subsequent project withdrawals, cancellations, cost savings or from projects deemed to be no longer active shall be canceled and returned to the "Clean Waters Fund."

2. a. The following local water supply project grant, which was authorized but not funded from a portion of amounts previously appropriated to the Department of Environmental Protection from the "Water Supply Fund" established pursuant to section 14 of the "Water Supply Bond Act of 1981," (P.L.1981, c.261) pursuant to section 1 of P.L.2005, c.349, is canceled:

Berlin Township, Camden County.

b. The unexpended balance from the canceled grant is returned to the "Water Supply Fund."

3. There is appropriated to the Department of Environmental Protection, from the amounts canceled pursuant to section 1 of this act, the sum of \$1,000,000 from the "Clean Waters Fund" created pursuant to the "Clean Waters Bond Act of 1976," (P.L.1976, c.92) to cover the costs associated with the treatment of water supplies at the Borough of Berlin Well Number 12.

4. There is appropriated to the Department of Environmental Protection from the "Clean Waters Fund" created pursuant to section 14 of the "Clean Waters Bond Act of 1976," (P.L.1976, c.92) the sum of \$320,000 to be used by the Brick Township Municipal Utilities Authority for the costs associated with the construction of a parallel sanitary sewer main under the Garden State Parkway between Mile Marker 92.9 and Mile Marker 93.0.

5. This act shall take effect immediately.

Approved December 20, 2007.

CHAPTER 208

AN ACT concerning housing opportunities for certain homeless veterans and amending P.L.2004, c.140.

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

1. Section 1 of P.L.2004, c.140 (C.52:27D-287.1) is amended to read as follows:

C.52:27D-287.1 Rental assistance program for low income households, homeless veterans.

1. The Commissioner of Community Affairs shall establish a rental assistance program for low income individuals or households. This program shall be in addition to and supplement any existing programs established pursuant to the "Prevention of Homelessness Act (1984)," P.L.1984, c.180 (C.52:27D-280 et al.).

a. The program shall provide rental assistance grants comparable to the federal section 8 program, but shall be available only to State residents who are not currently holders of federal section 8 vouchers.

b. Assistance to an individual or household under the State program shall be terminated upon the award of federal section 8 rental assistance to the same individual or household.

c. The program shall reserve a portion of the grants for assistance to senior citizens aged 65 or older who otherwise meet the criteria of subsection a. of this section.

d. The program shall reserve a portion of the grants for assistance to veterans who have successfully completed the Veterans Transitional Hous-

ing Program, or "Veterans Haven," a vocational and transitional housing program for homeless veterans administered by the New Jersey Department of Military and Veterans' Affairs.

2. Section 3 of P.L.2004, c.140 (C.52:27D-287.3) is amended to read as follows:

C.52:27D-287.3 Annual RTF allocation to fund rental assistance grants.

3. The commissioner shall annually allocate from the receipts of the portion of the realty transfer fee directed to be credited to the Neighborhood Preservation Nonlapsing Revolving Fund pursuant to section 4 of P.L.1968, c.49 (C.46:15-8) and pursuant to section 4 of P.L.1975, c.176 (C.46:15-10.1) such amounts as may be necessary to fund rental assistance grants authorized by P.L.2004, c.140 (C.52:27D-287.1 et al.), provided that not less than \$3 million be annually allocated for the purposes of subsection c. of section 1 of P.L.2004, c.140 (C.52:27D-287.1) and not less than \$7 million be annually allocated for the purposes of subsection a. and subsection d. of section 1 of P.L.2004, c.140 (C.52:27D-287.1).

3. This act shall take effect immediately.

Approved December 20, 2007.

CHAPTER 209

AN ACT concerning charitable clothing bins and supplementing chapter 48 of Title 40 of the Revised Statutes.

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

C.40:48-2.60 Definitions relative to charitable clothing bins.

1. For the purposes of P.L.2007, c.209 (C.40:48-2.60 et seq.), "solicitation" or "solicit" means the request, directly or indirectly, for money, credit, property, financial assistance, or other thing of any kind or value. Solicitation shall include, but not be limited to, the use or employment of canisters, cards, receptacles or similar devices for the collection of money or other thing of value. A solicitation shall take place whether or not the person making the solicitation receives any contribution. "Appropriate

municipal agency" means the agency determined by resolution of the municipal governing body.

C.40:48-2.61 Requirements for placement, use of clothing bin for solicitation purposes.

2. Notwithstanding any other provision of law to the contrary, no person shall place, use, or employ a donation clothing bin, for solicitation purposes, unless all of the following requirements are met:

a. The person has obtained a permit, valid for a specified period of time, from the appropriate municipal agency within the municipality in which the donation clothing bin will be placed, in accordance with the following:

(1) In applying for such a permit, the person shall include:

(a) the location where the bin would be situated, as precisely as possible;

(b) the manner in which the person anticipates any clothing or other donations collected via the bin would be used, sold, or dispersed, and the method by which the proceeds of collected donations would be allocated or spent;

(c) the name, and telephone number of the bona fide office required pursuant to subsection b. of this section, of any entity which may share or profit from any clothing or other donations collected via the bin; and

(d) written consent from the property owner to place the bin on his property;

(2) The appropriate municipal agency shall not grant an application for a permit to place, use, or employ a donation clothing bin if it determines that the placement of the bin could constitute a safety hazard. Such hazards shall include, but not be limited to, the placement of a donation clothing bin within 100 yards of any place which stores large amounts of, or sells, fuel or other flammable liquids or gases;

(3) The appropriate municipal agency may impose a fee for such application, not to exceed \$25, to offset the costs involved in enforcing P.L.2007, c.209 (C.40:48-2.60 et seq.);

(4) An expiring permit for a donation clothing bin may be renewed upon application for renewal and payment of any fee imposed by the appropriate municipal agency for such renewal, not to exceed \$25 annually, to offset the costs involved in enforcing P.L.2007, c.209 (C.40:48-2.60 et seq.). Such application shall include:

(a) the location where the bin is situated, as precisely as possible, and, if the person intends to move it, the new location where the bin would be situated after the renewal is granted and written consent from the property owner to place the bin on his property;

(b) the manner in which the person has used, sold, or dispersed any clothing or other donations collected via the bin, the method by which the

proceeds of collected donations have been allocated or spent, and any changes the person anticipates it may make in these processes during the period covered by the renewal; and

(c) The name, and telephone number of the bona fide office required pursuant to subsection b. of this section, of any entity which shared or profited from any clothing or other donations collected via the bin, and of any entities which may do so during the period covered by the renewal; and

(5) the permit number and its date of expiration shall be clearly and conspicuously displayed on the exterior of the donation clothing bin, in addition to the information required pursuant to subsection c. of this section;

b. The person, and any other entity which may share or profit from any clothing or other donations collected via the bin, maintains a bona fide office where a representative of the person or other entity, respectively, can be reached at a telephone information line during normal business hours for the purpose of offering information concerning the person or other entity. For the purposes of this subsection, an answering machine or service unrelated to the person does not constitute a bona fide office; and

c. The following information is clearly and conspicuously displayed on the exterior of the donation clothing bin:

(1) The name and address of the registered person that owns the bin, and of any other entity which may share or profit from any clothing or other donations collected via the bin;

(2) The telephone number of the person's bona fide office and, if applicable, the telephone number of the bona fide office of any other entity which may share or profit from any clothing or other donations collected via the bin;

(3) In cases when any entity other than the person who owns the bin may share or profit from any clothing or other donations collected via the bin, a notice, written in a clear and easily understandable manner, indicating that clothing or other donations collected via the bin, their proceeds, or both, may be shared, or given entirely to, an entity other than the person who owns the bin, and identifying all such entities which may share or profit from such donations; and

(4) A statement, consistent with the information provided to the appropriate municipal agency in the most recent permit or renewal application pursuant to subparagraph (b) of paragraph (1) of subsection a. of this section and subparagraph (b) of paragraph (4) of subsection a. of this section, indicating the manner in which the person anticipates any clothing or other donations collected via the bin would be used, sold, or dispersed, and the method by which the proceeds of collected donations would be allocated or spent.

C.40:48-2.62 Receipt, investigation of complaints relative to donation clothing bin.

3. The appropriate municipal agency within the municipality in which a donation clothing bin has been placed shall receive and investigate, within 30 days, any complaints from the public about the bin. Whenever it appears to the appropriate municipal agency that a person has engaged in, or is engaging in any act or practice in violation of section 2 of P.L.2007, c.209 (C.40:48-2.61), the person who placed the bin shall be issued a warning, stating that if the violation is not rectified or a hearing with the appropriate municipal agency is not requested within 45 days, the bin will be seized or removed at the expense of the person who placed the bin, and any clothing or other donations collected via the bin will be sold at public auction or otherwise disposed of. In addition to any other means used to notify the person who placed the bin, such warning shall be affixed to the exterior of the bin itself.

In the event that the person who placed the bin does not rectify the violation or request a hearing within 45 days of the posting of the warning, the appropriate municipal agency may seize the bin, remove it, or have it removed, at the expense of the person who placed the bin, and sell at public auction or otherwise dispose of any clothing or other donations collected via the bin. Any proceeds from the sale of the donations collected via the bin shall be paid to the chief financial officer of the municipality.

C.40:48-2.63 Additional penalties, remedies.

4. In addition to any other penalties or remedies authorized by the laws of this State, any person who violates any provision of P.L.2007, c.209 ((40:48-2.60 et seq.) which results in seizure of the donation clothing bin shall be:

a. Subject to a penalty of up to \$20,000 for each violation. The appropriate municipal agency may bring this action in the municipal court or Superior Court as a summary proceeding under the "Penalty Enforcement Law of 1999," P.L.1999, c.274 (C.2A:58-10 et seq.), and any penalty monies collected shall be paid to the chief financial officer of the municipality; and

b. Deemed ineligible to place, use, or employ a donation clothing bin for solicitation purposes pursuant to section 2 of P.L.2007, c.209 (C.40:48-2.61). A person disqualified from placing, using, or employing a donation clothing bin by violating the provisions of P.L.2007, c.209 (C.40:48-2.60 et seq.) may apply to the appropriate municipal agency to have that person's eligibility restored. The appropriate municipal agency may restore the eligibility of a person who:

(1) Acts within the public interest; and

(2) Demonstrates that he made a good faith effort to comply with the provisions of P.L.2007, c.209 (C.40:48-2.60 et seq.) and all other applicable laws and regulations, or had no fraudulent intentions.

C.40:48-2.64 Effective date; applicability.

5. This act shall take effect on the first day of the thirteenth month following enactment, and shall apply to all donation clothing bins in place on the effective date of this act and all donation clothing bins placed subsequent to the effective date of this act, but appropriate municipal agencies may take such anticipatory acts in advance of that date as may be necessary for the timely implementation of this act upon its effective date.

Approved December 20, 2007.

CHAPTER 210

AN ACT concerning the use of animals in product testing and supplementing Title 4 of the Revised Statutes.

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

C.4:22-58 Definitions relative to use of animals in product testing.

1. For the purposes of this act:

"Animal" means any vertebrate other than humans;

"Committee" means the federal Interagency Coordinating Committee on the Validation of Alternative Methods, established under the federal "ICCVAM Authorization Act of 2000," 42 U.S.C. s.2851-2 et seq.;

"Contract testing facility" means any partnership, corporation, association, or other legal relationship that tests chemicals, ingredients, product formulations, or products in the State;

"Manufacturer" means any partnership, corporation, association, or other legal relationship that produces products, product formulations, chemicals, or ingredients in the State;

"Medical research" means research related to the causes, diagnosis, treatment, control, or prevention of physical or mental diseases and impairments of humans and animals or related to the development of biomedical products, devices, or drugs as defined in 21 U.S.C. s.321. "Medical research" shall not include the testing of an ingredient that was formerly used in a drug, tested for the drug use with traditional animal test methods

to characterize the ingredient and to substantiate its safety for human use, and currently is proposed for use in a product other than a biomedical product, device, or drug;

"Traditional animal test method" means a process or procedure using animals to obtain information on the characteristics of a chemical or agent and that generates information regarding the ability of a chemical or agent to produce a specific biological effect under specified conditions; and

"Validated alternative test method" means a test method that does not use animals or in some cases reduces or refines the current use of animals, for which the reliability and relevance for a specific purpose has been established in validation studies as specified in the Interagency Coordinating Committee on the Validation of Alternative Methods report provided to federal agencies as required pursuant to the federal "ICCVAM Authorization Act of 2000," 42 U.S.C. s.285l-2 et seq.

C.4:22-59 Animal testing prohibited under certain circumstances.

2. a. When conducting any product testing in the State, no manufacturer or contract testing facility shall use a traditional animal test method for which there is an appropriate validated alternative test method that has been adopted by the relevant federal agency or agencies responsible for regulating the specific product or activity for which the test is being conducted, pursuant to the provisions of the federal "ICCVAM Authorization Act of 2000," 42 U.S.C. s.285l-2 et seq. No provision of this subsection shall be construed to apply to any animal test conducted for the purposes of medical research.

b. No provision of this section shall prohibit the use of any nonanimal alternative test method for the testing of any product, product formulation, chemical, or ingredient that is not recommended by the committee.

c. No provision of this section shall prohibit the use of animal tests to comply with the requirements of State or federal agencies when the federal agency has approved a nonanimal alternative test method pursuant to subsection a. of this section and the federal agency concludes that the nonanimal alternative test does not assure the health or safety of consumers.

C.4:22-60 Exclusive remedy for enforcement.

3. Notwithstanding any other provision of law, or any rule or regulation adopted pursuant thereto, to the contrary, the exclusive remedy for enforcing this act shall be the Attorney General bringing a civil action in a court of competent jurisdiction to restrain the violation and for other further relief as the court shall determine is proper.

4. This act shall take effect immediately.

Approved December 20, 2007.

CHAPTER 211

AN ACT providing for the licensing of heating, ventilating, air conditioning and refrigeration contractors, amending P.L.1971, c.60, P.L.1974, c.46 and P.L.1978, c.73 and supplementing Title 45 of the Revised Statutes.

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

C.45:16A-1 Short title.

1. Sections 1 through 28 of this act shall be known and may be cited as "The State Heating, Ventilating, Air Conditioning and Refrigeration Contracting License Law."

C.45:16A-2 Definitions relative to licensing of HVACR contractors.

2. As used in this act:

"Board" means the State Board of Examiners of Heating, Ventilating, Air Conditioning and Refrigeration Contractors created by section 3 of this act.

"Bona fide representative" means: in the case of a sole proprietorship, the owner; in the case of a partnership, a partner; in the case of a limited liability company, a manager; or in the case of a corporation, an executive officer.

"Director" means the Director of the Division of Consumer Affairs in the Department of Law and Public Safety.

"Heating, ventilating, air conditioning and refrigeration" or "HVACR" means the process of treating and protecting the environment by the responsible handling, dispensing, collecting and cleaning of chlorofluorocarbons and other refrigerants in stationary sources, and controlling the temperature, humidity and cleanliness of air by using the "wet," "dry," "radiant," "conduction," "convection," "direct," or "indirect" method or combination of methods, including those which utilize solar energy, to meet the environmental requirements of a designated area. "HVACR" also means the installation, servicing, connecting, maintenance or repair of the following:

power boiler systems, hydronic heating systems, fire tube and water tube boilers, pressure steam and hot water boilers, furnaces and space heaters, and appurtenances utilizing electric, fossil fuel, wood pellets or solar

energy, other than those appurtenances utilized solely for the purpose of heating potable water;

warm air heating or refrigeration and evaporative cooling systems, ventilation and exhaust systems, dust collectors, air handling equipment, heating or cooling coils, air or refrigerant compressors, chillers, cooling towers, evaporators, condensers, plenums, fans, blowers, air cleaners, mechanical ventilation for radon mitigation, humidifiers, filters, louvers, mixing boxes and appurtenances; hydronic heating and chilled water pipe, condensate piping not regulated under P.L.1968, c.362 (C.45:14C-1 et al.), valves, fittings, burners and piping, hydronic heating, expansion tanks, pumps, gauges, humidity and thermostatic controls;

natural or manufactured gas piping on the load side of a meter; supply water piping to equipment being served from an existing dedicated source connected downstream from an approved backflow preventer, except in replacement cases, the installation of the required approved backflow device downstream from a pre-existing valve; and pneumatic controls and control piping, for the control of air, liquid, or gas temperatures, radiators, convectors, unit cabinet heaters, or fan coil units; and pneumatic controls and control piping, of automatic oil, gas or coal burning equipment, mechanical refrigeration equipment, gasoline or diesel oil dispensing equipment and in replacement cases only, the connection thereof of the wiring from an electrical service disconnect box of adequate size to accommodate the equipment and controls and previously dedicated to that equipment, and the testing and balancing of air and hydronic systems, but does not include the design or preparation of specifications for equipment or systems to be installed that are within the practice of professional engineering as defined in subsection (b) of section 2 of P.L.1938, c.342 (C.45:8-28).

"Heating, ventilating, air conditioning and refrigeration contracting" means undertaking or advertising to undertake, for a fixed price, fee, commission, or gain of whatever nature, the planning, laying out, installation, construction, maintenance, service, repair, alteration or modification to any portion of any system, product or equipment or appurtenances used for the environmental needs or control of any heating, ventilating, air conditioning and refrigeration system.

"Master heating, ventilating, air conditioning and refrigeration contractor" means any person, firm, partnership, corporation or other legal entity licensed according to the provisions of this act which obtains a pressure seal pursuant to sections 24 and 25 of this act and which advertises, undertakes or offers to undertake for another the planning, laying out, supervising, installing, servicing or repairing of HVACR systems, apparatus or

equipment. In order to act as a "Master HVACR contractor," an individual shall be a bona fide representative of the legal entity licensed pursuant to the provisions of this act.

"HVACR journeyperson" means any person who installs, alters, repairs, services or renovates HVACR systems in accordance with standards, rules and regulations established by the board and who works under the supervision of a Master HVACR contractor.

"Retrofit" means a change in design, construction or equipment already in operation in order to incorporate later improvements.

"Replacement" means a change of equipment with the same type or similar equipment.

"Undertake or offer to undertake for another" means a contractor who is listed in a public bid as the proposed subcontractor by the contractor placing the bid for an HVACR contract.

C.45:16A-3 State Board of Examiners of Heating, Ventilating, Air Conditioning and Refrigeration Contractors.

3. There is created within the Division of Consumer Affairs in the Department of Law and Public Safety the State Board of Examiners of Heating, Ventilating, Air Conditioning and Refrigeration Contractors. The board shall consist of nine members who are residents of the State of New Jersey and who, except for the member from the department in the Executive Branch of State Government, shall be appointed by the Governor. In addition to the two public members appointed to represent the interests of the public pursuant to the provisions of subsection b. of section 2 of P.L.1971, c.60 (C.45:1-2.2), one member shall be from a department in the Executive Branch of State Government who shall serve without compensation at the pleasure of the Governor; three members shall be practicing Master HVACR contractors with at least 10 years' experience; two members shall be mechanical inspectors with at least 10 years' experience; and one member shall be an HVACR journeyperson of at least 10 years' experience.

The Governor shall appoint each member, other than the State executive department member, for terms of four years, except that of the members first appointed, other than the State executive department member, two shall serve for a term of four years, two shall serve for a term of three years, two shall serve for a term of two years, and two shall serve for terms of one year. Any vacancy in the membership shall be filled for the unexpired term in the manner provided for the original appointment. No member of the board may serve more than two successive terms in addition to any unexpired term to which he has been appointed. The Governor may remove any

member of the board, other than the State executive department member, for cause.

C.45:16A-4 Additional powers, duties of board.

4. The board shall, in addition to other powers and duties it may possess by law:

- a. Administer the provisions of this act;
- b. Examine and pass on the qualifications of all applicants for license under this act, and issue a license to each qualified successful applicant;
- c. Examine, evaluate and supervise all examinations and procedures;
- d. Adopt a seal which shall be affixed to all licenses issued by it;
- e. Adopt rules and regulations pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.) as it may deem necessary to enable it to perform its duties under and to enforce the provisions of this act;
- f. Annually publish a list of the names and addresses of all persons who are licensed under this act;
- g. Establish standards for continuing education; and
- h. Prescribe or change the charges for examinations, licensures, renewals and other services performed pursuant to P.L.1974, c.46 (C.45:1-3.1 et seq.).

C.45:16A-5 Application for licensure; fees, examination.

5. Any person desiring to obtain a State Master HVACR contractor's license shall make application for licensure to the board and shall pay all the fees required in connection with the application, and be examined as required by this act.

C.45:16A-6 Issuance, renewal by other agency prohibited.

6. On or after the effective date of this act, a municipality, local board of health or any other agency shall not issue or renew any Master HVACR contractor's license.

C.45:16A-7 Licensure required for use of certain titles.

7. a. A person shall not work as a Master HVACR contractor or use the title or designation of "licensed Master HVACR contractor" or "Master HVACR contractor" unless licensed pursuant to the provisions of this act.

b. A person, firm, partnership, corporation or other legal entity shall not engage in the business of HVACR contracting or advertise in any manner as a Master HVACR contractor or use the title or designation of "licensed Master HVACR contractor" or "Master HVACR contractor" unless authorized to act as a Master HVACR contractor pursuant to the provisions of this act.

C.45:16A-8 Construction of act relative to other occupations.

8. Nothing in this act shall be construed to prevent any person licensed by the State, including, but not limited to, architects, professional engineers, electrical contractors, master plumbers, or any chimney service professional registered as a home improvement contractor with the Division of Consumer Affairs, from acting within the scope of practice of his profession or occupation, but no person shall use the designation "licensed Master HVACR contractor" unless licensed as a Master HVACR contractor under the provisions of this act.

C.45:16A-9 Applicability of act relative to single family home owner.

9. The provisions of this act shall not apply to a single family home owner who personally occupies his own dwelling and who solely performs HVACR work on his own dwelling, upon receipt of all required permits, except that any HVACR work involving chlorofluorocarbons (CFC's) or hydrochlorofluorocarbons (HCFC's) shall be performed only by a licensed Master HVACR contractor.

C.45:16A-10 Applicability of act relative to public utility company.

10. The provisions of this act shall not apply to any public utility company regulated by the Board of Public Utilities pursuant to Title 48 of the Revised Statutes, or any related competitive business segment of that public utility that offers competitive services pursuant to the "Electric Discount and Energy Competition Act," P.L.1999, c.23 (C.48:3-49 et al.). The provisions of this act also shall not apply to HVACR work performed on buildings, structures or premises owned or operated by a public utility holding company or its subsidiaries.

C.45:16A-11 Applicability of act relative to powers of municipalities.

11. The provisions of this act shall not deny to any municipality the power to inspect HVACR work or equipment or the power to enforce the standards and manner in which HVACR work shall be done, but no municipality, local board of health or other agency shall require any Master HVACR contractor licensed under this act, or authorized to engage in the business of HVACR contracting under this act, to obtain any additional license, apply for or take any examination, or pay any licensing fee.

C.45:16A-12 Applicability of act relative to liquefied petroleum marketer.

12. The provisions of this act shall not apply to any liquefied petroleum gas marketer licensed by the Department of Community Affairs pursuant to

subchapter 10 of chapter 18 of Title 5 of the New Jersey Administrative Code.

C.45:16A-13 Application fee; requirements for licensure.

13. Not less than 30 days and not more than 60 days prior to the date set for the examination for a Master HVACR contractor's license, every person, except as provided in this act, desiring to apply for a license, who meets the qualifications as set forth in this act, shall deliver to the board, personally or by certified mail, return receipt requested, postage prepaid, a certified check or money order payable to the Treasurer of the State of New Jersey in the required amount, together with the written application required by the board, completed as described in the application, and together with proof of qualifications as described in this act.

The qualifications for a Master HVACR contractor's license shall be as follows: The person shall be 21 or more years of age and a citizen or legal resident of the United States, and shall have been employed in the HVACR contracting business for a period of five years next preceding the date of his application for a license. One or more of the five years shall have been spent while engaged or employed as an HVACR journeyman or licensed plumber engaged in the work described. At least four years of the five years shall have been spent in an HVACR apprenticeship or other training program approved by the United States Department of Labor, with proof of passage and successful completion of this program while actively engaged or employed as an apprentice as determined by the board. Successful completion of an HVACR program given by an accredited technical school, trade school, county college or community college shall satisfy two years of the minimum four years that must be spent in an approved apprenticeship or other training program. In lieu of the above requirements a person shall have been awarded a bachelor's degree: a. in HVACR technology from an accredited college or university in the United States which the board finds acceptable and, in addition, shall have been engaged or employed in the practical work of installing HVACR systems for one year; or b. from an accredited college or university in the United States which the board finds acceptable and, in addition, shall have been engaged or employed in the direct supervision of the installation of HVACR systems for three years.

Proof of compliance with the qualifications or those in lieu thereof shall be submitted to the board in writing, sworn to by the applicant, and accompanied by two recent passport-size photographs of the applicant.

C.45:16A-14 Uniformity of license examination, frequency, reexamination; fees.

14. a. Every Master HVACR contractor's license examination shall be substantially uniform and shall be designed so as to establish the competence and qualifications of the applicant to perform the type of work and business as described in this act. The examination may be theoretical or practical in nature, or both.

b. The examination shall be held at least four times a year, at Trenton or other place the board deems necessary. Public notice of the time and place of the examination shall be given.

c. No person who has failed the examination shall be eligible to be reexamined for a period of six months from the date of the examination failed by that person.

d. All applicants for Master HVACR licenses, renewals or reexaminations shall pay a fee for each license issuance or renewal, or reexamination as determined by the board.

C.45:16A-15 Biennial renewal of license.

15. Licenses shall be renewed biennially by the board upon written application of the holder and payment of the prescribed fee and renewal of the bond required by section 23 of this act. A license may be renewed without reexamination, if the application for renewal is made within 30 days next preceding or following the scheduled expiration date. Any applicant for renewal making application at any time subsequent to the 30th day next following the scheduled expiration date may be required by the board to be reexamined, and that person shall not continue to act as a licensed Master HVACR contractor, as described in this act, and no firm, corporation or other legal entity for which the person is the bona fide representative shall operate under a license in the HVACR business, as described in this act, until a valid license has been secured or is held by a bona fide representative.

Any license expiring while the holder is outside the continental limits of the United States in connection with any project undertaken by the government of the United States, or while in the services of the Armed Forces of the United States, shall be renewed without the holder being required to be reexamined, upon payment of the prescribed fee at any time within four months after the person's return to the United States or discharge from the armed forces, whichever is later.

C.45:16A-16 Continuing education requirements.

16. The board shall require each Master HVACR contractor, as a condition for biennial license renewal pursuant to section 15 of this act, to com-

plete any continuing education requirements imposed by the board pursuant to section 17 of this act.

C.45:16A-17 Duties of board relative to continuing education.

17. a. The board shall:

(1) Establish standards for continuing HVACR education, including the subject matter and content of courses of study, the selection of instructors, and the number and type of continuing education credits required of a licensed Master HVACR contractor as a condition for biennial license renewal, except that the number of credits required shall not exceed five in any biennial license period;

(2) Approve educational programs offering credit towards the continuing HVACR education requirements; and

(3) Approve other equivalent educational programs, and shall establish procedures for the issuance of credit upon satisfactory proof of the completion of these programs.

b. In the case of education courses and programs, each hour of instruction shall be equivalent to one credit.

C.45:16A-18 Waiver of requirements.

18. The board may, in its discretion, waive requirements for continuing HVACR education on an individual basis for reasons of hardship such as illness or disability, retirement of the license or other good cause.

C.45:16A-19 Initial renewal.

19. The board shall not require completion of continuing HVACR education credits for an initial renewal of license.

C.45:16A-20 Extra credits carried over.

20. In the event a Master HVACR contractor completes a number of continuing education credit hours in excess of the number required by the board pursuant to section 17 of this act, the board may allow those extra credits to be carried over to satisfy the Master HVACR contractor's continuing education requirement for the next biennial licensure period, but shall not be applicable thereafter.

C.45:16A-21 Granting license without examination, reciprocity.

21. The board may in its discretion grant licenses without examination to applicants so licensed by other states; provided that equal reciprocity is provided for New Jersey Master HVACR contractors by the law of the applicant's domiciliary state and provided further that the domiciliary state's

standards are equal to or comparable to those of this State.

C.45:16A-22 Continuance of existing HVACR business.

22. No firm, corporation or other legal entity operating under and by virtue of this act shall be denied the privilege of conducting and continuing the business of HVACR contracting, by reason of death, termination of employment, illness or a substantial disability of the bona fide representative of the firm, corporation or other entity, provided that: the firm, corporation or other entity has complied with the other provisions of this act; the firm, corporation or other entity maintains a place of business within this State; and another bona fide representative of the entity obtains a State license within six months from the date of the death, termination of employment, illness or disability. The board may promulgate additional regulations governing the management and operation of an entity during that period of time when the entity shall be in operation without having a bona fide representative.

C.45:16A-23 Bond required from contractor.

23. In addition to any other bonds that may be required pursuant to contract, no Master HVACR contractor licensed under this act shall undertake to do any HVACR work in the State unless and until he shall have first entered into a bond in favor of the State of New Jersey in the sum of \$3,000 executed by a surety company authorized to transact business in this State, approved by the Department of Banking and Insurance and to be conditioned on the faithful performance of the provisions of this act. No municipality shall require any similar bond from any Master HVACR contractor licensed under this act. The board shall by rule and regulation provide who shall be eligible to receive the financial protection afforded by the bond required to be filed by this section. The bond shall be for the term of 12 months and shall be renewed at each expiration for a similar period.

C.45:16A-24 Eligibility to obtain, retain pressure seal, license renewal; requirements.

24. To be eligible to obtain and retain a pressure seal, and renew an HVACR license, a Master HVACR contractor shall:

- a. Secure, maintain and file with the board a certificate of general liability insurance from an insurance company authorized and licensed to do business in this State or proof of self-insurance approved by the Department of Banking and Insurance covering the Master HVACR contracting done by that HVACR contractor. The minimum amount of general liability insurance shall be \$500,000 for the combined property damage and bodily injury to or death of one or more persons in any one accident or occurrence; and

b. File with the board its Federal Tax Identification number.

Every licensed HVACR contractor whose general liability policy is cancelled or nonrenewed shall submit to the board a copy of the certificate of general liability insurance for a new or replacement policy which meets the requirements of subsection a. of this section before the former policy is no longer effective.

C.45:16A-25 Provision of pressure seal.

25. a. The board shall provide a pressure seal to a Master HVACR contractor at the time of the issuance of a license or as soon thereafter as deemed appropriate by the board. No pressure seal shall be provided by the board or retained by a Master HVACR contractor unless the Master HVACR contractor complies with the provisions of sections 23 and 24 of this act. The Master HVACR contractor shall pay the cost of the pressure seal, but the seal shall remain the property of the board. The pressure seal shall be surrendered to the board immediately upon suspension, revocation or expiration of the license or upon a finding of noncompliance with the provisions of section 24 of this act.

b. A Master HVACR contractor shall impress his pressure seal upon all applications for HVACR permits from the appropriate duly licensed State inspection agency.

c. A pressure seal shall be used exclusively by a Master HVACR contractor or in the conduct of the Master HVACR contractor's practice. A Master HVACR contractor shall not willfully or negligently allow any person to use his pressure seal.

C.45:16A-26 Issuance of license to contractors.

26. Notwithstanding any other provision of this act to the contrary, the board shall, upon application to it and submission of satisfactory proof and the payment of the prescribed fee within six months following the effective date of this act, issue a Master HVACR license without examination to: a. any licensed master plumber who has been engaged in the heating, ventilating, air conditioning or refrigeration business for at least two years prior to the date of his application for a Master HVACR license; or b. any person who has been engaged as a heating, ventilating, air conditioning and refrigeration contractor for at least two years prior to his date of application for a Master HVACR license.

A person entitled to a Master HVACR license under the provisions of this section shall comply with the remaining provisions of this act.

C.45:16A-27 Construction of act relative to work performed.

27. a. Nothing in this act shall be construed to prevent licensed master plumbers from engaging in the installation, maintenance and repair of: power boiler systems, hot water and steam heating systems, fire tube and water tube boilers, pressure steam and hot water boilers, space heaters, unit heaters, and appurtenances utilizing electricity, fossil fuel or solar energy; steam, hot water and chilled water pipe, condensate piping, valves, fittings, burners and piping, expansion tanks, pumps, gauges on the load side of a meter; thermostatic controls; or natural or manufactured gas piping; or the installation, maintenance or connection of: pneumatic controls and control piping for the control of air, liquid or gas temperatures, radiators, convectors, cabinet unit heaters, fan coil units, air handlers utilizing hydronic coils, mechanical ventilation for radon mitigation, humidifiers, flues and patented chimneys; or of pneumatic controls and control piping of automatic oil, gas or coal burning equipment, gasoline or diesel oil dispensing equipment and in replacement cases only, the connection thereof of the wiring from a dedicated electrical service disconnect box of adequate size to accommodate the equipment and controls, and the testing and balancing of hydronic systems; or the installation, repair, testing or closure of waste oil underground storage tanks.

b. Nothing in this act shall be construed to prevent licensed electrical contractors from engaging in the installation of: electrical resistance heating equipment and ventilation equipment with the exhaust duct not exceeding 60 square inches in area, or in commercial applications the connection sleeve between a roof-top mounted exhaust fan and its central connecting register, provided that this connection sleeve is not more than 15 inches in length or the length necessary to penetrate a roof or other similar openings; and the maintenance and repair of the electrical sections of any equipment used for heating, ventilating, air conditioning or refrigeration.

C.45:16A-28 Certain electrical work, performance prohibited.

28. Notwithstanding any other provision of this act to the contrary, a licensed master plumber or a person with a Master HVACR license shall not perform any electrical work which has a potential of greater than 30 volts, involving the wiring of equipment used for heating, ventilating, air conditioning or refrigeration, except in the case of replacement installations as described in sections 2 and 27 of this act or as provided for in section 18 of P.L.1962, c.162 (C.45:5A-18).

29. Section 1 of P.L.1971, c.60 (C.45:1-2.1) is amended to read as follows:

C.45:1-2.1 Applicability of act.

1. The provisions of this act shall apply to the following boards and commissions: the New Jersey State Board of Accountancy, the New Jersey State Board of Architects, the New Jersey State Board of Cosmetology and Hairstyling, the Board of Examiners of Electrical Contractors, the New Jersey State Board of Dentistry, the State Board of Mortuary Science of New Jersey, the State Board of Professional Engineers and Land Surveyors, the State Board of Marriage and Family Therapy Examiners, the State Board of Medical Examiners, the New Jersey Board of Nursing, the New Jersey State Board of Optometrists, the State Board of Examiners of Ophthalmic Dispensers and Ophthalmic Technicians, the Board of Pharmacy, the State Board of Professional Planners, the State Board of Psychological Examiners, the State Board of Examiners of Master Plumbers, the New Jersey Real Estate Commission, the State Board of Court Reporting, the State Board of Veterinary Medical Examiners, the Radiologic Technology Board of Examiners, the Acupuncture Examining Board, the State Board of Chiropractic Examiners, the State Board of Respiratory Care, the State Real Estate Appraiser Board, the State Board of Social Work Examiners, the State Board of Examiners of Heating, Ventilating, Air Conditioning and Refrigeration Contractors, the State Board of Physical Therapy Examiners, the Orthotics and Prosthetics Board of Examiners, the New Jersey Cemetery Board, the State Board of Polysomnography and any other entity hereafter created under Title 45 to license or otherwise regulate a profession or occupation.

30. Section 1 of P.L.1974, c.46 (C.45:1-3.1) is amended to read as follows:

C.45:1-3.1 Applicability of act.

1. The provisions of this act shall apply to the following boards and commissions: the New Jersey State Board of Accountancy, the New Jersey State Board of Architects, the New Jersey State Board of Cosmetology and Hairstyling, the Board of Examiners of Electrical Contractors, the New Jersey State Board of Dentistry, the State Board of Mortuary Science of New Jersey, the State Board of Professional Engineers and Land Surveyors, the State Board of Marriage and Family Therapy Examiners, the State Board of Medical Examiners, the New Jersey Board of Nursing, the New Jersey State Board of Optometrists, the State Board of Examiners of Ophthalmic Dispensers and Ophthalmic Technicians, the Board of Pharmacy, the State Board of Professional Planners, the State Board of Psychological Examiners, the State Board of Examiners of Master Plumbers, the State Board of

Court Reporting, the State Board of Veterinary Medical Examiners, the Radiologic Technology Board of Examiners, the Acupuncture Examining Board, the State Board of Chiropractic Examiners, the State Board of Respiratory Care, the State Real Estate Appraiser Board, the New Jersey Cemetery Board, the State Board of Social Work Examiners, the State Board of Examiners of Heating, Ventilating, Air Conditioning and Refrigeration Contractors, the State Board of Physical Therapy Examiners, the State Board of Polysomnography, the Orthotics and Prosthetics Board of Examiners and any other entity hereafter created under Title 45 to license or otherwise regulate a profession or occupation.

31. Section 2 of P.L.1978, c.73 (C.45:1-15) is amended to read as follows:

C.45:1-15 Application of act.

2. The provisions of this act shall apply to the following boards and all professions or occupations regulated by, through or with the advice of those boards: the New Jersey State Board of Accountancy, the New Jersey State Board of Architects, the New Jersey State Board of Cosmetology and Hairstyling, the Board of Examiners of Electrical Contractors, the New Jersey State Board of Dentistry, the State Board of Mortuary Science of New Jersey, the State Board of Professional Engineers and Land Surveyors, the State Board of Marriage and Family Therapy Examiners, the State Board of Medical Examiners, the New Jersey Board of Nursing, the New Jersey State Board of Optometrists, the State Board of Examiners of Ophthalmic Dispensers and Ophthalmic Technicians, the Board of Pharmacy, the State Board of Professional Planners, the State Board of Psychological Examiners, the State Board of Examiners of Master Plumbers, the State Board of Court Reporting, the State Board of Veterinary Medical Examiners, the State Board of Chiropractic Examiners, the State Board of Respiratory Care, the State Real Estate Appraiser Board, the State Board of Social Work Examiners, the State Board of Examiners of Heating, Ventilating, Air Conditioning and Refrigeration Contractors, the State Board of Physical Therapy Examiners, the State Board of Polysomnography, the Professional Counselor Examiners Committee, the New Jersey Cemetery Board, the Orthotics and Prosthetics Board of Examiners, the Occupational Therapy Advisory Council, the Electrologists Advisory Committee, the Acupuncture Advisory Committee, the Alcohol and Drug Counselor Committee, the Athletic Training Advisory Committee, the Certified Psychoanalysts Advisory Committee, the Fire Alarm, Burglar Alarm, and Locksmith Advisory Com-

mittee, the Home Inspection Advisory Committee, the Interior Design Examination and Evaluation Committee, the Hearing Aid Dispensers Examining Committee, the Landscape Architect Examination and Evaluation Committee, the Massage, Bodywork and Somatic Therapy Examining Committee, the Perfusionists Advisory Committee, the Physician Assistant Advisory Committee, and the Audiology and Speech-Language Pathology Advisory Committee and any other entity hereafter created under Title 45 to license or otherwise regulate a profession or occupation.

32. This act shall take effect immediately, except that section 7 shall take effect 360 days following the appointment and qualification of the board members, and provided that the director and board may take such anticipatory action as may be necessary to effectuate that provision of the act.

Approved December 20, 2007.

CHAPTER 212

AN ACT concerning prenotification of certain plant closings, transfers and mass layoffs and supplementing Title 34 of the Revised Statutes.

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

C.34:21-1 Definitions relative to prenotification of certain plant closings, transfers and mass layoffs.

1. As used in this act:

"Commissioner" means the Commissioner of Labor and Workforce Development.

"Department" means the Department of Labor and Workforce Development.

"Employer" means an individual or private business entity which employs the workforce at an establishment.

"Establishment" means a single place of employment which has been operated by an employer for a period longer than three years, but shall not include a temporary construction site. "Establishment" may be a single location or a group of contiguous locations, including groups of facilities which form an office or industrial park or separate facilities just across the street from each other.

"Facility" means a building.

"Full-time employee" means an employee who is not a part-time employee.

"Mass layoff" means a reduction in force which is not the result of a transfer or termination of operations and which results in the termination of employment at an establishment during any 30-day period for 500 or more full-time employees or for 50 or more of the full-time employees representing one third or more of the full-time employees at the establishment.

"Operating unit" means an organizationally distinct product, operation, or specific work function within or across facilities at a single establishment.

"Part-time employee" means an employee who is employed for an average of fewer than 20 hours per week or who has been employed for fewer than six of the 12 months preceding the date on which notice is required pursuant to this act.

"Response team" means the plant closing response team established pursuant to section 5 of this act.

"Termination of employment" means the layoff of an employee without a commitment to reinstate the employee to his previous employment within six months of the layoff, except that "termination of employment" shall not mean a voluntary departure or retirement or a discharge or suspension for misconduct of the employee connected with the employment or any layoff of a seasonal employee or refer to any situation in which an employer offers to an employee, at a location inside the State and not more than 50 miles from the previous place of employment, the same employment or a position with equivalent status, benefits, pay and other terms and conditions of employment, and, except that a layoff of more than six months which, at its outset, was announced to be a layoff of six months or less, shall not be treated as a termination of employment under this act if the extension beyond six months is caused by business circumstances not reasonably foreseeable at the time of the initial layoff, and notice is given at the time it becomes reasonably foreseeable that the extension beyond six months will be required.

"Termination of operations" means the permanent or temporary shutdown of a single establishment, or of one or more facilities or operating units within a single establishment, except that "termination of operations" shall not include a termination of operations made necessary because of a fire, flood, natural disaster, national emergency, act of war, civil disorder or industrial sabotage, decertification from participation in the Medicare and Medicaid programs as provided under Titles XVIII and XIX of the federal "Social Security Act," Pub.L.74-271 (42 U.S.C. s.1395 et seq.) or license revocation pursuant to P.L.1971, c.136 (C.26:2H-1 et al.).

"Transfer of operations" means the permanent or temporary transfer of a single establishment, or one or more facilities or operating units within a single establishment, to another location, inside or outside of this State.

C.34:21-2 Requirements for establishment subject to transfer, termination of operations, mass layoffs.

2. If an establishment is subject to a transfer of operations or a termination of operations which results, during any continuous period of not more than 30 days, in the termination of employment of 50 or more full-time employees, or if an employer conducts a mass layoff, the employer who operates the establishment or conducts the mass layoff shall:

a. Provide, in the case of an employer who employs 100 or more full-time employees, not less than 60 days, or the period of time required pursuant to the federal "Worker Adjustment and Retraining Notification Act," 29 U.S.C. s.2101 et seq., or any amendments thereto, whichever is longer, before the first termination of employment occurs in connection with the termination or transfer of operations, or mass layoff, notification of the termination or transfer of operations or mass layoff to the Commissioner of Labor and Workforce Development, the chief elected official of the municipality where the establishment is located, each employee whose employment is to be terminated and any collective bargaining units of employees at the establishment;

b. Provide to each full-time employee whose employment is terminated and to whom the employer provides less than the number of days of notification required pursuant to subsection a. of this section, severance pay equal to one week of pay for each full year of employment. The rate of severance pay provided by the employer pursuant to this subsection b. shall be the average regular rate of compensation received during the employee's last three years of employment with the employer or the final regular rate of compensation paid to the employee, whichever rate is higher. The severance pay provided by the employer pursuant to this subsection b. shall be in addition to any severance pay provided by the employer pursuant to a collective bargaining agreement or for any other reason, except that any back pay provided by the employer to the employee pursuant to section 5 of the "Worker Adjustment and Retraining Notification Act," Pub.L.100-379 (29 U.S.C. s.2104), because of a violation of section 3 of that act (29 U.S.C. s. 2102) shall be credited toward meeting the severance pay requirements of this subsection b.; and

c. Provide the response team with the amount of on-site work-time access to the employees of the establishment that the response team determines is necessary for the response team to carry out its responsibilities pursuant to section 5 of this act.

In determining whether a termination or transfer of operations or a mass layoff is subject to the notification requirements of this section, any terminations of employment for two or more groups at a single establishment occurring within any 90-day period, when each group has less than the number of terminations which would trigger the notification requirements of this section but the aggregate for all of the groups exceeds that number, shall be regarded as subject to the notification requirements unless the employer demonstrates that the cause of the terminations for each group is separate and distinct from the causes of the terminations for the other group or groups.

C.34:21-3 Contents of required notification.

3. The notification provided pursuant to subsection a. of section 2 of this act shall include:

a. A statement of the number of employees whose employment will be terminated in connection with the mass layoff or transfer or termination of operations of the establishment, the date or dates on which the mass layoff or transfer or termination of operations and each termination of employment will occur;

b. A statement of the reasons for the mass layoff or transfer or termination of operations;

c. A statement of any employment available to employees at any other establishment operated by the employer, and information regarding the benefits, pay and other terms and conditions of that employment and the location of the other establishment;

d. A statement of any employee rights with respect to wages, severance pay, benefits, pension or other terms of employment as they relate to the termination, including, but not limited to, any rights based on a collective bargaining agreement or other existing employer policy;

e. A disclosure of the amount of the severance pay which is payable pursuant to the provisions of subsection b. of section 2 of this act; and

f. A statement of the employees' right to receive from the response team, pursuant to subsection c. of section 2 and subsection a. of section 5 of this act, information, referral and counseling regarding: public programs which may make it possible to delay or prevent the transfer or termination of operations or mass layoff; public programs and benefits to assist the employees; and employee rights based on law.

The notification shall be in writing and, after the commissioner has made a form for the notification available to employers, provided on that form. The commissioner shall make the form available to employers not more than 90 days following the effective date of this act.

C.34:21-4 Construction of act relative to collective bargaining agreements.

4. This act shall not be construed as limiting or modifying any provision of a collective bargaining agreement which requires notification, severance payment or other benefits on terms which are more favorable to employees than those required by this act.

C.34:21-5 Establishment of response team.

5. a. There is established, in the Department of Labor and Workforce Development, a response team. The purpose of the response team is to provide appropriate information, referral and counseling, as rapidly as possible, to workers who are subject to plant closings or mass layoffs.

b. In the case of each transfer or termination of the operations in an establishment which results in the termination of 50 or more employees, the response team shall:

(1) Offer to meet with the representatives of the management of the establishment to discuss available public programs which may make it possible to delay or prevent the transfer or termination of operations, including economic development incentive and workforce development programs;

(2) Meet on site with workers and provide information, referral and counseling regarding:

(a) Available public programs which may make it possible to delay or prevent the transfer or termination of operations, including economic development incentive and workforce development programs;

(b) Public programs or benefits which may be available to assist the employees, including, but not limited to, unemployment compensation benefits, job training or retraining programs, and job search assistance; and

(c) Employee rights based on this act or any other law which applies to the employees with respect to wages, severance pay, benefits, pensions or other terms of employment as they relate to the termination of employment; and

(3) Seek to facilitate cooperation between representatives of the management and employees at the establishment to most effectively utilize available public programs which may make it possible to delay or prevent the transfer or termination of operations or to assist employees if it is not possible to prevent the termination.

C.34:21-6 Initiation of suit by aggrieved employee, former employee.

6. An aggrieved employee or former employee or his authorized representative may initiate suit in Superior Court under this act either individually or on behalf of employees or former employees affected by a violation of the provisions of this act. If an action is undertaken on behalf of affected em-

ployees or former employees, the party initiating the action shall inform the department, which shall notify each affected employee or former employee. If the court finds the employer has violated the provisions of this act, it shall award to the aggrieved present or former employees: costs of the action, including reasonable attorneys' fees; and compensatory damages, including lost wages, benefits and other remuneration. Any award of compensatory damages for lost wages shall be limited to the amount of severance pay required pursuant to subsection b. of section 2 of this act.

C.34:21-7 Short title.

7. This act shall be known and may be cited as the "Millville Dallas Airmotive Plant Job Loss Notification Act."

8. This act shall take effect immediately.

Approved December 20, 2007.

CHAPTER 213

AN ACT requiring the New Jersey Transit Corporation to report on the New Jersey Travel Independence Program and to study in consultation with the Department of Human Services the feasibility of expanding that program Statewide.

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

1. a. The New Jersey Transit Corporation ("the corporation") shall prepare a report on its current New Jersey Travel Independence Program, in consultation with the Department of Human Services, and shall discuss in the report the implications of expanding the program Statewide. The program currently provides individual travel instruction skills to aid individuals with disabilities to travel independently on fixed-route transportation in the State. The report shall include, but not be limited to, a description of the process of evaluation, individual program development, individualized instruction, and competency evaluation and certification.

b. The report shall address matters that shall include, but not be limited to, the impact to date on individuals with disabilities, identification and availability of State and community resources, implementation procedures,

identification of problems, and the cost and source of funding of the current program and the cost and source of funding for an expanded program. The corporation shall complete the report and submit its findings and recommendations to the Governor and the Legislature within six months of the effective date of this act.

2. This act shall take effect immediately and shall expire 90 days after submission of the corporation's report.

Approved December 20, 2007.

CHAPTER 214

AN ACT concerning the NJ STARS and NJ STARS II Programs and amending P.L.2004, c.59 and P.L.2005, c.359.

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

1. Section 5 of P.L.2004, c.59 (C.18A:71B-85) is amended to read as follows:

C.18A:71B-85 NJ STARS scholarships; eligibility.

5. a. A scholarship under the NJ STARS Program shall cover the full cost of tuition and fees, subject to the prior application of other grants and scholarships against those costs as provided under paragraph (2) of subsection c. of this section, for up to 15 credit hours in any semester, for an eligible student enrolled in a full-time course of study at the New Jersey county college serving the student's county of residence. An otherwise eligible student who demonstrates to the authority, in accordance with such criteria and by means of such documentation as the authority shall establish by regulation, that the county college serving the student's county of residence does not offer the curriculum that the student chooses to study shall be eligible for such scholarship at another New Jersey county college offering that curriculum. The amount of any scholarship allowed hereunder to a student at a county college serving a county other than the student's county of residence shall be computed as though the student were a resident of the county served by that college, and the college shall likewise compute the

amount of any additional payment, required with respect to the enrollment of that student for credit hours of study during a semester in which the scholarship is awarded that are not covered by that scholarship, as though the student were a resident of the county.

b. A student shall be eligible for a scholarship under the NJ STARS Program for up to five semesters. The scholarship shall be payable for the first year of enrollment in a county college to a student who graduated in the top 20% of the student's high school graduating class, provided that in the case of students graduating from high schools that do not calculate the class rank of their students, the student's ranking shall be determined by the high school in consultation with the authority. During a student's enrollment in a county college after the first year of enrollment, the scholarship shall be payable to that student if the student attains a grade point average of at least 3.0 by the start of the student's second year of county college enrollment. A student who attains a grade point average of less than 3.0 at the start of the second semester of the student's first year of county college enrollment shall participate in an enrichment program designed by the county college during the second semester of the student's first year of enrollment.

c. To be eligible to receive a scholarship under the NJ STARS Program a student shall:

(1) be a State resident pursuant to guidelines established by the authority;

(2) have applied for all other available forms of State and federal need-based grants and merit scholarships, exclusive of loans, the full amount of which grants and scholarships shall be applied to tuition and fee charges to reduce the amount of any scholarship that the student shall receive under the provisions of this act;

(3) be enrolled in a full-time course of study at a New Jersey county college;

(4) have graduated from high school in 2004 or later, and not earlier than the calendar year two years prior to the first calendar year in which a scholarship payment is to be made; and

(5) maintain continuous enrollment in a full-time course of study, unless on medical leave due to the illness of the student or a member of the student's immediate family or emergency leave because of a family emergency, which medical or emergency leave shall have been approved by the county college, or unless called to partial or full mobilization for State or federal active duty as a member of the National Guard or a Reserve component of the Armed Forces of the United States.

d. A student who is dismissed for academic or disciplinary reasons from a county college shall no longer be eligible for a scholarship under

this act. If a student participating in the program is dismissed for disciplinary reasons, the student shall repay in full all amounts received under the program. The county college shall be responsible for collecting the repayment, or the amount of any overpayment or other improper payment, of any State awards under the program, in accordance with the provisions of N.J.S.18A:71B-10.

e. A student scholarship under the NJ STARS Program may be renewed upon the student's filing of a renewal financial aid application and providing evidence that the student has satisfied the requirements pursuant to subsection b. of this section.

2. Section 4 of P.L.2005, c.359 (C.18A:71B-86.4) is amended to read as follows:

C.18A:71B-86.4 Eligibility for NJ STARS II; scholarship amounts.

4. a. For an eligible student enrolled in a full-time course of study at a New Jersey four-year public institution of higher education, a scholarship under the NJ STARS II Program shall be paid to the institution in the amount of \$2,000 for each semester of enrollment commencing in the 2006-2007 academic year. For each academic year thereafter, the amount of the scholarship shall be increased by one-half of the average percentage increase over the prior academic year in undergraduate tuition and fees for all four-year public institutions of higher education and shall be paid to the institution for each semester of enrollment in that academic year; except that the amount of the scholarship shall not exceed \$2,500 per semester. The scholarship amount awarded shall be in addition to any other State and federal need-based grants and merit scholarships to which the student is entitled. The four-year public institution of higher education shall waive or provide an institutional scholarship for any tuition and fee amount for the student, for up to 18 credits, that exceeds the sum of the NJ STARS II scholarship and any other State and federal grants and scholarships to which the student is entitled. The institution shall not be required to waive or provide an institutional scholarship for tuition and fees for credits in excess of 18 credit hours in any single semester.

b. A student shall be eligible for a scholarship under the NJ STARS II Program for up to four semesters, excluding summer sessions, at a New Jersey four-year public institution of higher education.

c. A student shall be eligible to receive a scholarship under the NJ STARS II Program for the student's third academic year of study if the student: attained an associate's degree from a New Jersey county college; re-

ceived a scholarship under the "New Jersey Student Tuition Assistance Reward Scholarship (NJ STARS) Program Act," P.L.2004, c.59 (C.18A:71B-81 et seq.), or was eligible for but did not receive a scholarship under NJ STARS because the student's tuition and fees were fully covered by other State or federal need-based grants or merit scholarships, for each semester of study in the county college; attains a grade point average of at least 3.0 for the second academic year of study in the county college; enrolls in a baccalaureate degree program at a New Jersey four-year public institution of higher education for the third academic year of study in the academic year immediately following the student's attainment of an associate's degree; and meets the criteria set forth in subsection e. of this section. A grade for credits earned during a summer semester shall for the purposes of this subsection be included in the calculation of the grade point average for the preceding academic year.

d. A student shall be eligible to receive a scholarship under the NJ STARS II Program for the student's fourth academic year of study if the student: received a scholarship under the NJ STARS II Program for the student's third academic year of study pursuant to subsection c. of this section; based on the student's performance during the third academic year of study, attained a grade point average of at least 3.0; and meets the criteria set forth in subsection e. of this section. A grade for credits earned during a summer semester shall for the purposes of this subsection be included in the calculation of the grade point average for the preceding academic year.

e. To be eligible to receive a scholarship under the NJ STARS II Program, a student shall:

- (1) be a State resident pursuant to guidelines established by the authority;
- (2) have applied for all other available forms of State and federal need-based grants and merit scholarships, exclusive of loans, the full amount of which grants and scholarships shall be applied to tuition and fee charges;
- (3) be enrolled in a full-time course of study at a four-year public institution of higher education; and
- (4) maintain continuous enrollment in a full-time course of study, unless on medical leave due to the illness of the student or a member of the student's immediate family or emergency leave because of a family emergency, which medical or emergency leave shall have been approved by the four-year public institution of higher education, or unless called to partial or full mobilization for State or federal active duty as a member of the National Guard or a Reserve component of the Armed Forces of the United States.

f. A student who is dismissed for academic or disciplinary reasons from a four-year public institution of higher education shall no longer be

eligible for a scholarship under this act. If a student participating in the program is dismissed for disciplinary reasons, the student shall repay in full all amounts received under the program. The four-year public institution of higher education shall be responsible for collecting the repayment, or the amount of any overpayment or other improper payment, of any State awards under the program, in accordance with the provisions of N.J.S.18A:71B-10.

g. A student scholarship under the NJ STARS II Program may be renewed upon the student's filing of a renewal financial aid application and providing evidence that the student has satisfied the requirements pursuant to this section.

3. This act shall take effect immediately.

Approved December 20, 2007.

CHAPTER 215

AN ACT concerning the establishment of alternate testing dates for certain applicants for licenses and supplementing P.L.1978, c.73 (C.45:1-14 et seq.).

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

C.45:1-42 Definitions relative to establishment of alternate testing dates for certain license applicants.

1. As used in this act:

"Applicant" means an individual to whom a licensing examination is administered.

"Affected applicant" means an applicant for whom a day of religious observance falls on the day or portion thereof that a licensing examination is administered.

"Day of religious observance" means any day or portion thereof on which a religious observance imposes a substantial burden on any applicant's ability to participate in a licensing examination, or any particular day or days or any portion thereof which any individual observes as a Sabbath or other holy day or days in accordance with the requirements of his religion.

"Licensing examination" means any test or examination that is given and used to determine whether an applicant is qualified for licensure, registration or certification by a professional or occupational board or the director, pursuant to Title 45 of the Revised Statutes.

C.45:1-43 Offering of alternate testing dates for examination.

2. When any licensing examination is administered on a day of religious observance, a special administration of that licensing examination or an equivalent examination shall be offered to any affected applicant as soon after or before as is possible, at a comparable time, place and cost, provided that in no circumstances shall the special administration be more than 30 days before or after the regular test administration.

3. This act shall take effect on the 180th day following enactment.

Approved December 20, 2007.

CHAPTER 216

AN ACT concerning admission procedures at licensed health care facilities 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-12b Religious accommodation regarding admission procedures at licensed health care facilities.

1. No patient or family member of a patient shall be required to sign admission papers to a health care facility, as defined in section 2 of the "Health Care Facilities Planning Act," P.L.1971, c.136 (C.26:2H-2), during such times as the patient's or family member's religious beliefs prohibit them from signing the papers.

2. This act shall take effect immediately.

Approved December 20, 2007.

CHAPTER 217

AN ACT concerning oversight of the hospital charity care subsidy program, amending R.S.54:50-9 and P.L.1992, c.160, 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-18.60a Short title.

1. This act shall be known and may be cited as the “Charity Care Fraud Prevention and Detection Act.”

C.26:2H-18.60b Findings, declarations relative to oversight of the hospital charity care subsidy program.

2. The Legislature finds and declares that it is manifestly in the best interest of this State and its taxpayers to enact into law certain recommendations made by the New Jersey State Commission of Investigation in its April 2007 report on the hospital charity care subsidy program and to implement additional measures which are designed to prevent real and potential waste, fraud, and abuse in this program and ensure that it serves its intended purpose of assisting hospitals to meet their statutory obligations and fulfill their mission as essential health care providers to the residents of this State.

C.26:2H-18.60c Required procedures by hospitals for charity care.

3. The Commissioner of Health and Senior Services shall require the use of procedures by hospitals to ensure their uniform collection from applicants for charity care pursuant to section 10 of P.L.1992, c.160 (C.26:2H-18.60) and the transmission to the Department of Health and Senior Services of such demographic and financial information as the commissioner requires pursuant to section 14 of P.L.1995, c.133 (C.26:2H-18.59c) and any other information that the commissioner determines necessary to ensure the efficient, cost-effective operation of the hospital charity care subsidy program and to prevent and detect fraudulent charity care claims.

C.26:2H-18.60d Inter-agency agreement with Medicaid Inspector General.

4. a. The Commissioner of Health and Senior Services and the Medicaid Inspector General shall establish an inter-agency agreement under which the staff and resources of the Office of the Medicaid Inspector General are utilized to:

(1) investigate charity care claims, which that office or the Department of Health and Senior Services reasonably suspects may be fraudulent, with the same authority as that granted to the Medicaid Inspector General to investigate complaints related to Medicaid integrity, fraud, and abuse pursuant to P.L.2007, c.58 (C.30:4D-53 et al.); and

(2) recover monies from third party payers that were paid as charity care subsidies based upon fraudulent charity care claims.

b. The commissioner and the Medicaid Inspector General shall take such actions as are necessary to ensure that any monies recovered pursuant to subsection a. of this section are deposited in the Health Care Subsidy Fund and used for the purposes of providing charity care subsidies pursuant to P.L.1992, c.160 (C.26:2H-18.51 et al.).

C.26:2H-18.60e Inter-agency agreement with State Treasurer.

5. The Commissioner of Health and Senior Services and the State Treasurer shall establish an inter-agency agreement under which the staff and resources of the Division of Taxation in the Department of the Treasury are utilized to conduct random checks of personal State income tax returns filed by persons determined eligible for charity care pursuant to section 10 of P.L.1992, c.160 (C.26:2H-18.60), in consultation with the commissioner, and with the Medicaid Inspector General pursuant to section 4 of P.L.2007, c.217 (C.26:2H-18.60d), for the purposes of determining the validity of charity care claims for health care services provided to those persons.

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 Medicaid Inspector General, or their respective duly authorized agents, pursuant to section 5 of P.L.2007, c.217 (C.26:2H-18.60e).

C.26:2H-18.60f Reporting system established.

7. The Commissioner of Health and Senior Services shall establish a mechanism, by means of a toll-free telephone hotline or electronic mail, through which persons may confidentially report suspected incidents of fraudulent charity care claims to the Department of Health and Senior Services.

C.26:2H-18.60g Recovery for fraudulent claim.

8. If a charity care claim is determined to be fraudulent, a hospital shall be entitled to recover from the patient the difference between the amount of the charity care claim and the amount that the patient would have otherwise been charged by the hospital to provide the health care services for which the charity care claim was filed.

9. Section 13 of P.L.1992, c.160 (C.26:2H-18.63) is amended to read as follows:

C.26:2H-18.63 Civil penalties for false statement, misrepresentation.

13. a. Any person or entity who makes a false statement or misrepresentation of a material fact in order to qualify any person or entity for any benefits to which he is not entitled under this act or P.L.1996, c.28 (C.26:2H-18.59e et al.), shall, in addition to any other penalty to which the person or entity may be subject under law, be liable to civil penalties of:

(1) payment of interest on the amount of the excess benefits or subsidy payments at the maximum legal rate in effect on the date the benefits were

provided to the person or payment was made to the person or entity, for the period from the date upon which benefits were provided or payment was made to the date upon which repayment is made to the department; and

(2) payment of an amount not to exceed three times the amount of the excess benefit or subsidy payment.

b. A hospital which, without intent to violate this act, obtains a subsidy payment in excess of the amount to which it is entitled, shall be liable to a civil penalty of payment of interest on the amount of the excess payment at the maximum legal rate in effect on the date the payment was made to the hospital, from the date upon which payment was made to the date upon which repayment is made to the department, except that a hospital shall not be liable to the civil penalty when an excess subsidy payment is obtained by the hospital as a result of an error made by the department, as determined by the commissioner.

c. All interest and civil penalties provided for in this section shall be recovered in an administrative proceeding held pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.).

d. In order to satisfy any recovery claim asserted against a hospital under this section, whether or not that claim has been the subject of final agency adjudication, the commissioner is authorized to withhold subsidy payments otherwise payable under this act to the hospital.

e. A person who is seeking health care services at a hospital as a patient for a non-emergency or elective procedure who does not furnish proof of health insurance coverage for the services or eligibility for charity care or reduced charge charity care in accordance with the provisions of section 10 of P.L.1992, c.160 (C.26:2H-18.60), or for any other program of benefits funded by the State, shall be required to provide sworn financial information sufficient to determine eligibility for any such program of benefits. Notwithstanding any other provision of law to the contrary, if the person does not provide the required financial information or the hospital determines that the person is ineligible for any of the aforementioned benefits, the hospital shall be entitled to conclude an arrangement with the person, or an individual acting on the person's behalf, to receive payment from or on behalf of that person as a condition of the provision of health care services to that person.

For the purposes of this subsection, "non-emergency or elective procedure" means a procedure to treat a condition that is not an "emergency" as defined in N.J.A.C.8:38-1.2.

f. Commencing one year after the effective date of P.L.2007, c.217 (C.26:2H-18.60a et al.) and notwithstanding the provisions of any other statute or regulation to the contrary, a hospital that receives a subsidy pay-

ment pursuant to P.L.1992, c.160 (C.26:2H-18.51 et al.), on the basis of a charity care claim that the hospital had reasonable cause to suspect was fraudulent as determined by the commissioner, shall, in addition to any other penalty to which the hospital may be subject under law, be subject to a reduction of \$2 in the distribution of charity care subsidy payments that it receives during the next succeeding fiscal year for each \$1 of subsidy payment received by the hospital on the basis of the fraudulent claim.

If the hospital complied with the regulations and procedures established by the department with respect to charity care documentation, the claims shall be deemed to be presumptively non-fraudulent unless the commissioner determines that the hospital knew or should have known that the information submitted was inaccurate.

g. In any year in which the Legislature and Governor reuses a base year for the calculation of charity care reimbursement, notwithstanding the provisions of section 3 of P.L.2004, c.113 (C. 26:2H-18.59i) to the contrary, a hospital subject to a penalty under subsection f. of this section for that base year shall not be subject to the penalty for the same fraudulent claims in the subsequent year when the base year is reused.

10. a. The Commissioner of Health and Senior Services, in consultation with the New Jersey Hospital Association, the Hospital Alliance of New Jersey, and the New Jersey Council of Teaching Hospitals, shall study the feasibility of establishing a centralized electronic registry of persons who have been determined eligible for charity care in accordance with the provisions of section 10 of P.L.1992, c.160 (C.26:2H-18.60) and issuing distinctive identification numbers to those persons exclusively for the purposes of the registry, in order to facilitate administration of the hospital charity care subsidy program and detect fraudulent charity care claims.

b. The commissioner shall report on the findings of the feasibility study conducted pursuant to subsection a. of this section 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 the 120th day after the effective date of this act.

11. a. The State Auditor shall conduct a review of the management and operations of the hospital charity care subsidy program, with particular attention to those aspects of the program analyzed by the New Jersey State Commission of Investigation in its April 2007 report and utilizing all of the means and authority at the disposal of the State Auditor or his legally authorized representatives pursuant to the provisions of chapter 24 of Title 52 of the Revised Statutes, in order to identify opportunities to enhance pre-

vention and detection of waste, fraud, and abuse in the program. The books, records, and accounts of any hospital and the Department of Health and Senior Services shall be open to inspection and audit by the State Auditor, or any legally authorized representative thereof, in so far as the State Auditor determines that they relate to the purposes of this section.

b. The State Auditor shall report to the Governor, and to the Legislature pursuant to section 2 of P.L.1991, c.164 (C.52:14-19.1), on his findings and recommendations no later than the 180th day after the effective date of this act.

12. This act shall take effect on the 30th day after enactment, but the Commissioner of Health and Senior Services may take such anticipatory administrative action in advance thereof as shall be necessary for the implementation of this act.

Approved December 20, 2007.

CHAPTER 218

AN ACT concerning testing of pregnant women and newborns for HIV, amending P.L.1995, c.174 and supplementing Title 26 of the Revised Statutes.

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

1. Section 1 of P.L.1995, c.174 (C.26:5C-15) is amended to read as follows:

C.26:5C-15 Definitions.

1. As used in this act:

"AIDS" means acquired immune deficiency syndrome as defined by the Centers for Disease Control and Prevention of the United States Public Health Service.

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

"Department" means the Department of Health and Senior Services.

"HIV" means the human immunodeficiency virus or any other related virus identified as a probable causative agent of AIDS.

2. Section 2 of P.L.1995, c.174 (C.26:5C-16) is amended to read as follows:

C.26:5C-16 Policy statement; information on HIV testing; guidelines for notification; confidentiality.

2. It is the policy of this State that: testing of all pregnant women for HIV shall be part of routine prenatal care; and, in the absence of a specific objection to the testing by the pregnant woman, all pregnant women shall be tested for HIV as early as possible in their pregnancy, and again during the third trimester of their pregnancy; testing of all pregnant women for HIV shall be voluntary and free of coercion; and a pregnant woman shall not be denied testing for HIV on the basis of her economic status.

a. (1) A physician or other health care practitioner who is the primary caregiver for a pregnant woman shall, in accordance with guidelines developed by the commissioner, provide the woman with information about HIV and AIDS, including an explanation of HIV infection and the meanings of positive and negative test results, and also inform the woman of the benefits of being tested for HIV as early as possible in the course of her pregnancy and a second time during the third trimester, the medical treatment available to treat HIV infection if diagnosed early, the reduced rate of transmission of HIV to a fetus if an HIV-infected pregnant woman receives treatment for HIV, and the interventions that are available to reduce the risk of transmission of HIV to the fetus and newborn. The information shall be provided orally or in writing, and the woman shall be offered an opportunity to ask questions.

The physician or other health care practitioner shall also advise the woman that HIV testing is recommended for all pregnant women both early in their pregnancy and during the third trimester, and that she will receive HIV tests as part of the routine panel of prenatal tests unless she specifically declines to be tested for HIV.

If a woman declines to be tested for HIV, the declination shall be documented in her medical record. A woman shall not be denied appropriate prenatal or other medical care because she declines to be tested for HIV.

(2) A pregnant woman, who presents herself for delivery and has not been tested for HIV during the course of her pregnancy, shall be given the information specified in paragraph (1) of this subsection as soon as may be medically appropriate and, unless she declines to be tested for HIV after receiving that information, shall be tested for HIV as soon as may be medically appropriate.

b. The commissioner shall establish guidelines regarding notification to a woman whose test result is positive, and to provide, to the maximum extent possible, for counseling about the significance of the test result.

c. Information about a woman which is obtained pursuant to this section shall be held confidential in accordance with the provisions of P.L.1989, c.303 (C.26:5C-5 et seq.).

3. Section 6 of P.L.1995, c.174 (C.26:5C-20) is amended to read as follows:

C.26:5C-20 Rules, regulations.

6. The commissioner, pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), shall adopt rules and regulations to effect this act. The regulations shall be consistent with the latest recommendations for HIV testing of pregnant women prepared by the United States Centers for Disease Control and Prevention.

C.26:2-111.2 HIV testing required for certain newborns.

4. a. The Commissioner of Health and Senior Services shall require each birthing facility in the State to administer to a newborn in its care a test for human immunodeficiency virus (HIV) if the HIV status of the mother of the newborn is unknown.

A newborn shall not be denied testing for HIV on the basis of the newborn's economic status.

b. The commissioner shall establish a comprehensive program for the follow-up testing of newborns who test positive for HIV pursuant to subsection a. of this section or whose mother is HIV-positive, which shall include, but not be limited to, procedures for the administration of HIV testing, counseling of the newborn's mother, tracking the newborn, disclosure of HIV test results to the mother, facility compliance reviews, and educational activities related to the HIV testing.

c. The provisions of this section shall not apply to a newborn whose parents object to the test as being in conflict with their religious tenets and practices. The parents shall provide the health care facility with a written statement of the objection, and the statement shall be included in the newborn's medical record.

d. As used in this section, "birthing facility" means an inpatient or ambulatory health care facility licensed by the Department of Health and Senior Services that provides birthing and newborn care services.

e. The Commissioner of Health and Senior Services shall adopt rules and regulations, pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), necessary to carry out the purposes of this section.

5. This act shall take effect on the 180th day after enactment but the commissioner may take such anticipatory administrative action in advance thereof as shall be necessary for the implementation of this act.

Approved December 26, 2007.

CHAPTER 219

AN ACT concerning Internet use by certain sex offenders, amending various sections of the statutory law and supplementing Title 2C of the New Jersey Statutes.

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

C.2C:43-6.6 Internet access conditions for certain sex offenders; fourth degree crime.

1. a. In the case of a person who has been convicted, adjudicated delinquent or found not guilty by reason of insanity for the commission of a sex offense as defined in subsection b. of section 2 of P.L.1994, c.133 (C.2C:7-2), and who is required to register as provided in subsections c. and d. of section 2 of P.L.1994, c.133 (C.2C:7-2), or who is serving a special sentence of community or parole supervision for life as provided in section 2 of P.L.1994, c.130 (C.2C:43-6.4), or who has been convicted, adjudicated delinquent or found not guilty by reason of insanity for a violation of N.J.S.2C:34-3, and where the trier of fact makes a finding that a computer or any other device with Internet capability was used to facilitate the commission of the crime the court shall, in addition to any other disposition, order the following Internet access conditions:

(1) Prohibit the person from accessing or using a computer or any other device with Internet capability without the prior written approval of the court except, if such person is on probation or parole, the person may use a computer or any other device with Internet capability in connection with that person's employment or search for employment with the prior approval of the person's probation or parole officer;

(2) Require the person to submit to periodic unannounced examinations of the person's computer or any other device with Internet capability by a probation officer, parole officer, law enforcement officer or assigned computer or information technology specialist, including the retrieval and copying of all data from the computer or device and any internal or external peripherals and removal of such information, equipment or device to conduct a more thorough inspection;

(3) Require the person to submit to the installation on the person's computer or device with Internet capability, at the person's expense, one or more hardware or software systems to monitor the Internet use; and

(4) Require the person to submit to any other appropriate restrictions concerning the person's use or access of a computer or any other device with Internet capability.

b. A person who fails to comply with the Internet access conditions set forth in this section shall be guilty of a crime of the fourth degree.

c. The appropriate agency heads shall promulgate guidelines which set forth standards to guide agency action in regard to the specific Internet access conditions which may be imposed on a person pursuant to the provisions of this act.

d. The Attorney General or the County Prosecutor may petition the court to impose restrictions pursuant to this section upon any person who is required to register as provided in section 2 of P.L.1994, c.133 (C.2C:7-2) for a sex offense set forth in paragraph (3) of subsection b. of section 2 of P.L.1994, c.133 (C.2C:7-2).

2. Section 2 of P.L.1994, c.133 (C.2C:7-2) is amended to read as follows:

C.2C:7-2 Registration of sex offenders; definition; requirements; penalties.

2. a. (1) A person who has been convicted, adjudicated delinquent or found not guilty by reason of insanity for commission of a sex offense as defined in subsection b. of this section shall register as provided in subsections c. and d. of this section.

(2) A person who in another jurisdiction is required to register as a sex offender and (a) is enrolled on a full-time or part-time basis in any public or private educational institution in this State, including any secondary school, trade or professional institution, institution of higher education or other post-secondary school, or (b) is employed or carries on a vocation in this State, on either a full-time or a part-time basis, with or without compensation, for more than 14 consecutive days or for an aggregate period exceed-

ing 30 days in a calendar year, shall register in this State as provided in subsections c. and d. of this section.

(3) A person who fails to register as required under this act shall be guilty of a crime of the third degree.

b. For the purposes of this act a sex offense shall include the following:

(1) Aggravated sexual assault, sexual assault, aggravated criminal sexual contact, kidnapping pursuant to paragraph (2) of subsection c. of N.J.S.2C:13-1 or an attempt to commit any of these crimes if the court found that the offender's conduct was characterized by a pattern of repetitive, compulsive behavior, regardless of the date of the commission of the offense or the date of conviction;

(2) A conviction, adjudication of delinquency, or acquittal by reason of insanity for aggravated sexual assault; sexual assault; aggravated criminal sexual contact; kidnapping pursuant to paragraph (2) of subsection c. of N.J.S.2C:13-1; endangering the welfare of a child by engaging in sexual conduct which would impair or debauch the morals of the child pursuant to subsection a. of N.J.S.2C:24-4; endangering the welfare of a child pursuant to paragraph (3) or (4) or subparagraph (a) of paragraph (5) of subsection b. of N.J.S.2C:24-4; luring or enticing pursuant to section 1 of P.L.1993, c.291 (C.2C:13-6); criminal sexual contact pursuant to N.J.S.2C:14-3b. if the victim is a minor; kidnapping pursuant to N.J.S.2C:13-1, criminal restraint pursuant to N.J.S.2C:13-2, or false imprisonment pursuant to N.J.S.2C:13-3 if the victim is a minor and the offender is not the parent of the victim; knowingly promoting prostitution of a child pursuant to paragraph (3) or paragraph (4) of subsection b. of N.J.S.2C:34-1; or an attempt to commit any of these enumerated offenses if the conviction, adjudication of delinquency or acquittal by reason of insanity is entered on or after the effective date of this act or the offender is serving a sentence of incarceration, probation, parole or other form of community supervision as a result of the offense or is confined following acquittal by reason of insanity or as a result of civil commitment on the effective date of this act;

(3) A conviction, adjudication of delinquency or acquittal by reason of insanity for an offense similar to any offense enumerated in paragraph (2) or a sentence on the basis of criteria similar to the criteria set forth in paragraph (1) of this subsection entered or imposed under the laws of the United States, this State or another state.

c. A person required to register under the provisions of this act shall do so on forms to be provided by the designated registering agency as follows:

(1) A person who is required to register and who is under supervision in the community on probation, parole, furlough, work release, or a similar pro-

gram, shall register at the time the person is placed under supervision or no later than 120 days after the effective date of this act, whichever is later, in accordance with procedures established by the Department of Corrections, the Department of Human Services, the Juvenile Justice Commission established pursuant to section 2 of P.L.1995, c.284 (C.52:17B-170) or the Administrative Office of the Courts, whichever is responsible for supervision;

(2) A person confined in a correctional or juvenile facility or involuntarily committed who is required to register shall register prior to release in accordance with procedures established by the Department of Corrections, the Department of Human Services or the Juvenile Justice Commission and, within 48 hours of release, shall also register with the chief law enforcement officer of the municipality in which the person resides or, if the municipality does not have a local police force, the Superintendent of State Police;

(3) A person moving to or returning to this State from another jurisdiction shall register with the chief law enforcement officer of the municipality in which the person will reside or, if the municipality does not have a local police force, the Superintendent of State Police within 120 days of the effective date of this act or 10 days of first residing in or returning to a municipality in this State, whichever is later;

(4) A person required to register on the basis of a conviction prior to the effective date who is not confined or under supervision on the effective date of this act shall register within 120 days of the effective date of this act with the chief law enforcement officer of the municipality in which the person will reside or, if the municipality does not have a local police force, the Superintendent of State Police;

(5) A person who in another jurisdiction is required to register as a sex offender and who is enrolled on a full-time or part-time basis in any public or private educational institution in this State, including any secondary school, trade or professional institution, institution of higher education or other post-secondary school shall, within ten days of commencing attendance at such educational institution, register with the chief law enforcement officer of the municipality in which the educational institution is located or, if the municipality does not have a local police force, the Superintendent of State Police;

(6) A person who in another jurisdiction is required to register as a sex offender and who is employed or carries on a vocation in this State, on either a full-time or a part-time basis, with or without compensation, for more than 14 consecutive days or for an aggregate period exceeding 30 days in a calendar year, shall, within ten days after commencing such employment or vocation, register with the chief law enforcement officer of the municipality

in which the employer is located or where the vocation is carried on, as the case may be, or, if the municipality does not have a local police force, the Superintendent of State Police;

(7) In addition to any other registration requirements set forth in this section, a person required to register under this act who is enrolled at, employed by or carries on a vocation at an institution of higher education or other post-secondary school in this State shall, within ten days after commencing such attendance, employment or vocation, register with the law enforcement unit of the educational institution, if the institution has such a unit.

d. (1) Upon a change of address, a person shall notify the law enforcement agency with which the person is registered and shall re-register with the appropriate law enforcement agency no less than 10 days before he intends to first reside at his new address. Upon a change of employment or school enrollment status, a person shall notify the appropriate law enforcement agency no later than five days after any such change. A person who fails to notify the appropriate law enforcement agency of a change of address or status in accordance with this subsection is guilty of a crime of the fourth degree.

(2) A person required to register under this act shall provide the appropriate law enforcement agency with information as to whether the person has routine access to or use of a computer or any other device with Internet capability. A person who fails to notify the appropriate law enforcement agency of such information or of a change in the person's access to or use of a computer or other device with Internet capability or who provides false information concerning the person's access to or use of a computer or any other device with Internet capability is guilty of a crime of the fourth degree.

e. A person required to register under paragraph (1) of subsection b. of this section or under paragraph (3) of subsection b. due to a sentence imposed on the basis of criteria similar to the criteria set forth in paragraph (1) of subsection b. shall verify his address with the appropriate law enforcement agency every 90 days in a manner prescribed by the Attorney General. A person required to register under paragraph (2) of subsection b. of this section or under paragraph (3) of subsection b. on the basis of a conviction for an offense similar to an offense enumerated in paragraph (2) of subsection b. shall verify his address annually in a manner prescribed by the Attorney General. One year after the effective date of this act, the Attorney General shall review, evaluate and, if warranted, modify pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.) the verification requirement. Any person who knowingly provides false information concerning his place of residence or who fails to verify his address with the appropriate law enforcement agency or other entity, as prescribed

by the Attorney General in accordance with this subsection, is guilty of a crime of the fourth degree.

f. Except as provided in subsection g. of this section, a person required to register under this act may make application to the Superior Court of this State to terminate the obligation upon proof that the person has not committed an offense within 15 years following conviction or release from a correctional facility for any term of imprisonment imposed, whichever is later, and is not likely to pose a threat to the safety of others.

g. A person required to register under this section who has been convicted of, adjudicated delinquent, or acquitted by reason of insanity for more than one sex offense as defined in subsection b. of this section or who has been convicted of, adjudicated delinquent, or acquitted by reason of insanity for aggravated sexual assault pursuant to subsection a. of N.J.S.2C:14-2 or sexual assault pursuant to paragraph (1) of subsection c. of N.J.S.2C:14-2 is not eligible under subsection f. of this section to make application to the Superior Court of this State to terminate the registration obligation.

3. Section 2 of P.L.1994, c.130 (C.2C:43-6.4) is amended to read as follows:

C.2C:43-6.4 Special sentence of parole supervision for life.

2. a. Notwithstanding any provision of law to the contrary, a judge imposing sentence on a person who has been convicted of aggravated sexual assault, sexual assault, aggravated criminal sexual contact, kidnapping pursuant to paragraph (2) of subsection c. of N.J.S.2C:13-1, endangering the welfare of a child by engaging in sexual conduct which would impair or debauch the morals of the child pursuant to subsection a. of N.J.S.2C:24-4, endangering the welfare of a child pursuant to paragraph (3) of subsection b. of N.J.S.2C:24-4, luring or an attempt to commit any of these offenses shall include, in addition to any sentence authorized by this Code, a special sentence of parole supervision for life.

b. The special sentence of parole supervision for life required by this section shall commence immediately upon the defendant's release from incarceration. If the defendant is serving a sentence of incarceration for another offense at the time he completes the custodial portion of the sentence imposed on the present offense, the special sentence of parole supervision for life shall not commence until the defendant is actually released from incarceration for the other offense. Persons serving a special sentence of parole supervision for life shall remain in the legal custody of the Commis-

sioner of Corrections, shall be supervised by the Division of Parole of the State Parole Board, shall be subject to the provisions and conditions set forth in subsection c. of section 3 of P.L.1997, c.117 (C.30:4-123.51b) and sections 15 through 19 and 21 of P.L.1979, c.441 (C.30:4-123.59 through 30:4-123.63 and 30:4-123.65), and shall be subject to conditions appropriate to protect the public and foster rehabilitation. Such conditions may include the requirement that the person comply with the conditions set forth in subsection f. of this section concerning use of a computer or other device with access to the Internet. If the defendant violates a condition of a special sentence of parole supervision for life, the defendant shall be subject to the provisions of sections 16 through 19 and 21 of P.L.1979, c.441 (C.30:4-123.60 through 30:4-123.63 and 30:4-123.65), and for the purpose of calculating the limitation on time served pursuant to section 21 of P.L.1979, c.441 (C.30:4-123.65) the custodial term imposed upon the defendant related to the special sentence of parole supervision for life shall be deemed to be a term of life imprisonment. When the court suspends the imposition of sentence on a defendant who has been convicted of any offense enumerated in subsection a. of this section, the court may not suspend imposition of the special sentence of parole supervision for life, which shall commence immediately, with the Division of Parole of the State Parole Board maintaining supervision over that defendant, including the defendant's compliance with any conditions imposed by the court pursuant to N.J.S.2C:45-1, in accordance with the provisions of this subsection. Nothing contained in this subsection shall prevent the court from at any time proceeding under the provisions of N.J.S.2C:45-1 through 2C:45-4 against any such defendant for a violation of any conditions imposed by the court when it suspended imposition of sentence, or prevent the Division of Parole from proceeding under the provisions of sections 16 through 19 and 21 of P.L.1979, c.441 (C.30:4-123.60 through 30:4-123.63 and C.30:4-123.65) against any such defendant for a violation of any conditions of the special sentence of parole supervision for life, including the conditions imposed by the court pursuant to N.J.S.2C:45-1.

In any such proceeding by the Division of Parole, the provisions of subsection c. of section 3 of P.L.1997, c.117 (C.30:4-123.51b) authorizing revocation and return to prison shall be applicable to such a defendant, notwithstanding that the defendant may not have been sentenced to or served any portion of a custodial term for conviction of an offense enumerated in subsection a. of this section.

c. A person sentenced to a term of parole supervision for life may petition the Superior Court for release from that parole supervision. The judge may

grant a petition for release from a special sentence of parole supervision for life only upon proof by clear and convincing evidence that the person has not committed a crime for 15 years since the last conviction or release from incarceration, whichever is later, and that the person is not likely to pose a threat to the safety of others if released from parole supervision. Notwithstanding the provisions of section 22 of P.L.1979, c.441 (C.30:4-123.66), a person sentenced to a term of parole supervision for life may be released from that parole supervision term only by court order as provided in this subsection.

d. A person who violates a condition of a special sentence imposed pursuant to this section without good cause is guilty of a crime of the fourth degree. Notwithstanding any other law to the contrary, a person sentenced pursuant to this subsection shall be sentenced to a term of imprisonment, unless the court is clearly convinced that the interests of justice so far outweigh the need to deter this conduct and the interest in public safety that a sentence to imprisonment would be a manifest injustice. Nothing in this subsection shall preclude subjecting a person who violates any condition of a special sentence of parole supervision for life to the provisions of sections 16 through 19 and 21 of P.L.1979, c.441 (C.30:4-123.60 through 30:4-123.63 and C.30:4-123.65) pursuant to the provisions of subsection c. of section 3 of P.L.1997, c.117 (C.30:4-123.51b).

e. A person who, while serving a special sentence of parole supervision for life imposed pursuant to this section, commits a violation of N.J.S.2C:11-3, N.J.S.2C:11-4, N.J.S.2C:11-5, subsection b. of N.J.S.2C:12-1, N.J.S.2C:13-1, section 1 of P.L.1993, c.291 (C.2C:13-6), N.J.S.2C:14-2, N.J.S.2C:14-3, N.J.S.2C:24-4, N.J.S.2C:18-2 when the offense is a crime of the second degree, or subsection a. of N.J.S.2C:39-4 shall be sentenced to an extended term of imprisonment as set forth in N.J.S.2C:43-7, which term shall, notwithstanding the provisions of N.J.S.2C:43-7 or any other law, be served in its entirety prior to the person's resumption of the term of parole supervision for life.

f. The special sentence of parole supervision for life required by this section may include any of the following Internet access conditions:

(1) Prohibit the person from accessing or using a computer or any other device with Internet capability without the prior written approval of the court except the person may use a computer or any other device with Internet capability in connection with that person's employment or search for employment with the prior approval of the person's parole officer;

(2) Require the person to submit to periodic unannounced examinations of the person's computer or any other device with Internet capability by a parole officer, law enforcement officer or assigned computer or information technology specialist, including the retrieval and copying of all

data from the computer or device and any internal or external peripherals and removal of such information, equipment or device to conduct a more thorough inspection;

(3) Require the person to submit to the installation on the person's computer or device with Internet capability, at the person's expense, one or more hardware or software systems to monitor the Internet use; and

(4) Require the person to submit to any other appropriate restrictions concerning the person's use or access of a computer or any other device with Internet capability.

4. N.J.S.2C:45-1 is amended to read as follows:

Conditions of suspension or probation.

2C:45-1. Conditions of Suspension or Probation.

a. When the court suspends the imposition of sentence on a person who has been convicted of an offense or sentences him to be placed on probation, it shall attach such reasonable conditions, authorized by this section, as it deems necessary to insure that he will lead a law-abiding life or is likely to assist him to do so. These conditions may be set forth in a set of standardized conditions promulgated by the county probation department and approved by the court.

b. The court, as a condition of its order, may require the defendant:

- (1) To support his dependents and meet his family responsibilities;
- (2) To find and continue in gainful employment;
- (3) To undergo available medical or psychiatric treatment and to enter and remain in a specified institution, when required for that purpose;
- (4) To pursue a prescribed secular course of study or vocational training;
- (5) To attend or reside in a facility established for the instruction, recreation or residence of persons on probation;
- (6) To refrain from frequenting unlawful or disreputable places or consorting with disreputable persons;
- (7) Not to have in his possession any firearm or other dangerous weapon unless granted written permission;
- (8) (Deleted by amendment, P.L.1991, c.329);
- (9) To remain within the jurisdiction of the court and to notify the court or the probation officer of any change in his address or his employment;
- (10) To report as directed to the court or the probation officer, to permit the officer to visit his home, and to answer all reasonable inquiries by the probation officer;
- (11) To pay a fine;

(12) To satisfy any other conditions reasonably related to the rehabilitation of the defendant and not unduly restrictive of his liberty or incompatible with his freedom of conscience;

(13) To require the performance of community-related service; and

(14) To be subject to Internet access conditions pursuant to paragraph (2) of subsection d. of this section.

In addition to any condition of probation, the court may enter an order prohibiting a defendant who is convicted of a sex offense from having any contact with the victim including, but not limited to, entering the victim's residence, place of employment or business, or school, and from harassing or stalking the victim or victim's relatives in any way, and may order other protective relief as provided in section 2 of P.L.2007, c.133 (C.2C:14-12).

c. The court, as a condition of its order, shall require the defendant to pay any assessments required by section 2 of P.L.1979, c.396 (C.2C:43-3.1) and shall, consistent with the applicable provisions of N.J.S.2C:43-3, N.J.S.2C:43-4 and N.J.S.2C:44-2 or section 1 of P.L.1983, c.411 (C.2C:43-2.1) require the defendant to make restitution.

d. (1) In addition to any condition imposed pursuant to subsection b. or c., the court shall order a person placed on probation to pay a fee, not exceeding \$25.00 per month for the probationary term, to probation services for use by the State, except as provided in subsection g. of this section. This fee may be waived in cases of indigency upon application by the chief probation officer to the sentencing court.

(2) In addition to any conditions imposed pursuant to subsection b. or c., the court may order a person who has been convicted or adjudicated delinquent of a sex offense as defined in subsection b. of section 2 of P.L.1994, c.133 (C.2C:7-2), and who is required to register as provided in subsections c. and d. of section 2 of P.L.1994, c.133 (C.2C:7-2), or who has been convicted or adjudicated delinquent for a violation of N.J.S.2C:34-3 to be subject to any of the following Internet access conditions:

(a) Prohibit the person from accessing or using a computer or any other device with Internet capability without the prior written approval of the court, except the person may use a computer or any other device with Internet capability in connection with that person's employment or search for employment with the prior approval of the person's probation officer;

(b) Require the person to submit to periodic unannounced examinations of the person's computer or any other device with Internet capability by a probation officer, law enforcement officer or assigned computer or information technology specialist, including the retrieval and copying of all data from the computer or device and any internal or external peripherals

and removal of such information, equipment or device to conduct a more thorough inspection;

(c) Require the person to submit to the installation on the person's computer or device with Internet capability, at the person's expense, one or more hardware or software systems to monitor the Internet use; and

(d) Require the person to submit to any other appropriate restrictions concerning the person's use or access of a computer or any other device with Internet capability.

e. When the court sentences a person who has been convicted of a crime to be placed on probation, it may require him to serve a term of imprisonment not exceeding 364 days as an additional condition of its order. When the court sentences a person convicted of a disorderly persons offense to be placed on probation, it may require him to serve a term of imprisonment not exceeding 90 days as an additional condition of its order. In imposing a term of imprisonment pursuant to this subsection, the sentencing court shall specifically place on the record the reasons which justify the sentence imposed. The term of imprisonment imposed hereunder shall be treated as part of the sentence, and in the event of a sentence of imprisonment upon the revocation of probation, the term of imprisonment served hereunder shall be credited toward service of such subsequent sentence. A term of imprisonment imposed under this section shall be governed by the "Parole Act of 1979," P.L.1979, c.441 (C.30:4-123.45 et al.).

Whenever a person is serving a term of parole as a result of a sentence of incarceration imposed as a condition of probation, supervision over that person shall be maintained pursuant to the provisions of the law governing parole. Upon termination of the period of parole supervision provided by law, the county probation department shall assume responsibility for supervision of the person under sentence of probation. Nothing contained in this section shall prevent the sentencing court from at any time proceeding under the provisions of this chapter against any person for a violation of probation.

f. The defendant shall be given a copy of the terms of his probation or suspension of sentence and any requirements imposed pursuant to this section, stated with sufficient specificity to enable him to guide himself accordingly. The defendant shall acknowledge, in writing, his receipt of these documents and his consent to their terms.

g. Of the moneys collected under the provisions of subsection d. of this section, \$15.00 of each monthly fee collected before January 1, 1995 shall be deposited in the temporary reserve fund created by section 25 of P.L.1993, c.275, and \$10.00 of each shall be deposited into a "Community Service Supervision Fund" which shall be established by each county. The

moneys in the "Community Service Supervision Fund" shall be expended only in accordance with the provisions of State law as shall be enacted to provide for expenditures from this fund for the purpose of supervising and monitoring probationers performing community service to ensure, by whatever means necessary and appropriate, that probationers are performing the community service ordered by the court and that the performance is in the manner and under the terms ordered by the court.

5. Section 15 of P.L.1979, c.441 (C.30:4-123.59) is amended to read as follows:

C.30:4-123.59 Legal custody and supervision; conditions.

15. a. Each adult parolee shall at all times remain in the legal custody of the Commissioner of Corrections and under the supervision of the State Parole Board and each juvenile parolee shall at all times remain in the legal custody of the Juvenile Justice Commission established pursuant to section 2 of P.L.1995, c.284 (C.52:17B-170), except that the Commissioner of Corrections or the Executive Director of the Juvenile Justice Commission, after providing notice to the Attorney General, may consent to the supervision of a parolee by the federal government pursuant to the Witness Security Reform Act, Pub.L.98-473 (18 U.S.C. s.3521 et seq.). An adult parolee, except those under the Witness Security Reform Act, shall remain under the supervision of the State Parole Board and in the legal custody of the Department of Corrections, and a juvenile parolee, except those under the Witness Security Reform Act, shall remain under the supervision of the Juvenile Justice Commission, as appropriate, in accordance with the policies and rules of the board.

b. (1) Each parolee shall agree, as evidenced by his signature to abide by specific conditions of parole established by the appropriate board panel which shall be enumerated in writing in a certificate of parole and shall be given to the parolee upon release. Such conditions shall include, among other things, a requirement that the parolee conduct himself in society in compliance with all laws and refrain from committing any crime, a requirement that the parolee will not own or possess any firearm as defined in subsection f. of N.J.S.2C:39-1 or any other weapon enumerated in subsection r. of N.J.S.2C:39-1, a requirement that the parolee refrain from the use, possession or distribution of a controlled dangerous substance, controlled substance analog or imitation controlled dangerous substance as defined in N.J.S.2C:35-2 and N.J.S.2C:35-11, a requirement that the parolee obtain permission from his parole officer for any change in his residence, and a re-

quirement that the parolee report at reasonable intervals to an assigned parole officer. In addition, based on prior history of the parolee or information provided by a victim or a member of the family of a murder victim, the member or board panel certifying parole release pursuant to section 11 of P.L.1979, c.441 (C.30:4-123.55) may impose any other specific conditions of parole deemed reasonable in order to reduce the likelihood of recurrence of criminal or delinquent behavior, including a requirement that the parolee comply with the Internet access conditions set forth in paragraph (2) of this subsection. Such special conditions may include, among other things, a requirement that the parolee make full or partial restitution, the amount of which restitution shall be set by the sentencing court upon request of the board. In addition, the member or board panel certifying parole release may, giving due regard to a victim's request, impose a special condition that the parolee have no contact with the victim, which special condition may include, but need not be limited to, restraining the parolee from entering the victim's residence, place of employment, business or school, and from harassing or stalking the victim or victim's relatives in any way. Further, the member, board panel or board certifying parole release may impose a special condition that the person shall not own or possess an animal for an unlawful purpose or to interfere in the performance of duties by a parole officer.

(2) In addition, the member or board panel certifying parole release may impose on any person who has been convicted or adjudicated delinquent for the commission of a sex offense as defined in subsection b. of section 2 of P.L.1994, c.133 (C.2C:7-2), and who is required to register as provided in subsections c. and d. of section 2 of P.L.1994, c.133 (C.2C:7-2), or who has been convicted or adjudicated delinquent for a violation of N.J.S.2C:34-3 any of the following Internet access conditions:

(a) Prohibit the person from accessing or using a computer or any other device with Internet capability without the prior written approval of the court, except the person may use a computer or any other device with Internet capability in connection with that person's employment or search for employment with the prior approval of the person's parole officer;

(b) Require the person to submit to periodic unannounced examinations of the person's computer or any other device with Internet capability by a parole officer, law enforcement officer or assigned computer or information technology specialist, including the retrieval and copying of all data from the computer or device and any internal or external peripherals and removal of such information, equipment or device to conduct a more thorough inspection;

(c) Require the person to submit to the installation on the person's computer or device with Internet capability, at the person's expense, one or more hardware or software systems to monitor the Internet use; and

(d) Require the person to submit to any other appropriate restrictions concerning the person's use or access of a computer or any other device with Internet capability.

c. The appropriate board panel may in writing relieve a parolee of any parole conditions, and may permit a parolee to reside outside the State pursuant to the provisions of the Uniform Act for Out-of-State Parolee Supervision (N.J.S.2A:168-14 et seq.), the Interstate Compact on Juveniles, P.L.1955, c.55 (C.9:23-1 to 9:23-4), and, with the consent of the Commissioner of the Department of Corrections or the Executive Director of the Juvenile Justice Commission after providing notice to the Attorney General, the federal Witness Security Reform Act, if satisfied that such change will not result in a substantial likelihood that the parolee will commit an offense which would be a crime under the laws of this State. The appropriate board panel may revoke such permission, except in the case of a parolee under the Witness Security Reform Act, or reinstate relieved parole conditions for any period of time during which a parolee is under its jurisdiction.

d. The appropriate board panel may parole an inmate to any residential facility funded in whole or in part by the State if the inmate would not otherwise be released pursuant to section 9 of P.L.1979, c.441 (C.30:4-123.53) without such placement. But if the residential facility provides treatment for mental illness or mental retardation, the board panel only may parole the inmate to the facility pursuant to the laws and admissions policies that otherwise govern the admission of persons to that facility, and the facility shall have the authority to discharge the inmate according to the laws and policies that otherwise govern the discharge of persons from the facility, on 10 days' prior notice to the board panel. The board panel shall acknowledge receipt of this notice in writing prior to the discharge. Upon receipt of the notice the board panel shall resume jurisdiction over the inmate.

e. Parole officers shall provide assistance to the parolee in obtaining employment, education or vocational training or in meeting other obligations to assure the parolee's compliance with meeting legal requirements related to sex offender notification, address changes and participation in rehabilitation programs as directed by the assigned parole officer.

f. The board panel on juvenile commitments and the assigned parole officer shall insure that the least restrictive available alternative is used for any juvenile parolee.

g. If the board has granted parole to any inmate from a State correctional facility or juvenile facility and the court has imposed a fine on such inmate, the appropriate board panel shall release such inmate on condition that the parolee make specified fine payments to the State Parole Board or the Juvenile Justice Commission. For violation of such conditions, or for violation of a special condition requiring restitution, parole may be revoked only for refusal or failure to make a good faith effort to make such payment.

h. Upon collection of the fine the same shall be paid over by the Department of Corrections or by the Juvenile Justice Commission to the State Treasury.

C.52:17B-77.11 Training programs.

6. The appropriate agency head shall approve appropriate training programs for law enforcement officers, parole officers and any other persons charged with the enforcement of P.L.2007, c.219 (C.2C:43-6.6 et al.). Appropriate programs shall include, at a minimum, instruction in conducting investigations in which computers, telecommunications devices and other high technology instruments are utilized in the commission of sex offenses. The programs also may include instruction in techniques of forensic recovery, evidence preservation and analysis of data in computer systems seized because of criminal or unlawful activity.

C.2C:43-6.7 Effective date; applicability.

7. This act shall take effect on the 60th day following enactment and shall apply to any person who commits an offense subject to sentencing under section 1 of this act after the effective date of this act and to any person who is under probation or parole supervision, including community or parole supervision for life, on the effective date of this act.

Approved December 27, 2007.

CHAPTER 220

AN ACT concerning group life insurance in certain volunteer fire departments and amending N.J.S.40A:14-37 and N.J.S.40A:10-29.

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

1. N.J.S.40A:14-37 is amended to read as follows:

Volunteer firefighters' life insurance.

40A:14-37. a. In any fire district maintaining a volunteer fire department, or wherein there shall exist one or more incorporated volunteer fire companies affording fire protection to the fire district, the membership whereof are serving under the jurisdiction of and with the consent of the fire district and have formed, or may hereafter form themselves into a group or groups, for the purpose of obtaining the advantages of the group plan of life insurance, in any of the plans now in vogue, or any plan which may hereafter be inaugurated, it shall be lawful for the board of commissioners of such fire district, by resolution, to appropriate moneys for the purpose of defraying the cost of such insurance and to pay the premiums therefor.

No board of commissioners of any fire district shall pay any premiums on account of any policy of group life insurance as provided herein where the amount payable upon the death of each assured under the terms of the policy exceeds the sum of \$25,000.

b. The board of commissioners of a fire district may, by resolution, contract for and appropriate money to defray the cost of any individual life insurance policy which provides cash value, non-forfeiture benefits and loan provisions for volunteer firefighters in its jurisdiction. Any such policy may provide for additional benefits by means of a rider.

The amount payable upon the death of each insured on any individual life insurance policy contracted for pursuant to the provisions of this section shall not exceed the sum of \$16,500.

The Director of the Division of Local Government Services in the Department of Community Affairs, after consultation with the Commissioner of Banking and Insurance, shall promulgate rules and regulations in accordance with the provisions of the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), to regulate the provision of insurance under this subsection.

2. N.J.S.40A:10-29 is amended to read as follows:

Group life insurance plans.

40A:10-29. In addition to the insurance required under chapter 15 of Title 34 of the Revised Statutes, a municipality maintaining a volunteer fire department, or in which there are one or more incorporated volunteer fire companies whose members have or shall form themselves into a group or groups for the purpose of obtaining a group life insurance plan with any in-

surance company authorized to do business in New Jersey, may appropriate moneys to defray the cost of such insurance and pay the premiums therefor.

A municipality shall not undertake the cost nor pay the premiums on any policy of group life insurance where the amount payable upon the death of each assured exceeds the amount of \$25,000.

3. This act shall take effect immediately.

Approved January 3, 2008.

CHAPTER 221

AN ACT concerning the sale of motor fuels and amending P.L.1938, c.163.

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

1. Section 301 of P.L.1938, c.163 (C.56:6-3) is amended to read as follows:

C.56:6-3 Violations and penalties.

301. Every retail dealer who shall fail to post and publicly display, in the manner herein required, a sign stating the price per gallon, or per gallon and per liter, of all motor fuel sold by said retail dealer, or who shall sell motor fuel at a price other than the per gallon or per liter price, as provided in article II hereof, or who shall violate any other provisions of article II of this act, shall, upon conviction, be subject to a penalty of not more than \$1,500 for the first offense and not more than \$3,000 for the second and any subsequent offense, and his license shall be suspended for a period of not less than five (5) days nor more than thirty (30) days, and in default of the payment of such penalty shall be imprisoned for a period not to exceed 30 days. If there shall be a conviction upon a second or subsequent offense, the license of the convicted retail dealer, issued under the provisions and procedure in chapter thirty-nine of Title 54 of the Revised Statutes, shall be revoked by the Director of the Division of Taxation.

2. This act shall take effect immediately and shall apply to violations committed on or after the effective date of the act.

Approved January 3, 2008.

CHAPTER 222

AN ACT concerning county vocational school districts and county special services school districts and supplementing chapters 46 and 54 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:46-47 Establishment of one board of education for county special services, vocational school district.

1. a. Notwithstanding any provisions of law to the contrary, a board of chosen freeholders may, by resolution, establish one board of education for the county special services school district established pursuant to section 1 of P.L.1971, c.271 (C.18A:46-29) and the county vocational school district established pursuant to chapter 54 of Title 18A of the New Jersey Statutes. This board of education shall be known as "The Board of Education of the Special Services School District and the Vocational School District of the county of...." This board shall have all the powers, functions and duties provided to a board of education of a county special services school district pursuant to article 8 of chapter 46 of Title 18A of the New Jersey Statutes and a board of education of a county vocational school district pursuant to article 3 of chapter 54 of Title 18A of the New Jersey Statutes.

b. The consolidated board of education established pursuant to subsection a. of this section shall consist of the county superintendent of schools, ex officio, and six persons to be appointed by the chief elected executive officer of the county, or the director of the board of chosen freeholders, with the advice and consent of the remaining members of the board of chosen freeholders, as appropriate to the appointment procedures established by the form of government of the county. In any county having a county mental health board, the chairman thereof, or his designee, shall also serve as an ex-officio, nonvoting member of the board. At least three of the appointed members shall have an interest in children with an educational disability or in the field of mental health and at least three of the appointed members shall have an interest in the field of vocational education. The appointed members shall serve for terms of three years and shall continue to serve until their successors are appointed and qualify. A vacancy in the board shall be deemed to exist, and shall be filled, in the manner prescribed in P.L.1979, c.302 (C.40A:9-12.1).

Each appointed member shall be a citizen and resident of the county and shall have been a citizen and resident for at least two years immediately

preceding becoming a member of the board. If an appointed member ceases to be a resident of the county, membership on the board shall cease.

c. Of the initial members appointed to the board of education established pursuant to subsection a. of this section, two shall serve a one-year term, two shall serve a two-year term, and two shall serve a three-year term. Thereafter when a term of one of the appointed members expires, the vacancy shall be filled as provided pursuant to this section and the member shall serve a three-year term from November 1 next succeeding the date of his appointment.

C.18A:46-48 Existing boards dissolved.

2. Whenever a board of education is established pursuant to subsection a. of section 1 of this act, the board of education of the county special services school district and the board of education of the county vocational school district shall be dissolved upon the first organization of the consolidated board.

C.18A:46-49 Annual organization.

3. Each board of education established pursuant to subsection a. of section 1 of this act shall organize annually on July 1 by the election of a president and vice-president, unless July 1 falls on Sunday, in which case the board shall organize on the following day.

If the organization meeting cannot take place on the day hereinabove provided for by reason of a lack of a quorum or for any other reason, the meeting shall be held within 3 days thereafter.

C.18A:46-50 Certain school districts remain independent.

4. Nothing in this act shall be deemed to authorize the consolidation of a county special services school district and a county vocational school district into one school district. If a consolidated board of education is established pursuant to subsection a. of section 1 of this act, the county special services school district and the county vocational school district shall continue to be funded, operated, and maintained as independent school districts.

C.18A:46-51 Employees transferred to consolidated school board.

5. All employees of a board of education dissolved pursuant to this act shall continue in their respective assignments in the county special services school district or the county vocational school district. A consolidated board of education established pursuant to this act shall recognize,

preserve, and maintain all rights to tenure, seniority, pension, leaves of absence, and all other terms and conditions of employment, whether created by statute, regulation, contract, or past practice. Any periods of employment with a board of education dissolved pursuant to this act shall count toward the acquisition of tenure and any other rights, benefits, or emoluments to the same extent as if all employment had been with the consolidated board of education established pursuant to this act.

C.18A:46-52 Maintenance of collective bargaining unit, representatives.

6. All collective bargaining units and their respective majority representatives in existence in the county special services school district and the county vocational school district prior to the consolidation of the boards of education shall be maintained without change under a consolidated board of education established pursuant to this act, unless they are otherwise altered through an appropriate petition to the Public Employment Relations Commission for a change in representation or bargaining units.

C.18A:46-53 Reference to consolidated board.

7. If a board of chosen freeholders establishes a board of education pursuant to subsection a. of section 1 of this act, whenever in any law, rule, regulation, contract, document, judicial or administrative proceeding or otherwise, reference is made to the board of education of the county special services school district, the same shall mean and refer to the consolidated board.

C.18A:54-12.1 Establishment of one board of education.

8. Notwithstanding any provision of this chapter to the contrary, a board of chosen freeholders may, by resolution, establish one board of education for the county special services school district established pursuant to section 1 of P.L.1971, c.271 (C.18A:46-29) and the county vocational school district established pursuant to chapter 54 of Title 18A of the New Jersey Statutes, according to the provisions of sections 1 through 6 of P.L.2007, c.222 (C.18A:46-47 through C.18A:46-52).

C.18A:54-12.2 Reference to consolidated board.

9. If a board of chosen freeholders establishes a board of education pursuant to subsection a. of section 1 of P.L.2007, c.222 (C.18A:46-47), whenever in any law, rule, regulation, contract, document, judicial or administrative proceeding or otherwise, reference is made to the board of education of the county vocational school district, the same shall mean and refer to the consolidated board.

10. The State Board of Education shall promulgate rules pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), to effectuate the provisions of this act.

11. This act shall take effect immediately.

Approved January 3, 2008.

CHAPTER 223

AN ACT permitting the establishment of sick leave banks for school board employees and supplementing chapter 30 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:30-10 Establishment of sick leave bank for employees of board of education.

1. Notwithstanding any other provision of law to the contrary, a sick leave bank may be established for employees of a board of education if both the board and the majority representative or majority representatives of the employees who would be eligible to participate consent to the establishment of the sick leave bank. The purpose of the sick leave bank shall be to enable employees of the board who are entitled to sick leave under chapter 30 of Title 18A of the New Jersey Statutes to draw needed days of sick leave in addition to any days to which they are otherwise entitled. The sick leave days available to a board employee from the sick leave bank shall be leave days previously donated to the bank by board employees. Employees may donate sick leave days or any other leave time as agreed upon by the board and the majority representative. Sick leave drawn from the bank shall be treated for all purposes as if it were accrued sick leave time of the employee who receives it. No employee shall be required to participate in the bank.

C.18A:30-11 Administration of sick leave bank.

2. The sick leave bank shall be administered by a committee which shall be comprised of three members selected by the board of education and three members selected by the majority representative or majority representatives of those employees of the board who are eligible to participate in the sick leave bank. The committee may establish standards or procedures that

it deems appropriate for the operation of the sick leave bank, which may include a requirement that employees donate leave time to be eligible to draw leave time from the sick leave bank and limitations on the amount of sick leave time which may be drawn or the conditions under which the sick leave time may be drawn. No day of leave which is donated to a sick leave bank by an employee shall be drawn by that employee or any other employee from the sick leave bank unless authorized by the committee in order to provide sick leave.

C.18A:30-12 Certain policies unaffected.

3. No provision of this act, or regulation promulgated to implement or enforce this act, shall be deemed to justify a board of education in reducing or making less favorable to employees any sick leave, disability pay or other benefits provided by the board or required by a collective bargaining agreement which are more favorable to the employees than those required by this act, nor shall any provision of this act, or any regulation promulgated to implement or enforce this act, be construed to prohibit the negotiation and provision through collective bargaining agreements of sick leave, disability pay or other benefits which are more favorable to the employee than those required by this act, irrespective of the date that a collective bargaining agreement takes effect.

C.18A:30-13 Construction of act.

4. No provision of this act shall be construed as limiting the authority of a board of education to provide an employee with additional days of salary pursuant to N.J.S.18A:30-6 after all sick leave available to the employee, including days provided under this act, has been used.

5. This act shall take effect immediately.

Approved January 3, 2008.

CHAPTER 224

AN ACT prohibiting the sale of Yo-Yo Waterballs and supplementing Title 2A of the New Jersey Statutes.

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

C.2A:65B-1 Findings, declarations relative to sale of Yo-Yo Waterballs.

1. The Legislature hereby finds and declares that:
 - a. Yo-Yo Waterballs, also known as water yo-yos, are inexpensive, easily accessible toys that pose a strangulation hazard and threaten the health of children;
 - b. Yo-Yo Waterballs are banned in France, the United Kingdom, Luxembourg, Australia, Brazil, and Canada, and Germany and New Zealand have issued warnings concerning Yo-Yo Waterballs;
 - c. The New York State Consumer Protection Board has issued two warnings calling Yo-Yo Waterballs serious hazards to children, and the Massachusetts Office of Consumer Affairs and Business Regulation calls Yo-Yo Waterballs a great risk to children;
 - d. "Consumer Reports" magazine rated Yo-Yo Waterballs as "not acceptable" in its December, 2003 issue;
 - e. World Against Toys Causing Harm labeled Yo-Yo Waterballs as one of the "Ten Worst Toys of 2003";
 - f. On July 2, 2003, a petition from New York's Empire State Consumer Association reported that the fluid inside Yo-Yo Waterballs is toxic and flammable;
 - g. A report of the United States Public Interest Research Group dated November, 2004 lists Yo-Yo Waterballs as a strangulation hazard;
 - h. The United States Consumer Product Safety Commission has reported that Yo-Yo Waterballs pose a potential risk of strangulation;
 - i. In addition, the United States Consumer Product Safety Commission reported that, as of November 15, 2005, Yo-Yo Waterballs were responsible for 405 reported health incidents, 290 of which were coded as causing "suffocation or strangulation";
 - j. Of those 290 incidents, at least 52 resulted in serious breathing difficulties that rendered the child unconscious and lifeless after suffering from a lack of oxygen or broken blood vessels;
 - k. The United States Consumer Product Safety Commission reported that 24 children reported allergic reactions to the fluid used in Yo-Yo Waterballs, which has caused some to experience trouble breathing; and
 - l. In spite of evidence concerning the danger to children caused by Yo-Yo Waterballs, the United States Consumer Product Safety Commission has refused repeated attempts towards banning these dangerous toys.

C.2A:65B-2 Yo-Yo Waterballs prohibited.

2. a. A person shall not sell or offer for sale a Yo-Yo Waterball.
- b. For the purposes of this act, "Yo-Yo Waterball" means a toy mar-

keted and sold under the name of "Yo-Yo Waterball" and any similar fluid yo-yo toy that contains a rubber ball filled with liquid attached to a rubber cord.

c. A law enforcement officer may confiscate a Yo-Yo Waterball that is sold or offered for sale in violation of this section.

C.2A:65B-3 Violations, penalties.

3. a. A person violating the provisions of section 2 of this act shall be liable, in addition to the liability for any civil damages for any injury to a plaintiff resulting from the sale or offering for sale of a Yo-Yo Waterball, for a civil penalty of:

- (1) not more than \$10,000, for the first offense; and
- (2) not more than \$20,000, for the second and each subsequent offense.

b. The penalty prescribed by this section shall be collected and enforced by summary proceedings under the "Penalty Enforcement Law of 1999," P.L.1999, c.274 (C.2A:58-10 et seq.).

4. This act shall take effect on the first day of the third month after enactment.

Approved January 3, 2008.

CHAPTER 225

AN ACT concerning health care worker and patient safety 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-14.8 Short title.

1. This Act shall be known and may be cited as the "Safe Patient Handling Act."

C.26:2H-14.9 Findings, declarations relative to health care worker, patient safety.

2. The Legislature finds and declares that:

- a. In New Jersey, nurses, nurse aides, orderlies and attendants, combined, have the highest number of nonfatal occupational injuries and illnesses involving days away from work of other occupations;
- b. Chronic back pain and other job-related musculoskeletal disorders contribute significantly to the decision by nurses and other health care

workers to leave their professions, which exacerbates the shortage of health care providers in this State;

c. Studies show that manual patient handling and movement negatively affect patient safety, quality of care and patient comfort, dignity and satisfaction;

d. The American Hospital Association has stated that work-related musculoskeletal disorders account for the largest proportion of workers' compensation costs in hospitals and long-term care facilities;

e. Studies demonstrate that assistive patient handling technology reduces workers' compensation and medical treatment costs for musculoskeletal disorders among health care workers, and that employers can recoup their initial investment in equipment and training within three years;

f. Therefore, it is appropriate public policy to minimize unassisted patient handling as set forth in this act.

C.26:2H-14.10 Definitions relative to health care worker, patient safety.

3. As used in this act:

"Assisted patient handling" means patient handling using: mechanical patient handling equipment including, but not limited to, electric beds, portable base and ceiling track-mounted full body sling lifts, stand assist lifts, and mechanized lateral transfer aids; and patient handling aids including, but not limited to, gait belts with handles, sliding boards and surface friction-reducing devices.

"Covered health care facility" means a general or special hospital or nursing home licensed by the Department of Health and Senior Services pursuant to P.L.1971, c.136 (C.26:2H-1 et al.), a State developmental center and a State or county psychiatric hospital.

"Health care worker" means an individual who is employed by a covered health care facility whose job duties entail patient handling.

"Patient" means a patient or resident at a covered health care facility.

"Patient handling" means the lifting, transferring, repositioning, transporting or moving of a patient in a covered health care facility.

"Unassisted patient handling" means patient handling using a health care worker's body strength without the use of mechanical patient handling equipment or patient handling aids.

C.26:2H-14.11 Establishment of safe patient handling program; requirements.

4. Within 36 months of the effective date of this act, each covered health care facility shall establish a safe patient handling program to reduce the risk of injury to both patients and health care workers at the facility.

a. The facility shall:

(1) maintain a detailed written description of the program and its components;

(2) provide a copy of the written description of the program to the Department of Health and Senior Services or Department of Human Services, as applicable, and make the description available to health care workers at the facility and to any collective bargaining agent representing health care workers at the facility;

(3) establish a safe patient handling policy, as provided in subsection b. of this section;

(4) include in the safe patient handling policy a statement concerning the right of a patient to refuse the use of assisted patient handling, as provided in subsection e. of this section;

(5) post the safe patient handling policy in a location easily visible to staff, patients, and visitors; and

(6) designate a representative of management at the facility who shall be responsible for overseeing all aspects of the safe patient handling program.

b. A safe patient handling program shall include:

(1) a safe patient handling policy on all units and for all shifts that minimizes unassisted patient handling, taking into account the patient's physical and cognitive condition, and that is consistent with patient safety and well-being;

(2) an assessment of the safe patient handling assistive devices needed to carry out the facility's safe patient handling policy;

(3) recommendations for a three-year capital plan to purchase safe patient handling equipment and patient handling aids necessary to carry out the safe patient handling policy, which plan takes into account the financial constraints of the facility;

(4) protocols and procedures for assessing and updating the appropriate patient handling requirements of each patient of the facility;

(5) a plan for achieving prompt access to and availability of mechanical patient handling equipment and patient handling aids;

(6) a provision requiring that all such equipment and aids be stored and maintained in compliance with their manufacturers' recommendations;

(7) a training program for health care workers that:

(a) covers the identification, assessment, and control of patient handling risks; the safe, appropriate, and effective use of patient handling equipment and aids, and proven safe patient handling techniques;

(b) requires trainees to demonstrate proficiency in the techniques and practices presented;

- (c) is provided during paid work time; and
 - (d) is conducted upon commencement of the facility's safe patient handling program and at least annually thereafter, with appropriate interim training for individuals beginning work between annual training sessions; and
 - (8) educational materials for patients and their families to help orient them to the facility's safe patient handling program.
- c. A facility shall conduct an annual evaluation of the program, and make revisions to the program based on data analysis.
 - d. A facility shall conduct the initial training as required in this section within 36 months of the effective date of this act.
 - e. Nothing in this act shall be construed to limit the right of a patient to refuse the use of assisted patient handling.

C.26:2H-14.12 Safe patient handling committee.

- 5. a. Within 12 months of the effective date of this act:
 - (1) each covered health care facility shall establish a safe patient handling committee, which shall be responsible for all aspects of the development, implementation and periodic evaluation and revision of the facility's safe patient handling program, including the evaluation and selection of patient handling equipment and aids and other appropriate engineering controls;
 - (2) in the case of a health care system that owns or operates more than one covered health care facility or Department of Human Services facilities, the safe patient handling committee may be operated at the system or department level, provided that committee membership includes at least one health care worker from each facility, and a safe patient handling program is developed for each facility, taking into account the characteristics of the patients at the facility.
- b. At least 50% of the members of the committee shall be health care workers who are representative of the different disciplines of health care workers employed at the facility or facilities, in the case of a health care system. In a facility or health care system where health care workers are represented by one or more collective bargaining agents, the management of the facility or system shall consult with the collective bargaining agents regarding the selection of the health care worker committee members.

The remaining members of the committee shall have experience, expertise, or responsibility relevant to the operation of a safe patient handling program.
- c. The committee shall meet as needed, but no less than quarterly.

C.26:2H-14.13 Certain retaliatory actions against health care worker prohibited.

6. A covered health care facility shall not take any retaliatory action against any health care worker because that worker refuses to perform a patient handling task due to a reasonable concern about worker or patient safety, or the lack of appropriate and available patient handling equipment or aids. In the event the health care worker refuses to perform a patient handling task pursuant to this section, the worker shall promptly notify his supervisor of the refusal and the reason therefor.

As used in this section, "retaliatory action" shall have the same meaning as provided in section 2 of P.L.1986, c.105 (C.34:19-2).

C.26:2H-14.14 Violations, penalties.

7. A covered health care facility licensed pursuant to P.L.1971, c.136 (C.26:2H-1 et al.) that is in violation of the provisions of this act shall be subject to such penalties as the Department of Health and Senior Services may determine pursuant to sections 13 and 14 of P.L.1971, c.136 (C.26:2H-13 and 26:2H-14).

C.26:2H-14.15 Rules, regulations.

8. The Commissioner of Health and Senior Services shall adopt rules and regulations pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), within 12 months of the date of enactment of this act, to carry out the purposes of this act.

9. This act shall take effect immediately.

Approved January 3, 2008.

CHAPTER 226

AN ACT concerning the directors of State-chartered banks and amending P.L.1948, c.67.

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

1. Section 102 of P.L.1948, c.67 (C.17:9A-102) is amended to read as follows:

C.17:9A-102 Directors; classification; election; vacancies; tenure.**102. Directors; classification; election; vacancies; tenure.**

A. A bank may provide in its certificate of incorporation for the classification of its directors in respect to the time for which they shall severally hold office, but no class of directors shall hold office for a term shorter than one year or longer than five years, and the term of office of at least one class shall expire in each year. No classification of directors shall be effective prior to the first annual meeting of stockholders.

B. The directors named in the certificate of incorporation shall hold office until the first annual meeting of stockholders, and until their successors shall have been elected and qualified. At the first annual meeting of stockholders, and at each annual meeting thereafter, the stockholders shall elect directors to hold office until the next succeeding annual meeting of stockholders, except in the case of the classification of directors pursuant to subsection A. of this section.

C. Directors elected at each annual meeting of stockholders shall be elected by ballot of the stockholders. The persons nominated for election as a director at each annual meeting of stockholders who receive the greatest number of votes shall be elected as directors at that annual meeting.

D. When an increase in the number of directors is authorized, other than an increase authorized pursuant to subsection F. of this section, the newly created directorships shall be filled by the stockholders. The board of directors may, at its option, fill any other vacancy in the board. If, following a vacancy, less than 5 directors or less than a quorum remain, the directors in attendance at the next regular or special meeting of the board shall fill the vacancy.

E. A director elected at an annual meeting of the stockholders shall hold office for the term for which he is elected from the time when a majority of all directors elected at such meeting shall have qualified, and until his successor shall have been elected and qualified. A director otherwise elected or appointed, including a director appointed pursuant to subsection F. of this section, shall hold office from the time when he shall have qualified until the time when a majority of the directors elected at the next annual meeting shall have qualified.

F. If the original or amended certificate of incorporation of a bank so provides, the directors may, between annual meetings, increase the number of directors by not more than 2, and may, subject to the limitation imposed by subsection A. of section 101 of P.L.1948, c.67 (C.17:9A-101), appoint persons to fill the vacancies so created.

2. This act shall take effect immediately.

Approved January 3, 2008.

CHAPTER 227

AN ACT requiring a study of Megan's Law, and supplementing chapter 7 of Title 2C of the New Jersey Statutes.

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

C.2C:7-20 Findings, declarations relative to a study of "Megan's Law."

1. The Legislature finds and declares that New Jersey enacted the groundbreaking legislation known as Megan's Law in 1994 to warn citizens that a dangerous sex offender had moved into their neighborhood. At that time more than a decade ago, the law created the most comprehensive system of sex offender registration and community notification in the nation. Subsequently, the Legislature enacted the law establishing the sex offender Internet registry, utilizing modern technology to afford even greater access to information concerning dangerous sex offenders and make that information readily accessible to the public.

Recently, however, questions have been raised concerning the implementation of Megan's Law, and whether the law is not consistently applied in the 21 counties. Published reports indicate that there are great variations among the counties in the number of sex offenders whose registration information is published on the Internet. In addition, many municipalities have limited where sex offenders may reside, or banned residency by them altogether. It also has been observed that sex offenders seem to be relocating at a higher rate to certain areas of the State, suggesting that the law is being implemented differently in some areas. Since the evidence indicates that Megan's Law is being applied inconsistently across the State, the Legislature finds that a study should be undertaken to identify the causes of these inconsistencies and to recommend procedures to make the law's application more uniform and equitable.

C.2C:7-21 Comprehensive study of "Megan's Law."

2. a. The Violence Institute of the University of Medicine and Dentistry of New Jersey shall undertake a comprehensive study of the implementa-

tion and application of Megan's Law. Specifically, the institute shall examine the implementation and application of P.L.1994, c.133 (C.2C:7-1 et al.), which requires registration by sex offenders and P.L.1994, c.128 (C.2C:7-6 et seq.), which requires community notification for certain sex offenders.

b. The study shall evaluate the current procedures utilized by the county prosecutors and the courts in determining a sex offender's tier designation and implementing community notification. In evaluating these procedures, the study shall examine the disposition of all sex offenders who have registered and have been assigned a tier rating since the enactment of Megan's Law. The study shall make recommendations regarding the standardization of procedures for evaluating the risk of re-offense, assigning tier designations, implementing community notification, and ensuring uniform application of the Attorney General's guidelines by law enforcement in providing community notification. In addition, the study shall examine the use of the Internet registry in providing information to the public about sex offenders. Specifically, the study shall review the implementation of P.L.2001, c.167 (C.2C:7-12 et seq.) and determine whether the Internet registry has accomplished its mission to inform the public of dangerous sex offenders, or if geographic inconsistencies have mitigated its effectiveness. Finally, the study shall examine whether a central agency should be charged with the administration of Megan's Law and the determination as to which offenders appear on the Internet registry.

3. This act shall take effect on the first day of the third month after enactment.

Approved January 3, 2008.

CHAPTER 228

AN ACT concerning resource family parents and revising parts of statutory law.

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

1. Section 3 of P.L.1999, c.53 (C.9:3-45.2) is amended to read as follows:

C.9:3-45.2 Resource family parent, relative, notice, right to be heard.

3. In any case in which the Division of Youth and Family Services accepts a child in its care or custody, the child's resource family parent or relative providing care for the child, as applicable, shall receive written notice of, and shall have a right to be heard at, any review or hearing held with respect to the child, but the resource family parent or relative shall not be made a party to the review or hearing solely on the basis of the notice and right to be heard.

2. Section 28 of P.L.1999, c.53 (C.30:4C-12.2) is amended to read as follows:

C.30:4C-12.2 Resource family parent, relative, notice; right to be heard.

28. In any case in which the Division of Youth and Family Services accepts a child in its care or custody, the child's resource family parent or relative providing care for the child, as applicable, shall receive written notice of, and shall have a right to be heard at, any review or hearing held with respect to the child, but the resource family parent or relative shall not be made a party to the review or hearing solely on the basis of the notice and right to be heard.

3. Section 4 of P.L.2001, c.419 (C.30:4C-27.6) is amended to read as follows:

C.30:4C-27.6 Licensure required for resource family parents.

4. a. A person shall not provide resource family care to a child unless the person is licensed by the department pursuant to this act. The license shall be issued to a specific person for a specific residence and shall not be transferable to another person or residence. The resource family parent shall maintain the license on file at the resource family home.

b. A person desiring to provide resource family care to a child shall apply to the department for a license in a manner and form prescribed by the commissioner.

c. A resource family parent applicant or resource family parent shall be of good moral character.

d. A resource family parent applicant or resource family parent, as applicable, shall:

(1) Complete the license application form provided by the department;

(2) Provide written consent for the division to conduct a check of its child abuse records pursuant to section 4 of P.L.1971, c.437 (C.9:6-8.11)

and the child abuse records in each state in which the prospective resource family parent has resided in the preceding five years;

(3) Provide written consent from each other adult member of the resource family parent applicant's household for the division to conduct a child abuse record information check on that person, and a child abuse record information check in each state in which that person has resided in the preceding five years; and

(4) Immediately notify the department when a new adult becomes a resident of the resource family parent applicant's or resource family parent's household in order to ensure that the department can conduct a criminal history record background check pursuant to section 1 of P.L.1985, c.396 (C.30:4C-26.8) and the division can conduct a child abuse record information check on the new adult household member.

e. As a condition of securing a license, the applicant shall participate in pre-service training in accordance with standards adopted by the commissioner pursuant to this act.

f. A resource family parent licensed pursuant to this act shall participate in pre-service and in-service training in accordance with standards adopted by the commissioner pursuant to this act.

4. Section 5 of P.L.2001, c.419 (C.30:4C-27.7) is amended to read as follows:

C.30:4C-27.7 Child abuse record information check.

5. a. The division shall, upon receipt of written consent from the resource family parent applicant and any other adult member of the resource family parent applicant's household pursuant to subsection d. of section 4 of P.L.2001, c.419 (C.30:4C-27.6):

(1) conduct a child abuse record information check of the division's child abuse records to determine if an incident of child abuse or neglect has been substantiated, pursuant to section 4 of P.L.1971, c.437 (C.9:6-8.11), against a resource family parent applicant or any adult member of the resource family parent applicant's household; and

(2) request a child abuse record information check from the applicable authority in each state in which the prospective resource family parent and any other adult residing in the prospective parent's home has resided in the preceding five years.

The department shall consider, for the purposes of this act, any incidents of child abuse or neglect that were substantiated on or after June 29, 1995, to ensure that a resource family parent applicant or adult member of

the resource family parent applicant's household has had an opportunity to appeal a substantiated finding of child abuse or neglect pursuant to department regulations, except that the department may consider substantiated incidents prior to that date if the department, in its judgment, determines that the resource family parent applicant or adult household member poses a risk of harm in a resource family home. In cases involving incidents substantiated prior to June 29, 1995, the department shall offer the resource family parent applicant or adult member of the resource family parent applicant's household an opportunity for a hearing to contest its action restricting the resource family parent applicant from providing resource family care to a child.

b. (1) The department shall conduct an annual on-site inspection of a resource family home and evaluate the resource family home to determine whether it complies with the provisions of this act.

(2) The department may, without prior notice, inspect and examine a resource family home and inspect all documents, records, files or other data required to be maintained by a resource family parent pursuant to this act.

c. If an applicant meets the requirements of this act, the department shall issue a license to that person.

d. (1) The license shall be valid for the time period designated by the commissioner, subject to the resource family parent's continued compliance with the provisions of this act.

(2) The department shall determine if the license shall be renewed based upon the results of the annual on-site inspection and evaluation of the resource family home conducted pursuant to this section. If the on-site inspection and evaluation indicate the resource family home's full or substantial compliance with the provisions of this act, the department shall renew the license.

5. Section 5 of P.L.1977, c.424 (C.30:4C-54) is amended to read as follows:

C.30:4C-54 Determination by court as to placement.

5. The court shall, within 15 days following receipt of the notice of the initial placement pursuant to a voluntary agreement, determine, based solely upon the petition and other affidavits and written materials submitted to the court, whether or not reasonable efforts have been made to prevent the placement and whether or not the continuation of the child in his home would be contrary to the welfare of the child, and either approve the placement or order the return of the child to his home, except that, lack of rea-

sonable efforts to prevent placement shall not be the sole basis for the court's order of a return of the child to his home.

If the division has documented an exception to the requirement to provide reasonable efforts towards family reunification, the court shall make a finding of whether reasonable efforts are required in accordance with section 25 of P.L.1999, c.53 (C.30:4C-11.3). The child's health, safety and need for permanency shall be of paramount concern to the court when it makes its finding.

The court also may require the submission of supplementary material or schedule a summary hearing if:

- a. The court has before it conflicting statements of material fact;
- b. The court determines that it is in the best interest of the child; or
- c. The child's parents or legal guardian requests the hearing.

The court shall provide written notice to the parties involved in the hearing at least five days prior to the hearing. The court shall provide written notice of the date, time and place of such hearing to the parents or legal guardian of the child, the child or the child's counsel, the child's temporary caretaker, the division, and any other party the court deems appropriate. If the child's caretaker is a resource family parent, preadoptive parent or relative, the caretaker shall receive written notice of, and shall have a right to be heard at, the hearing, but the caretaker shall not be made a party to the hearing solely on the basis of the notice and right to be heard.

6. Section 10 of P.L.1977, c.424 (C.30:4C-59) is amended to read as follows:

C.30:4C-59 Written notice in advance of review.

10. Each board shall provide written notice of the date, time and place of each review at least 15 days in advance to the following, each of whom shall be entitled to attend the review and to submit information in writing to the board:

- a. The division or agency;
- b. The child;
- c. The parents including a non-custodial parent or legal guardian;
- d. The temporary caretaker;
- e. Any other person or agency whom the board determines has an interest in or information relating to the welfare of the child;
- f. The counsel for a parent, child or other interested party who has provided or is providing representation in the case before the board; and

If the child's caretaker is a resource family parent or relative, the caretaker shall receive written notice of, and shall have a right to be heard at, the review, but the caretaker shall not be made a party to the review solely on the basis of the notice and right to be heard.

The board may determine who may be in attendance at any particular portion of its meeting. Nothing herein shall be interpreted to exclude judges and court support staff from attending review board meetings.

The written notice shall inform the person of his right to attend the review and to submit written information and shall be prepared in a manner which will encourage the person's attendance at the review.

Notice to the child may be waived by the court on a case by case basis either on its own motion or on the petition of any of the above persons in cases where the court determines that notice would be harmful to the child. A waiver of notice to the child shall not waive the notice requirement to counsel for the child or other representatives of the child.

The review board may seek information from any agency which has been involved with the child, parents or legal guardian or temporary caretaker. If the agency fails to provide the requested information, the court may, upon the request of the board, issue a subpoena to the agency for the information.

The board shall conduct a review and make recommendations based upon the written materials; provided, however, that the board shall afford any party or person entitled to notice pursuant to this section a reasonable opportunity to appear and to present his views and recommendations. Upon the request of the board, the Family Part of the Chancery Division of the Superior Court may subpoena a person to attend the review board meeting.

A designated agency shall provide relevant and necessary information to the board regarding a child who is reviewed by the board.

7. Section 12 of P.L.1977, c.424 (C.30:4C-61) is amended to read as follows:

C.30:4C-61 Issuance of order by court.

12. a. Upon review of the board's report, the Family Part of the Chancery Division of the Superior Court shall issue an order concerning the child's placement which it deems will best serve the health, safety and interests of the child. The court shall issue the order within 21 calendar days of the court's receipt of the board's report unless the court schedules a summary hearing. The court shall either:

(1) Order the return of the child to his parents or legal guardian within two weeks and order the division or designated agency, as appropriate, to provide any reasonable and available services which are necessary to implement the return home;

(2) Order continued placement on a temporary basis until the long-term goal is achieved; or

(3) Order continued placement on a temporary basis but that the division shall provide further information within two weeks to the court, which information shall be reviewed by the board within 30 days of its receipt.

(4) (Deleted by amendment, P.L.1987, c.252.)

In accordance with section 8 of P.L.1984, c.85 (C.30:4C-61.1), the court may order that the division shall not return a child to his home prior to review by the board and an order of the court.

In addition, if the placement plan does not satisfy the criteria of section 9 of P.L.1977, c.424 (C.30:4C-58), the court shall order that the placement plan be modified or that a new plan be developed within 30 days.

b. In reviewing the report, the court may request that, where available, any written or oral information submitted to the board be provided to the court. The court shall make a determination based upon the report and any other information before it; provided, however, that the court may schedule a summary hearing if:

(1) The court has before it conflicting statements of material fact which it cannot resolve without a hearing; or

(2) A party entitled to participate in the proceedings requests a hearing; or

(3) The court concludes that the interests of justice require that a hearing be held; or

(4) The board recommends that a hearing be held due to lack of compliance with the placement plan, including achievement of the permanent placement identified in the permanency plan; or

(5) The division has documented an exception to the requirement to provide reasonable efforts toward family reunification pursuant to section 25 of P.L.1999, c.53 (C.30:4C-11.3); or

(6) If the review is to serve as a permanency hearing.

c. Notice of such hearing, including a statement of the dispositional alternatives of the court, shall be provided at least 30 days in advance, unless the court finds that it is in the best interest of the child to provide less notice in order to conduct the hearing sooner. Notice shall be provided to the following persons unless the court determines it is not in the best interests of the child:

- (1) The division;
- (2) The child;
- (3) The child's parents including a non-custodial parent or legal guardian;
- (4) The review board;
- (5) The temporary caretaker;
- (6) The counsel for any parent, child or other interested party who has provided or is providing representation in the case before the board; and
- (7) If the child's caretaker is a resource family parent or relative, the caretaker shall receive written notice of, and shall have a right to be heard at, the hearing, but the caretaker shall not be made a party to the hearing solely on the basis of the notice and right to be heard.

The court may also request or order additional information from any other persons or agencies which the court determines have an interest in or information relating to the welfare of the child.

The court shall hold the hearing within 60 days of receipt of the board's report and shall issue its order within 15 days of the hearing.

d. The court shall send a copy of its order concerning the child's placement to all persons listed in subsection c. of this section, except that, if notice to the child of the board review was waived pursuant to section 10 of P.L.1977, c.424 (C.30:4C-59), the court may waive the requirement of sending a copy of its order to the child.

e. Any person who receives a copy of the court order shall comply with the confidentiality requirements established by the Supreme Court for the purposes of this act.

8. Section 50 of P.L.1999, c.53 (C.30:4C-61.2) is amended to read as follows:

C.30:4C-61.2 Permanency hearing.

50. a. A permanency hearing shall be held that provides review and approval by the court of the placement plan:

- (1) within 30 days after the determination of an exception to the reasonable effort requirement to reunify the child with the parent in accordance with section 25 of P.L.1999, c.53 (C.30:4C-11.3); or
- (2) no later than 12 months after the child has been in placement.

b. Written notice of the date, time and place of the permanency hearing shall be provided at least 15 days in advance to the following, each of whom shall be entitled to attend the hearing and to submit written information to the court:

- (1) the division or agency;
- (2) the child;
- (3) the parents, including a non-custodial parent or legal guardian;
- (4) the temporary caretaker;
- (5) any other person or agency whom the court determines has an interest in or information relating to the welfare of the child;
- (6) the counsel for a parent, child or other interested party who has provided or is providing representation in the case before the court; and
- (7) the child's resource family parent or relative providing care for the child shall also receive written notice of, and shall have a right to be heard at, the hearing, but the resource family parent or relative shall not be made a party to the hearing solely on the basis of the notice and right to be heard.

c. 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:

- (1) a statement of the goal for the permanent placement or return home of the child and the anticipated date that the goal will be achieved;
- (2) the intermediate objectives relating to the attainment of the goal;
- (3) a statement of the duties and responsibilities of the division, the parents or legal guardian and the temporary caretaker, including the services to be provided by the division to the child and to the temporary caretaker;
- (4) a statement of the services to be provided to the parent or legal guardian or an exception to the requirement to provide reasonable efforts toward family reunification in accordance with section 25 of P.L.1999, c.53 (C.30:4C-11.3). Services to facilitate adoption or an alternative permanent placement may be provided concurrently with services to reunify the child with the parent or guardian;
- (5) a permanency plan which includes whether and, if applicable, when:
 - (a) the child shall be returned to the parent or guardian, if the child can be returned home without endangering the child's health or safety;
 - (b) the division has determined that family reunification is not possible and the division shall file a petition for the termination of parental rights for the purpose of adoption; or
 - (c) the division has determined that termination of parental rights is not appropriate in accordance with section 31 of P.L.1999, c.53 (C.30:4C-15.3) and the child shall be placed in an alternative permanent placement.

d. If the court approves a permanency plan for the child, the court shall make a specific finding of the reasonable efforts made thus far by the division and the appropriateness of the reasonable efforts to achieve the permanency plan.

9. This act shall take effect on the 30th day after enactment.

Approved January 3, 2008.

CHAPTER 229

AN ACT concerning the administration of epinephrine in nonpublic schools and amending P.L.2007, c.57.

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

1. Section 6 of P.L.2007, c.57 (C.18A:40-12.6c) is amended to read as follows:

C.18A:40-12.6c Training protocols for volunteer designees to administer epinephrine.

6. a. In an effort to assist the certified school nurse in a public school district and the school nurse in a nonpublic school in recruiting and training additional school employees as volunteer designees to administer epinephrine for anaphylaxis when the school nurse is not physically present, the Department of Education and the Department of Health and Senior Services shall jointly develop training protocols, in consultation with the New Jersey School Nurses Association.

b. The certified school nurse in consultation with the board of education, or the school nurse in consultation with the chief school administrator of a nonpublic school, shall recruit and train volunteer designees who are determined acceptable candidates by the school nurse within each school building as deemed necessary by the nursing service plan.

2. This act shall take effect immediately.

Approved January 3, 2008.

CHAPTER 230

AN ACT concerning the annual assessment on intermediate care facilities for the mentally retarded and amending P.L.1998, c.40.

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

1. Section 4 of P.L.1998, c.40 (C.30:6D-46) is amended to read as follows:

C.30:6D-46 Payment of annual assessment.

4. a. Beginning July 1, 1998, except as provided in subsection b. of this section, all ICF-MRs in the State shall annually pay an assessment of 5.8% annually of gross revenue. This assessment shall be paid on a quarterly basis to the Director of the Division of Revenue in the Department of the Treasury. The Director of the Division of Revenue, in consultation with the Director of the Division of Taxation in the Department of the Treasury, shall establish appropriate procedures and forms for the purpose of collecting and recording this assessment. The provisions of the State Uniform Tax Procedure Law, R.S.54:48-1 et seq. shall apply to the extent that its provisions, including the confidentiality, protest and appeal provisions, are not inconsistent with the provisions of P.L.1998, c.40 (C.30:6D-43 et seq.).

b. For the period January 1, 2008 through September 30, 2011, all ICF-MRs in the State shall annually pay an assessment of 5.3% annually of gross revenue. This assessment shall be paid on a quarterly basis to the Director of the Division of Revenue in the Department of the Treasury. The Director of the Division of Revenue, in consultation with the Director of the Division of Taxation in the Department of the Treasury, shall establish appropriate procedures and forms for the purpose of collecting and recording this assessment. The provisions of the State Uniform Tax Procedure Law, R.S.54:48-1 et seq. shall apply to the extent that its provisions, including the confidentiality, protest and appeal provisions, are not inconsistent with the provisions of P.L.1998, c.40.

2. This act shall take effect on January 1, 2008.

Approved January 3, 2008.

CHAPTER 231

AN ACT concerning the incorporation of religious societies or congregations and amending R.S.16:1-1.

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

1. R.S.16:1-1 is amended to read as follows:

Incorporation of religious societies or congregations.

16:1-1. Members of every religious society or congregation, entitled to protection in the free use of their religion by the constitution and laws of this State, may assemble at their usual place of meeting for public worship, at any time agreed upon by them, after at least ten days' notice of the time and purpose of assembling, given by an advertisement set up in open view at or near the place of meeting and when so assembled a plurality of votes of the members of such society or congregation over 18 years of age who regularly contribute to its support and who are present at such meeting, may elect any number of such society or congregation to be its trustees for the purpose of incorporating such society or congregation as provided in section 16:1-2 of this title.

2. This act shall take effect immediately.

Approved January 3, 2008.

CHAPTER 232

AN ACT concerning certain identification badges and amending P.L.1977, c.35 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. Section 4 of P.L.1977, c.35 (C.48:3-45) is amended to read as follows:

C.48:3-45 Improper use of public utility employee identification badge, fourth degree crime.

4. No employee of a public utility who is in possession of any identification badge, as provided for by P.L.1977, c.35 (C.48:3-42 et seq.), shall loan, allow or permit any other person to use or display such identification badge; in case of the loss of any such identification badge, the employee shall forthwith notify the public utility of such loss and the circumstances surrounding the same. Any person violating the provisions of this section or any person who shall display or use the identification badge of another,

for the purpose of deceiving any person as to his identity shall be guilty of a crime of the fourth degree.

C.2C:21-35 False public utility employee identification badge, violations, degree of crime.

2. a. A person who knowingly sells, offers or exposes for sale, or otherwise transfers, or possesses with the intent to sell, offer or expose for sale, or otherwise transfer, a document, printed form or other writing which falsely purports to be a public utility employee identification badge as required under the provisions of P.L.1977, c.35 (C.48:3-42 et seq.) which could be used as a means of verifying a person's identity as a public utility employee is guilty of a crime of the second degree.

b. A person who knowingly makes, or possesses devices or materials to make, a document or other writing which falsely purports to be a public utility employee identification badge as required under the provisions of P.L.1977, c.35 (C.48:3-42 et seq.) which could be used as a means of verifying a person's identity as a public utility employee is guilty of a crime of the second degree.

c. A person who knowingly exhibits, displays or utters a document or other writing which falsely purports to be a public utility employee identification badge as required under the provisions of P.L.1977, c.35 (C.48:3-42 et seq.) which could be used as a means of verifying a person's identity as a public utility employee is guilty of a crime of the third degree.

d. A person who knowingly possesses a document or other writing which falsely purports to be a public utility employee identification badge as required under the provisions of P.L.1977, c.35 (C.48:3-42 et seq.) which could be used as a means of verifying a person's identity as a public utility employee is guilty of a crime of the fourth degree.

3. This act shall take effect immediately.

Approved January 3, 2008.

CHAPTER 233

AN ACT concerning voluntary contributions through gross income tax returns to support the New Jersey Veterans Haven vocational and transitional housing program, 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 Jersey*:

C.54A:9-25.24 “New Jersey Veterans Haven Support Fund;” tax return contribution.

1. a. There is established in the Department of the Treasury a special fund to be known as the “New Jersey Veterans Haven Support 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 tax 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 Veterans Haven Support Fund.”

d. The Legislature shall annually appropriate all funds deposited in the “New Jersey Veterans Haven Support Fund” to the Department of Military and Veterans’ Affairs to support the vocational and transitional housing program at the New Jersey Veterans Haven facility.

2. This act shall take effect immediately and apply to taxable years beginning on or after January 1 following enactment.

Approved January 3, 2008.

CHAPTER 234

AN ACT concerning criminal street gang activity and amending P.L.1999, c.160.

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

1. Section 1 of P.L.1999, c. 160 (C.2C:33-28) is amended to read as follows:

C.2C:33-28 Solicitation, recruitment to join criminal street gang; crime, degrees, sentencing.

1. a. An actor who solicits or recruits another to join or actively participate in a criminal street gang with the knowledge or purpose that the person

who is solicited or recruited will promote, further, assist, plan, aid, agree, or attempt to aid in the commission of criminal conduct by a member of a criminal street gang commits a crime of the fourth degree. For purposes of this section, the actor shall have the requisite knowledge or purpose if he knows that the person who is solicited or recruited will engage in some form, though not necessarily which form, of criminal activity. "Criminal street gang" shall have the meaning set forth in subsection h. of N.J.S.2C:44-3.

b. An actor who, in the course of violating subsection a. of this section, threatens another with bodily injury on two or more separate occasions within a 30-day period commits a crime of the third degree.

c. An actor who, in the course of violating subsection a. of this section, inflicts significant bodily injury upon another commits a crime of the second degree.

d. Any defendant convicted of soliciting, recruiting, coercing or threatening a person under 18 years of age in violation of subsection a. or b. of this section shall be guilty of a crime of the second degree.

e. An actor who violates subsection a. of this section while under official detention commits a crime of the second degree. As used in this subsection, "official detention" means detention in any facility for custody of persons under charge or conviction of a crime or offense, or committed pursuant to chapter 4 of this Title, or alleged or found to be delinquent; detention for extradition or deportation; mandatory commitment to a residential treatment facility imposed as a condition of special probation pursuant to subsection d. of N.J.S.2C:35-14; or any other detention for law enforcement purposes. "Official detention" also includes supervision of probation or parole, or constraint incidental to release on bail. Notwithstanding the provisions of N.J.S.2C:44-5 or any other provision of law, the court shall order that the sentence imposed upon a violation of this section be served consecutively to the period or periods of detention the actor was serving at the time of the violation.

f. Any defendant convicted of soliciting, recruiting, coercing or threatening a person under 18 years of age in violation of subsection c. or e. of this section shall be sentenced by the court to an extended term of imprisonment as set forth in subsection a. of N.J.S.2C:43-7.

Notwithstanding the provisions of N.J.S.2C:1-8, N.J.S.2C:44-5 or any other provision of law, a conviction arising under this section shall not merge with a conviction for any criminal offense that the actor committed while involved in criminal street gang related activity, as defined in subsection h. of N.J.S.2C:44-3, nor shall the conviction for any such offense

merge with a conviction pursuant to this section and the sentence imposed upon a violation of this section shall be ordered to be served consecutively to that imposed upon any other such conviction.

2. This act shall take effect immediately.

Approved January 3, 2008.

CHAPTER 235

AN ACT concerning the practice of dentistry and amending P.L.1964, c.186.

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

1. Section 1 of P.L.1964, c.186 (C.45:6-16.1) is amended to read as follows:

C.45:6-16.1 Limited teaching certificates; issuance; authorized activities.

1. The New Jersey State Board of Dentistry (hereinafter referred to as the board) may issue to qualified applicants limited teaching certificates authorizing the certificate holder to teach, demonstrate, and practice dentistry in all its branches, but only in and upon the premises of the dental school or its clinical facilities designated in the certificate in which the science of dentistry in any of its branches is taught, except that the holder of a limited teaching certificate may teach, demonstrate and practice dentistry at meetings of the American Dental Association or any of its component parts, or any other similar dental organizations, while appearing as clinicians.

2. Section 2 of P.L.1964, c.186 (C.45:6-16.2) is amended to read as follows:

C.45:6-16.2 Application forms, determining competency of applicant.

2. a. The board shall prescribe the forms for any such application, and shall determine the competency of the applicant to teach the science of dentistry as predicated upon the applicant's general and technical knowledge. In all cases the applicant shall submit proof satisfactory to the board of his graduation with a dental degree from a dental school and of his subsequent

employment and professional experience. The dean of a dental school in which the applicant seeks employment shall: certify to the board that the applicant is properly qualified to teach, demonstrate and practice dentistry at the dental school; and furnish to the board supporting information from which the board can determine that the applicant's general and technical level of knowledge and moral character suitably qualifies the applicant to teach, demonstrate and practice dentistry at a dental school in this State.

b. No dental school in this State shall employ, at any one time, more than 15 persons with limited teaching certificates who have graduated from dental schools not approved by the board. For the purposes of this section, if the dental school from which the applicant graduated is located in the United States, Canada, or a territory or possession of the United States, the dental school shall be approved by the board.

c. No such limited teaching certificate shall be deemed to authorize the certificate holder to engage in the private practice of dentistry outside of the premises of the dental school or its clinical facilities. A limited teaching certificate shall automatically expire upon the termination of the certificate holder's employment by a dental school in this State.

3. Section 3 of P.L.1964, c.186 (C.45:6-16.3) is amended to read as follows:

C.45:6-16.3 Limited teaching certificate fees; renewal.

3. Every applicant for a limited teaching certificate shall pay to the board for the use of the State an initial application fee and an annual renewal fee to be determined by board regulation.

4. Section 4 of P.L.1964, c.186 (C.45:6-16.4) is amended to read as follows:

C.45:6-16.4 Teaching without license or limited teaching certificate, prohibited; penalty.

4. No person shall teach the science of dentistry in any of its branches in this State unless he shall hold a regularly issued license to practice dentistry in this State or a limited teaching certificate, and any violation of this provision shall be deemed to be an illegal practice of dentistry punishable as provided in R.S.45:6-1 et seq.

5. This act shall take effect immediately.

Approved January 3, 2008.

CHAPTER 236

AN ACT concerning prevention of violence against health care workers 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-5.17 Short title.

1. This act shall be known and may be cited as the “Violence Prevention in Health Care Facilities Act.”

C.26:2H-5.18 Findings, declarations relative to prevention of violence against health care workers.

2. The Legislature finds and declares that:
 - a. Violence is an escalating problem in many health care settings in the State and across the nation, and although violence is an increasing problem for many workers, health care workers are at a particularly high risk;
 - b. According to the Bureau of Labor Statistics, the incidence of injury from nonfatal assaults of health service workers is significantly higher than that of other workers;
 - c. The actual incidence of violence is likely higher than reported for various reasons, including inadequate reporting mechanisms and because victims under-report incidents out of fear of reprisal, isolation and embarrassment;
 - d. Violence against health care workers exacts a significant toll on victims, their co-workers, patients, families and visitors;
 - e. Insurance claims, lost productivity, disruptions to operations, legal expenses and property damage are only a few of the negative effects that workplace violence has on health care facilities;
 - f. Preventing workplace violence is essential for creating a safe and therapeutic environment for patients;
 - g. Health care professionals who leave their occupations because of assaults or threats of assault contribute to the general shortage of health care professionals; and
 - h. It is possible to reduce and mitigate the effects of violence in health care settings through employer-based violence prevention programs.

C.26:2H-5.19 Definitions relative to prevention of violence against health care workers.

3. As used in this act:

“Covered health care facility” means a general or special hospital or nursing home licensed by the Department of Health and Senior Services pursuant to P.L.1971, c.136 (C.26:2H-1 et al.), a State or county psychiatric hospital, or a State developmental center.

“Health care worker” means an individual who is employed by a covered health care facility.

“Violence” or “violent act” means any physical assault, or any physical or credible verbal threat of assault or harm against a health care worker.

C.26:2H-5.20 Establishment of violence prevention program in covered health care facility.

4. Within 6 months of the effective date of this act, a covered health care facility shall establish a violence prevention program for the purpose of protecting health care workers. The program shall, at a minimum, include the requirements set forth in this section.

a. (1) The covered health care facility shall establish a violence prevention committee, which shall include a representative of management, or his designee, who shall be responsible for overseeing all aspects of the program. At least 50% of the members of the committee shall be health care workers who provide direct patient care or otherwise have contact with patients. In a facility or health care system where health care workers are represented by one or more collective bargaining agents, the management of the facility or system shall consult with the applicable collective bargaining agents regarding the selection of the health care worker committee members.

The remaining committee members shall have experience, expertise, or responsibility relevant to violence prevention.

(2) In the case of a health care system that owns or operates more than one covered health care facility or Department of Human Services facilities, the violence prevention program and the committee may be operated at the system or department level, provided that: (a) committee membership includes at least one health care worker from each facility who provides direct care to patients, (b) the committee develops a violence prevention plan for each facility, and (c) data related to violence prevention remain distinctly identifiable for each facility.

b. Within 18 months of the effective date of this act, the committee shall develop and maintain a detailed, written violence prevention plan that identifies workplace risks, and provides specific methods to address them. The plan shall, at a minimum:

(1) provide an annual comprehensive violence risk-assessment for the covered health care facility that considers, to the extent applicable:

- (a) the facility's layout, access restrictions, crime rate in surrounding areas, lighting, and communication and alarm devices;
- (b) impact of staffing, including security personnel;
- (c) the presence of individuals who may pose a risk of violence; and
- (d) a review of any records relating to violent incidents at the facility, including incidents required to be reported pursuant to subsection f. of this section, the Occupational Safety and Health Administration Log of Work-Related Injuries and Illnesses (OSHA Form 300), and workers' compensation records;

- (2) identify violence prevention policies; and

- (3) specify methods to reduce identified risks, including training, and changes to job design, staffing, security, equipment and facility modifications.

c. The covered health care facility shall make a copy of the plan available, upon request, to the Commissioners of Health and Senior Services, Children and Families, and Human Services for on-site inspection, and upon request, to each health care worker and collective bargaining agent that represents health care workers at the facility, except that, in the event the committee determines that the plan contains information that would pose a threat to security if made public, any such information shall be excluded before providing copies to workers or collective bargaining agents.

d. The covered health care facility shall annually conduct violence prevention training. The training shall include a review of: the facility's relevant policies; techniques to de-escalate and minimize violent behavior; appropriate responses to workplace violence, including use of restraining techniques, reporting requirements and procedures; location and operation of safety devices; and resources for coping with violence.

e. The covered health care facility shall have personnel sufficiently trained to identify aggressive and violent predicting factors and the ability to appropriately respond to and manage violent disturbances.

f. The covered health care facility shall keep a record of all violent acts against employees while at work. The records shall be maintained for at least five years following the reported act, during which time employees, their authorized representatives, and the Department of Health and Senior Services shall have access to the record. The record shall include:

- (1) the date, time and location of the incident;

- (2) the identity and job title of the victim, except that the victim's identity shall not be included if it would not be entered on the Occupational Safety and Health Administration Log of Work-Related Injuries and Illnesses (OSHA Form 300) because it is a privacy concern case under OSHA;

- (3) whether the act was committed by a patient, visitor, or employee;

- (4) the nature of the violent act, including whether a weapon was used;

- (5) a description of physical injuries, if any;
- (6) the number of employees in the vicinity when the incident occurred and their actions in response to the incident, if any; and
- (7) the actions taken by the facility in response to the incident.

The records established pursuant to this subsection shall not be considered public or government records under P.L.1963, c.73 (C.47:1A-1 et seq.) or P.L.2001, c.404 (C.47:1A-5 et al.).

g. The covered health care facility shall establish a post-incident response system that provides, at a minimum, an in-house crisis response team for employee-victims and their co-workers, and individual and group crisis counseling, which may include support groups, family crisis intervention, and professional referrals.

C.26:2H-5.21 Retaliatory action prohibited.

5. A covered health care facility shall not take any retaliatory action against any health care worker for reporting violent incidents. As used in this section, "retaliatory action" shall have the same meaning as provided in section 2 of P.L.1986, c.105 (C.34:19-2).

C.26:2H-5.22 Violations, penalties.

6. A covered health care facility licensed pursuant to P.L.1971, c.136 (C.26:2H-1 et al.) that is in violation of the provisions of this act shall be subject to such penalties as the Commissioner of Health and Senior Services may determine pursuant to sections 13 and 14 of P.L.1971, c.136 (C.26:2H-13 and 26:2H-14).

C.26:2H-5.23 Rules, regulations.

7. The Commissioners of Health and Senior Services and 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 carry out the purposes of this act.

8. This act shall take effect immediately.

Approved January 3, 2008.

CHAPTER 237

AN ACT concerning State rental assistance grants for senior citizens and amending P.L.2004, c.140.

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

1. Section 1 of P.L.2004, c.140 (C.52:27D-287.1) is amended to read as follows:

C.52:27D-287.1 Rental assistance program for low income households, senior citizens, certain, homeless veterans.

1. The Commissioner of Community Affairs shall establish a rental assistance program for low income individuals or households. This program shall be in addition to and supplement any existing programs established pursuant to the "Prevention of Homelessness Act (1984)," P.L.1984, c.180 (C.52:27D-280 et al.).

a. The program shall provide rental assistance grants comparable to the federal section 8 program, but shall be available only to State residents who are not currently holders of federal section 8 vouchers.

b. Assistance to an individual or household under the State program shall be terminated upon the award of federal section 8 rental assistance to the same individual or household.

c. The program shall reserve a portion of the grants for assistance to senior citizens aged 62 or older who otherwise meet the criteria of subsection a. of this section.

d. The program shall reserve a portion of the grants for assistance to veterans who have successfully completed the Veterans Transitional Housing Program, or "Veterans Haven," a vocational and transitional housing program for homeless veterans administered by the New Jersey Department of Military and Veterans' Affairs.

2. This act shall take effect immediately.

Approved January 3, 2008.

CHAPTER 238

AN ACT designating New Jersey Route No. 23 as "Robert A. Roe Highway," and making an appropriation.

WHEREAS, Congressman Robert A. Roe is widely recognized as a transportation expert who has played a leading role in promoting the growth and development of New Jersey's bridges and infrastructure; and

WHEREAS, Congressman Roe has had a long and distinguished career in public service while holding positions at virtually every level of government, including mayor of Wayne Township, freeholder for Passaic County, Commissioner of the New Jersey Department of Conservation and Economic Development, and United States Representative for the 8th Congressional District of New Jersey; and

WHEREAS, Congressman Roe was elected to eleven successive Congresses, served as the dean of the New Jersey congressional delegation, and represented his constituents and the people of New Jersey in the nation's capitol for over 23 consecutive years; and

WHEREAS, As the Chairman of the House Public Works and Transportation Committee and primary author of the Intermodal Surface Transportation Efficiency Act (ISTEA) of 1991, his crowning achievement, Congressman Roe was responsible for delivering billions of transportation dollars to New Jersey; and

WHEREAS, Congressman Roe recognizes that investment in transportation enhances the overall quality of life for all New Jersey residents and is critical to the growth of New Jersey's economy by improving its infrastructure, attracting businesses and development, and creating jobs; and

WHEREAS, It is fitting and proper for the Legislature of the State of New Jersey to honor Congressman Robert A. Roe for his many contributions to New Jersey and for his service to the people of this State by designating the entire length of New Jersey Route No. 23 as the "Robert A. Roe Highway"; now, therefore,

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

1. The Commissioner of Transportation shall designate the entire length of New Jersey Route No. 23 as the "Robert A. Roe Highway" and erect appropriate signs bearing this designation.

2. There is appropriated \$2,500 from the General Fund to the Department of Transportation for the costs of erecting appropriate signs in accordance with section 1 of this act.

3. This act shall take effect immediately.

Approved January 3, 2008.

CHAPTER 239

AN ACT concerning certain employment protections for employees on military leave in time of war or emergency and amending P.L.1941, c.119, P.L.1979, c.317 and N.J.S.11A:8-1.

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

1. Section 1 of P.L.1941, c.119 (C.38:23-4) is amended to read as follows:

C.38:23-4 Leave of absence to employees of State, county, municipality or other political subdivision entering military or naval service.

1. Every person holding office, position or employment, other than for a fixed term or period, under the government of this State or of any county, municipality, school district or other political subdivision of this State, or of any board, body, agency or commission of this State or any county, municipality or school district thereof, who after July first, one thousand nine hundred and forty, has entered, or hereafter shall enter, the active military or naval service of the United States or of this State, in time of war or an emergency, or for or during any period of training, or pursuant to or in connection with the operation of any system of selective service, or who, after July first, one thousand nine hundred and forty, has entered or hereafter, in time of war, shall enter the active service of the United States Merchant Marine, or the active service of the Women's Army Auxiliary Corps, the Women's Reserve of the Naval Reserve or any similar organization authorized by the United States to serve with the Army or Navy, shall be granted leave of absence for the period of such service and for a further period of three months after receiving his discharge from such service. If any such person shall be incapacitated by wound or sickness at the time of his discharge from such service, his leave of absence shall be extended until three months after his recovery from such wound or sickness, or until the expiration of two years from the date of his discharge from such service, whichever shall first occur.

In no case shall such person be discharged or separated from his office, position or employment during such period of leave of absence because of his entry into such service, or because of reasons of economy or efficiency or other related reason if entry into active military service in the Armed Forces of the United States was in time of war or an emergency. During the

period of such leave of absence such person shall be entitled to all the rights, privileges and benefits that he would have had or acquired if he had actually served in such office, position or employment during such period of leave of absence except, unless otherwise provided by law, the right to compensation. Such leave of absence may be granted with or without pay as provided by law. Such person shall be entitled to resume the office, position or employment held by him at the time of his entrance into such service, provided he shall apply therefor before the expiration of his said leave of absence. If the employer's circumstances have so changed for reasons of economy or efficiency or other related reason as to make it impossible or unreasonable for such person who entered service in time of war or other emergency to resume the office, position or employment held prior to entrance into such service, the employer shall restore such person to a position of like seniority, status and pay, or any position available, if requested by such person, for which the person is able or qualified to perform the duties. Upon resumption of his office, position or employment, the service in such office, position or employment of the person temporarily filling the same shall immediately cease. No person who, after entry into such service, shall have been separated from any such service by a dishonorable discharge shall be entitled to any of the rights, privileges or benefits herein conferred.

2. Section 20 of P.L.1979, c.317 (C.38:23C-20) is amended to read as follows:

C.38:23C-20 Reemployment of persons after completion of military service.

20. a. In the case of any person who, in order to perform military service, has left or leaves a position, other than a temporary position, in the employ of any employer, and who:

(1) Receives a certificate of completion of military service duly executed by an officer of the applicable force of the Armed Forces of the United States or by an officer of the applicable force of the organized militia;

(2) Is still qualified to perform the duties of such position; and

(3) Makes application for reemployment within 90 days after he is relieved from such service, if such position was in the employ of a private employer, such employer shall restore such person to such position, or to a position of like seniority, status and pay, unless the employer's circumstances have so changed as to make it impossible or unreasonable to do so.

If the circumstances of an employer have so changed because of reasons of economy or efficiency or other related reason as to make it impos-

sible or unreasonable to restore a person who left to enter active military service in the Armed Forces of the United States in time of war or emergency, such employer shall restore such person to any available position, if requested by such person, for which the person is able or qualified to perform the duties.

b. The benefits, rights and privileges granted to persons in the military service by this section shall be extended to and be applicable to any person who, in order to participate in assemblies or annual training or in order to attend service schools conducted by the Armed Forces of the United States for a period or periods up to and including three months, temporarily leaves or has left his position, other than a temporary position, in the employ of any employer and who, being qualified to perform the duties of such position, makes application for reemployment within 10 days after completion of such temporary period of service; provided that no such person shall be entitled to the said benefits, rights and privileges for such attendance at any service school or schools exceeding a total of three months during any four-year period.

c. The benefits, rights and privileges granted to persons in the military service by this section shall be extended to and be applicable to any person who is or becomes a member of the organized militia or of a reserve component of the Armed Forces of the United States and who, because of such membership is discharged by his employer or whose employment is suspended by his employer because of such membership and who, being qualified to perform the duties of such position, makes application for reemployment or termination of the period of his suspension within 10 days after such discharge or suspension.

d. Any person who is restored to a position in accordance with the provisions of this section shall be considered as having been on furlough or leave of absence during his period of military service, temporary service under paragraph b. hereof, or of discharge or suspension under paragraph c. hereof, shall be so restored without loss of seniority, shall be entitled to participate in insurance or other benefits offered by the employer pursuant to established rules and practices relating to employees on furlough or leave of absence in effect with the employer at the time such person entered the military service or commenced such temporary service or was so discharged or suspended and shall not be discharged from such position without cause, within one year after such restoration.

e. In case any private employer fails or refuses to comply with the provisions of this section the Superior Court shall have the power, upon the filing of a complaint, by the person entitled to the benefits of such provisions,

to specifically require such employer to comply with such provisions, and may, as an incident thereto, compensate such person for any loss of wages or benefits suffered by reason of such employer's unlawful action. The court shall order a speedy hearing in any such case, and shall advance it on the calendar. Any person claiming to be entitled to the benefits of the provisions of this section may appear and be represented by counsel, or, upon application to the Attorney General of the State, may request that the Attorney General appear and act on his behalf. If the Attorney General is reasonably satisfied that the person so applying is entitled to such benefits, he shall appear and act as attorney for such person in the amicable adjustment of the claim, or in the filing of any complaint and the prosecution thereof. In the hearing and determination of such applications under this section, no fees or court costs shall be assessed against a person so applying for such benefits.

3. N.J.S.11A:8-1 is amended to read as follows:

Layoff; inapplicable to those on certain military leave.

11A:8-1. a. A permanent employee may be laid off for economy, efficiency or other related reason. A permanent employee shall receive 45 days' written notice, unless in State government a greater time period is ordered by the commissioner, which shall be served personally or by certified mail, of impending layoff or demotion and the reasons therefor. The notice shall expire 120 days after service unless extended by the commissioner for good cause. At the same time the notice is served, the appointing authority shall provide the commissioner with a list of the names and permanent titles of all employees receiving the notice. The board shall adopt rules to implement employee layoff rights consistent with the provisions of this section, upon recommendation by the commissioner. The commissioner shall consult with the advisory board representing labor organizations prior to such recommendations.

b. Permanent employees in the service of the State or a political subdivision shall be laid off in inverse order of seniority. As used in this subsection, "seniority" means the length of continuous permanent service in the jurisdiction, regardless of title held during the period of service, except that for police and firefighting titles, "seniority" means the length of continuous permanent service only in the current permanent title and any other title that has lateral or demotional rights to the current permanent title. Seniority for all titles shall be based on the total length of calendar years, months and days in continuous permanent service regardless of the length of the employee's work week, work year or part-time status.

c. For purposes of State service, a "layoff unit" means a department or autonomous agency and includes all programs administered by that department or agency. For purposes of political subdivision service, the "layoff unit" means a department in a county or municipality, an entire autonomous agency, or an entire school district, except that the commissioner may establish broader layoff units.

d. For purposes of State service, "job location" means a county. The commissioner shall assign a job location to every facility and office within a State department or autonomous agency. For purposes of local service, "job location" means the entire political subdivision and includes any facility operated by the political subdivision outside its geographic borders.

e. For purposes of determining lateral title rights in State and political subdivision service, title comparability shall be determined by the department based upon whether the: (1) titles have substantially similar duties and responsibilities; (2) education and experience requirements for the titles are identical or similar; (3) employees in an affected title, with minimal training and orientation, could perform the duties of the designated title by virtue of having qualified for the affected title; and (4) special skills, licenses, certifications or registration requirements for the designated title are similar and do not exceed those which are mandatory for the affected title. Demotional title rights shall be determined by the commissioner based upon the same criteria, except that the demotional title shall have lower but substantially similar duties and responsibilities as the affected title.

f. In State service, a permanent employee in a position affected by a layoff action shall be provided with applicable lateral and demotional title rights first, at the employee's option, within the municipality in which the facility or office is located and then to the job locations selected by the employee within the department or autonomous agency. The employee shall select individual job locations in preferential order from the list of all job locations and shall indicate job locations at which the employee will accept lateral and demotional title rights. In local service, a permanent employee in a position affected by a layoff action shall be provided lateral and demotional title rights within the layoff unit.

g. Following the employee's selection of job location preferences, lateral and demotional title rights shall be provided in the following order:

(1) a vacant position that the appointing authority has previously indicated it is willing to fill;

(2) a position held by a provisional employee who does not have permanent status in another title, and if there are multiple employees at a job location, the specific position shall be determined by the appointing authority;

(3) a position held by a provisional employee who has permanent status in another title, and if there are multiple provisional employees at a job location, the specific position shall be determined based on level of the permanent title held and seniority;

(4) the position held by the employee serving in a working test period with the least seniority;

(5) in State service, and in local jurisdictions having a performance evaluation program approved by the department, the position held by the permanent employee whose performance rating within the most recent 12 months in the employee's permanent title was significantly below standards or an equivalent rating;

(6) in State service, and in local jurisdictions having a performance evaluation program approved by the department, the position held by the permanent employee whose performance rating within the most recent 12 months in the employee's permanent title was marginally below standards or an equivalent rating; and

(7) the position held by the permanent employee with the least seniority.

h. A permanent employee shall be granted special reemployment rights based on the employee's permanent title at the time of the layoff action and the employee shall be certified for reappointment after the layoff action to the same, lateral and lower related titles. Special reemployment rights shall be determined by the commissioner in the same manner as lateral and demotional rights.

i. Notwithstanding the provisions above, at no time shall any person on a military leave of absence for active service in the Armed Forces of the United States in time of war or emergency be laid off.

4. This act shall take effect immediately.

Approved January 3, 2008.

CHAPTER 240

AN ACT concerning provision of premium options for automobile insurance and amending P.L.2003, c.89 and P.L.1990, c.8.

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

1. Section 43 of P.L.2003, c.89 (C.17:29A-52) is amended to read as follows:

C.17:29A-52 Automobile Insurance Consumer Bill of Rights.

43. a. Every insurer writing private passenger automobile insurance in this State shall provide each insured at least annually and each applicant upon receipt of initial application with an Automobile Insurance Consumer Bill of Rights. The Automobile Insurance Consumer Bill of Rights shall contain information that the Commissioner of Banking and Insurance establishes by regulation as necessary, relevant or appropriate to improve the understanding of the rights and responsibilities of consumers and insurers regarding automobile insurance.

b. To further assist consumers in evaluating an automobile insurer, the commissioner shall develop and disseminate an Automobile Insurance Report Card. Those insurers with more than 50,000 insured private passenger automobiles writing private passenger automobile insurance in this State shall maintain and submit annually to the commissioner customer satisfaction data. The commissioner shall establish by regulation the methodology and criteria to be used in collecting the customer satisfaction data, including, but not limited to, the use of a survey. This data, including consumer complaint ratios and other relevant consumer information designated by the commissioner, shall be included in the Automobile Insurance Report Card. The Automobile Insurance Report Card shall be available on the official website of the Department of Banking and Insurance, and shall be updated annually.

c. (Deleted by amendment, P.L.2007, c.240).

d. If the commissioner finds, after notice and hearing, that an insurer has a pattern and practice of failing to provide any of the information required by this section, the commissioner may, after notice and hearing, order the payment of a penalty not to exceed \$1,000 for each offense. Each instance of a failure to provide information to an insured, an applicant or the commissioner, as the case may be, shall be a separate offense and subject to assessment of a separate penalty. Penalties assessed pursuant to this section shall be collected by the commissioner pursuant to the "Penalty Enforcement Law of 1999," P.L.1999, c.274 (C.2A:58-10 et seq.).

2. Section 30 of P.L.1990, c.8 (C.17:33B-18) is amended to read as follows:

C.17:33B-18 Conditions of licensure.

30. a. A licensed insurance agent shall, as a condition of licensure:

(1) (Deleted by amendment, P.L.2007, c.240).

(2) Not attempt to channel an eligible person away from an insurer or insurance coverage with the purpose or effect of avoiding an agent's obligation to submit an application or an insurer's obligation to accept an eligible person; and

(3) Upon request, submit an application of the eligible person for automobile insurance to the insurer selected by the eligible person.

If a UEZ agent has a contract with a qualified insurer pursuant to the provisions of section 22 of P.L.1997, c.151 (C.17:33C-4) and the UEZ agent is unable to place an otherwise eligible person with that qualified insurer because of the limitation on the number of exposures imposed by that qualified insurer on the UEZ agent, the UEZ agent shall be deemed to have met the requirements of this subsection, provided that the limitation on the number of exposures has been reached and the UEZ agent fulfills all applicable regulatory requirements.

b. With respect to automobile insurance, an insurer shall not penalize an agent by paying less than normal commissions or normal compensation or salary because of the expected or actual experience produced by the agent's automobile insurance business or because of the geographic location of automobile insurance business written by the agent.

3. This act shall take effect immediately.

Approved January 3, 2008.

CHAPTER 241

AN ACT concerning certain investments by local units and amending N.J.S.40A:5-14.

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

1. N.J.S.40A:5-14 is amended to read as follows:

Adoption of cash management plan.

40A:5-14. a. Each local unit shall adopt a cash management plan and shall deposit, or invest, or both deposit and invest, its funds pursuant to that plan. The cash management plan shall include:

(1) the designation of a public depository or depositories as defined in section 1 of P.L.1970, c.236 (C.17:9-41) and may permit deposits in such public depository or depositories as permitted in section 4 of P.L.1970, c.236 (C.17:9-44) or in subsection i. of this section;

(2) the designation of any fund that meets the requirements established pursuant to section 8 of P.L.1977, c.396 (C.40A:5-15.1);

(3) the authorization for investments as permitted pursuant to section 8 of P.L.1977, c.396 (C.40A:5-15.1); or

(4) any combination of the designations or authorizations permitted pursuant to this subsection a.

b. The cash management plan shall be approved annually by majority vote of the governing body of the local unit and may be modified from time to time in order to reflect changes in federal or State law or regulations, or in the designations of depositories, funds or investment instruments or the authorization for investments. The chief financial officer of the local unit shall be charged with administering the plan.

c. The cash management plan shall be designed to assure to the extent practicable the investment of local funds in interest bearing accounts and other permitted investments. The cash management plan shall be subject to the annual audit conducted pursuant to N.J.S.40A:5-4. When an investment in bonds maturing in more than one year is authorized, the maturity of those bonds shall approximate the prospective use of the funds invested.

d. The cash management plan may include authorization to invest in any of the investments authorized pursuant to section 8 of P.L.1977, c.396 (C.40A:5-15.1) and shall set policies for selecting and evaluating investment instruments accordingly. Such policies shall consider preservation of capital, liquidity, current and historical investment returns, diversification, maturity requirements, costs and fees, and when appropriate, policies of investment instrument administrators. Policies shall be based on a cash flow analysis prepared by the chief financial officer and be commensurate with the nature and size of the funds held by the local unit. All investments shall be made on a competitive basis insofar as practicable.

e. The cash management plan shall require a monthly report to the governing body summarizing all investments made or redeemed since the last meeting. The report shall set forth each organization holding local unit funds, the amount of securities purchased or sold, class or type of securities purchased, book value, earned income, fees incurred, and market value of all investments as of the report date and other information that may be required by the governing body.

f. The official charged with the custody of moneys of a local unit shall deposit or invest them as designated or authorized by the cash management plan pursuant to subsection a. of this section and shall thereafter be relieved of any liability for loss of such moneys due to the insolvency or closing of any depository designated by, or the decrease in value of any investment authorized by, the cash management plan pursuant to subsection a. of this section.

g. Any official involved in the designation of depositories or in the authorization for investments as permitted pursuant to section 8 of P.L.1977, c.396 (C.40A:5-15.1), or any combination of the preceding, or the selection of an entity seeking to sell an investment to the local unit who has a material business or personal relationship with that organization shall disclose that relationship to the governing body of the local unit and to the Local Finance Board or a county or municipal ethics board, as appropriate.

h. The registered principal of any security brokerage firm selling securities to the local unit shall be provided with, and sign an acknowledgment that the principal has seen and reviewed the local unit's cash management plan, except that with respect to the sale of a government money market mutual fund, the registered principal need only be provided with and sign an acknowledgment that the government money market mutual fund whose securities are being sold to the local unit meets the criteria of a government money market mutual fund as set forth in paragraph (1) of subsection e. of section 8 of P.L.1977, c.396 (C.40A:5-15.1).

i. The cash management plan may provide for the purchase of certificates of deposit in accordance with the following conditions:

(1) the funds are initially invested through a public depository as defined in section 1 of P.L.1970, c.236 (C.17:9-41) designated by the local unit;

(2) the designated public depository arranges for the deposit of the funds in certificates of deposit in one or more federally insured banks or savings and loans associations, for the account of the local unit;

(3) 100 percent of the principal and accrued interest of each certificate of deposit is insured by the Federal Deposit Insurance Corporation;

(4) the designated public depository acts as custodian for the local unit with respect to the certificates of deposit issued for the local unit's account; and

(5) at the same time that the local unit's funds are deposited and the certificates of deposit are issued, the designated public depository receives an amount of deposits from customers of other banks and savings and loan associations, wherever located, equal to the amount of funds initially invested by the local unit through the designated public depository.

2. This act shall take effect on the 90th day following enactment.

Approved January 3, 2008.

CHAPTER 242

AN ACT concerning certain public utility employees and supplementing chapter 3 of Title 39 of the Revised Statutes and amending R.S.39:3-50.

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

C.39:3-54.24 Employee of public utility, use of amber light on motor vehicle permitted; fee.

1. An authorized employee of a public utility company who, as part of the official duties of a public utility employee, is required to use a motor vehicle owned or leased by him or a member of his family in the performance of his duties may apply for and be issued a permit by the chief administrator authorizing the display on that motor vehicle of an amber warning light that is provided by the public utility company. The permit for the amber warning light shall be in the possession of the public utility employee while the light is displayed on the motor vehicle. The chief administrator may cancel, suspend, or revoke a permit issued pursuant to this act whenever the conditions for its issuance no longer exist or for any other reasonable grounds. The chief administrator shall collect a \$25 fee for the initial issuance and for each subsequent renewal of the permit for each vehicle for which the applicant seeks authorization to use an amber warning light. The fees collected pursuant to this section shall be considered revenue of the commission and shall not be subject to the calculation of proportional revenue remitted to the commission pursuant to section 105 of P.L.2003, c.13 (C.39:2A-36).

The amber warning light may be operated for the protection of the public and the public utility employee only while the motor vehicle is being used on a public highway by the authorized public utility employee in the performance of his official duties as a public utility employee.

The amber warning lights authorized under the provisions of this act shall be temporarily attached, removable lights of the flashing or revolving type, not more than 7 1/2 inches in diameter, and shall be controlled by a switch installed inside the vehicle.

While in operation, the amber warning light shall be conspicuously displayed on the roof of the motor vehicle.

Nothing herein shall be construed to grant any person displaying and operating an amber warning light pursuant to the provisions of this act any privileges or exemptions denied to the drivers of other motor vehicles and all such persons shall drive with due regard for the safety of all persons and shall obey the traffic laws of this State.

C.39:3-54.25 Use of public utility company logo by employee on motor vehicle.

2. Notwithstanding the provisions of section 2 of P.L.1968, c.439 (C.39:3-8.1), an authorized employee of a public utility company who, as part of the official duties of a public utility employee, is required to use a motor vehicle owned or leased by him or a member of his family in the performance of his duties may affix on that motor vehicle a magnetic sign, provided by the public utility company, that displays the corporate logo of the public utility company. The sign shall be placed on the exterior of the front driver's side door of the motor vehicle.

The sign may only be displayed while the motor vehicle is being used on a public highway by the authorized public utility employee in the performance of his official duties as a public employee, and shall be removed from the motor vehicle when the vehicle is not being used in the performance of these duties.

C.39:3-54.26 Improper use of amber light, logo; penalty.

3. Any person authorized to display an amber warning light or a magnetic sign pursuant to this act, who willfully uses the light or displays the sign in violation of the provisions of this act, shall be liable to a penalty of not more than \$100 and his permit to display the light may be cancelled, suspended, or revoked by the chief administrator.

4. The chief administrator, in accordance with the provisions of the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), shall promulgate rules and regulations to effectuate the purposes of this act.

5. R.S.39:3-50 is amended to read as follows:

Color of lights, permits; cancellation or revocation of permits; fee.

39:3-50. All lamps and reflectors, which display a light visible from directly in front of a vehicle as authorized by this subtitle, shall exhibit lights substantially white, yellow or amber in color.

(a) The color of light emitted or reflected by exterior lamps or reflectors on a vehicle shall be as follows, except as otherwise provided in paragraphs (b), (c) and (d) of this section:

White when the lamp is a headlamp, or spot lamp, or illuminates a license plate or a destination sign; or is located on the outside limit of a side car or other attachment on a motor cycle;

Substantially white or amber when the lamp is a side-cowl or fender lamp, running-board or other courtesy lamp, front parking lamp, back-up lamp, auxiliary driving lamp; or a turn signal on or facing the front;

Substantially red or amber when the lamp is a turn signal or a stop lamp on or facing the rear;

Red when any other lamp or any reflector is on the rear or on either side at or near the rear, except as otherwise provided in paragraph (f) of section 39:3-61 for a combination marker lamp;

Amber when any other lamp or reflector is on the front or on either side other than at or near the rear.

(b) Lamps and reflectors on projecting loads shall emit or reflect light with color as provided in section 10 of this act.

(c) No person shall drive or move any vehicle or equipment upon any street or highway equipped with any device or lamp thereon capable of or displaying a light of any other color than permitted by this section, except: an authorized emergency vehicle, an authorized school bus, or a vehicle authorized by a permit issued by the chief administrator.

(d) A permit authorizing a vehicle to be equipped with a lamp capable of or displaying a flashing light, except as provided in 39:3-54 or a light of a color other than permitted by this section, visible from directly in front of said vehicle, may be issued by the director when necessary, in his discretion, for the reasonable and safe movement of traffic. The permit shall specify the type and color of such lamp and the conditions under which a person may drive or move the vehicle with said lamp displaying a light. The permit shall be valid only when the specifications and conditions contained therein are complied with. The chief administrator shall collect a \$25 fee for the initial issuance and for each subsequent renewal of the permit for each vehicle for which the applicant seeks to use such a light, provided, however, that no fee shall be charged for a permit authorizing the use of a light that is red or blue. The fee set forth in this section shall not apply to a motor vehicle registered at no fee pursuant to R.S.39:3-27. The fees collected pursuant to this section shall be considered revenue of the commission and shall not be subject to the calculation of proportional revenue

remitted to the commission pursuant to section 105 of P.L.2003, c.13 (C.39:2A-36).

The chief administrator may cancel or revoke a permit issued under authority of this section whenever the conditions for its issuance no longer exist or on any other reasonable grounds.

6. This act shall take effect on the first day of the thirteenth month after enactment.

Approved January 3, 2008.

CHAPTER 243

AN ACT authorizing the State Treasurer to accept an exchange of certain State-owned real property.

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

1. The Legislature finds and declares:

a. At present, the Motor Vehicle Commission facilities in the Township of Stafford, Ocean County, are located on a contaminated parcel of real property;

b. An exchange of that property for a parcel owned by the Township of Stafford has been proposed that will enable the Motor Vehicle Commission to move its facilities to uncontaminated land on which a new 9,380 square foot facility will be constructed at the sole expense of the Walters Group, the Township of Stafford's redeveloper;

c. The exchange will facilitate the comprehensive environmental cleanup of the area, with the cleanup having been the subject of review and approval by the State Department of Environmental Protection, and the redevelopment to occur in a State approved redevelopment area, with the proposed redevelopment having been reviewed and approved by the Pine-lands Commission; and

d. There will be no expense to the State or the commission as a consequence of the exchange and important environmental and land use goals will be met.

2. The Department of the Treasury, on behalf of the Motor Vehicle Commission, is authorized to convey all of the State's rights, title and inter-

est in the 5.01 +- acre lot, tract and parcel of land, currently known as Block 13, Lot 55, as designated on the tax map of the Township of Stafford, Ocean County, and the improvements thereon, including two Motor Vehicle Commission inspection stations totaling 7,895 square feet, to the Township of Stafford.

3. In simultaneous exchange for such property, the Township of Stafford shall:

a. transfer to the State Treasurer all of its rights, title and interest in and to an unimproved lot, tract and parcel of 4.00+- acres, currently known as Block 25, Lot 36, also on the tax map of the Township of Stafford, Ocean County; and

b. at no expense to the State or Motor Vehicle Commission, construct or cause to be constructed thereon a new 9,380 square foot vehicle inspection station facility pursuant to design specifications reviewed and approved by the commission. This building shall be designed to be environmentally friendly in accordance with Governor Jon S. Corzine's Executive Order No. 11 of 2006. The site work shall include all necessary landscaping, road improvements, parking, and utilities for both the new inspection station and a future motor vehicle agency.

4. The exchange authorized by sections 2 and 3 of this act, P.L.2007, c.243 shall be executed in accordance with the terms and conditions approved by the State House Commission.

5. The State Treasurer, the Motor Vehicle Commission and the Township of Stafford are authorized to enter into any agreements required to effectuate this exchange.

6. This act shall take effect immediately.

Approved January 3, 2008.

CHAPTER 244

AN ACT concerning controlled dangerous substances, amending P.L.1970, c.226, P.L.1971, c.3 and P.L.2003, c.280, supplementing Titles 24 and 45 of the Revised Statutes, and repealing section 41 of P.L.1970, c.226.

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

1. Section 2 of P.L.1970, c.226 (C.24:21-2) is amended to read as follows:

C.24:21-2 Definitions.

2. Definitions. As used in this act:

“Administer” means the direct application of a controlled dangerous substance, whether by injection, inhalation, ingestion, or any other means, to the body of a patient or research subject by: (1) a practitioner (or, in his presence, by his lawfully authorized agent), or (2) the patient or research subject at the lawful direction and in the presence of the practitioner.

“Agent” means an authorized person who acts on behalf of or at the direction of a manufacturer, distributor, or dispenser but does not include a common or contract carrier, public warehouseman, or employee thereof.

“Commissioner” means the Commissioner of Health and Senior Services.

“Controlled dangerous substance” means a drug, substance, or immediate precursor in Schedules I through V of article 2 of P.L.1970, c.226 (C.24:21-1 et seq.), as amended and supplemented. The term shall not include distilled spirits, wine, malt beverages, as those terms are defined or used in R.S.33:1-1 et seq., or tobacco and tobacco products.

“Counterfeit substance” means a controlled dangerous substance which, or the container or labeling of which, without authorization, bears the trademark, trade name, or other identifying mark, imprint, number or device, or any likeness thereof, of a manufacturer, distributor, or dispenser other than the person or persons who in fact manufactured, distributed or dispensed such substance and which thereby falsely purports or is represented to be the product of, or to have been distributed by, such other manufacturer, distributor, or dispenser.

“Deliver” or “delivery” means the actual, constructive, or attempted transfer from one person to another of a controlled dangerous substance, whether or not there is an agency relationship.

“Director” means the Director of the Division of Consumer Affairs in the Department of Law and Public Safety.

“Dispense” means to deliver a controlled dangerous substance to an ultimate user or research subject by or pursuant to the lawful order of a practitioner, including the prescribing, administering, packaging, labeling, or compounding necessary to prepare the substance for that delivery. “Dispenser” means a practitioner who dispenses.

“Distribute” means to deliver other than by administering or dispensing a controlled dangerous substance. “Distributor” means a person who distributes.

“Division” means the Division of Consumer Affairs in the Department of Law and Public Safety.

“Drug Enforcement Administration” means the Drug Enforcement Administration in the United States Department of Justice.

“Drugs” means (a) substances recognized in the official United States Pharmacopoeia, official Homeopathic Pharmacopoeia of the United States, or official National Formulary, or any supplement to any of them; and (b) substances intended for use in the diagnosis, cure, mitigation, treatment, or prevention of disease in man or other animals; and (c) substances (other than food) intended to affect the structure or any function of the body of man or other animals; and (d) substances intended for use as a component of any article specified in subsections (a), (b) and (c) of this section; but does not include devices or their components, parts or accessories.

“Drug dependent person” means a person who is using a controlled dangerous substance and who is in a state of psychic or physical dependence, or both, arising from the use of that controlled dangerous substance on a continuous basis. Drug dependence is characterized by behavioral and other responses, including but not limited to a strong compulsion to take the substance on a recurring basis in order to experience its psychic effects, or to avoid the discomfort of its absence.

“Hashish” means the resin extracted from any part of the plant Genus Cannabis L. and any compound, manufacture, salt, derivative, mixture, or preparation of such resin.

“Marihuana” means all parts of the plant Genus Cannabis L., whether growing or not; the seeds thereof; and every compound, manufacture, salt, derivative, mixture, or preparation of such plant or its seeds, except those containing resin extracted from such plant; but shall not include the mature stalks of such plant, fiber produced from such stalks, oil or cake made from the seeds of such plant, any other compound, manufacture, salt, derivative, mixture, or preparation of such mature stalks, fiber, oil, or cake, or the sterilized seed of such plant which is incapable of germination.

“Manufacture” means the production, preparation, propagation, compounding, conversion or processing of a controlled dangerous substance, either directly or by extraction from substances of natural origin, or independently by means of chemical synthesis, or by a combination of extraction and chemical synthesis, and includes any packaging or repackaging of the substance or labeling or relabeling of its container, except that this term

does not include the preparation or compounding of a controlled dangerous substance by an individual for his own use or the preparation, compounding, packaging, or labeling of a controlled dangerous substance: (1) by a practitioner as an incident to his administering or dispensing of a controlled dangerous substance in the course of his professional practice, or (2) by a practitioner (or under his supervision) for the purpose of, or as an incident to, research, teaching, or chemical analysis and not for sale.

“Narcotic drug” means any of the following, whether produced directly or indirectly by extraction from substances of vegetable origin, or independently by means of chemical synthesis, or by a combination of extraction and chemical synthesis:

(a) Opium, coca leaves, and opiates;

(b) A compound, manufacture, salt, derivative, or preparation of opium, coca leaves, or opiates;

(c) A substance (and any compound, manufacture, salt, derivative, or preparation thereof) which is chemically identical with any of the substances referred to in subsections (a) and (b), except that the words “narcotic drug” as used in this act shall not include decocainized coca leaves or extracts of coca leaves, which extracts do not contain cocaine or ecgonine.

“Official written order” means an order written on a form provided for that purpose by the Attorney General of the United States or his delegate, under any laws of the United States making provisions therefor, if such order forms are authorized and required by the federal law, and if no such form is provided, then on an official form provided for that purpose by the division. If authorized by the Attorney General of the United States or the division, the term shall also include an order transmitted by electronic means.

“Opiate” means any dangerous substance having an addiction-forming or addiction-sustaining liability similar to morphine or being capable of conversion into a drug having such addiction-forming or addiction-sustaining liability. It does not include, unless specifically designated as controlled under section 3 of this act, the dextrorotatory isomer of 3-methoxy-n-methylmorphinan and its salts (dextromethorphan). It does include its racemic and levorotatory forms.

“Opium poppy” means the plant of the species *Papaver somniferum* L., except the seeds thereof.

“Person” means any corporation, association, partnership, trust, other institution or entity or one or more individuals. “Pharmacist” means a registered pharmacist of this State.

“Pharmacy owner” means the owner of a store or other place of business where controlled dangerous substances are compounded or dispensed

by a registered pharmacist; but nothing in this chapter contained shall be construed as conferring on a person who is not registered or licensed as a pharmacist any authority, right or privilege that is not granted to him by the pharmacy laws of this State.

“Poppy straw” means all parts, except the seeds, of the opium poppy, after mowing.

“Practitioner” means a physician, dentist, veterinarian, scientific investigator, laboratory, pharmacy, hospital or other person licensed, registered, or otherwise permitted to distribute, dispense, conduct research with respect to, or administer a controlled dangerous substance in the course of professional practice or research in this State.

(a) “Physician” means a physician authorized by law to practice medicine in this or any other state and any other person authorized by law to treat sick and injured human beings in this or any other state.

(b) “Veterinarian” means a veterinarian authorized by law to practice veterinary medicine in this State.

(c) “Dentist” means a dentist authorized by law to practice dentistry in this State.

(d) “Hospital” means any federal institution, or any institution for the care and treatment of the sick and injured, operated or approved by the appropriate State department as proper to be entrusted with the custody and professional use of controlled dangerous substances.

(e) “Laboratory” means a laboratory to be entrusted with the custody of narcotic drugs and the use of controlled dangerous substances for scientific, experimental and medical purposes and for purposes of instruction approved by the Department of Health and Senior Services.

“Production” includes the manufacture, planting, cultivation, growing, or harvesting of a controlled dangerous substance.

“Immediate precursor” means a substance which the division has found to be and by regulation designates as being the principal compound commonly used or produced primarily for use, and which is an immediate chemical intermediary used or likely to be used in the manufacture of a controlled dangerous substance, the control of which is necessary to prevent, curtail, or limit such manufacture.

“State” means the State of New Jersey.

“Ultimate user” means a person who lawfully possesses a controlled dangerous substance for his own use or for the use of a member of his household or for administration to an animal owned by him or by a member of his household.

2. Section 3 of P.L.1970, c.226 (C.24:21-3) is amended to read as follows:

C.24:21-3 Authority to control.

3. Authority to control. a. The director shall administer the provisions of P.L.1970, c.226 (C.24:21-1 et seq.), as amended and supplemented, as provided herein. The director may add substances to or delete or reschedule all substances enumerated in the schedules in sections 5 through 8.1 of P.L.1970, c.226, as amended and supplemented (C.24:21-5 through 24:21-8.1). In determining whether to control a substance, the director shall consider the following:

- (1) Its actual or relative potential for abuse;
- (2) Scientific evidence of its pharmacological effect, if known;
- (3) State of current scientific knowledge regarding the substance;
- (4) Its history and current pattern of abuse;
- (5) The scope, duration, and significance of abuse;
- (6) What, if any, risk there is to the public health;
- (7) Its psychic or physiological dependence liability; and
- (8) Whether the substance is an immediate precursor of a substance already controlled under this article.

After considering the above factors, the director shall make findings with respect thereto and shall issue an order controlling the substance if he finds that the substance has a potential for abuse.

b. If the director designates a substance as an immediate precursor, substances which are precursors of the controlled precursor shall not be subject to control solely because they are precursors of the controlled precursor.

c. If any substance is designated, rescheduled or deleted as a controlled dangerous substance under federal law and notice thereof is given to the director, the director shall similarly control the substance under P.L.1970, c.226, as amended and supplemented, after the expiration of 30 days from publication in the Federal Register of a final order designating a substance as a controlled dangerous substance or rescheduling or deleting a substance, unless within that 30-day period, the director objects to inclusion, rescheduling, or deletion. In that case, the director shall cause to be published in the New Jersey Register and made public the reasons for his objection and shall afford all interested parties an opportunity to be heard. At the conclusion of any such hearing, the director shall publish and make public his decision, which shall be final unless the substance is specifically otherwise dealt with by an act of the Legislature. Upon publication of objection to inclusion or rescheduling under P.L.1970, c.226 (C.24:21-1 et

seq.) by the director, control of such substance under this section shall automatically be stayed until such time as the director makes public his final decision.

The director may by regulation exclude any nonnarcotic substance from a schedule if such substance may, under the provisions of federal or State law, be lawfully sold over the counter without a prescription, unless otherwise controlled pursuant to rules and regulations promulgated by the division.

d. The director shall update and republish the schedules in sections 5 through 8.1 of P.L.1970, c.226, as amended and supplemented (C.24:21-5 through 24:21-8.1) periodically.

3. Section 5 of P.L.1970, c. 226 (C.24:21-5) is amended to read as follows:

C.24:21-5 Schedule I.

5. Schedule I.

a. Tests. The director shall place a substance in Schedule I if he finds that the substance: (1) has high potential for abuse; and (2) has no accepted medical use in treatment in the United States; or lacks accepted safety for use in treatment under medical supervision.

b. The controlled dangerous substances listed in this section are included in Schedule I, subject to any revision and republishing by the director pursuant to subsection d. of section 3 of P.L.1970, c.226 (C.24:21-3), and except to the extent provided in any other schedule.

c. Any of the following opiates, including their isomers, esters, and ethers, unless specifically excepted, whenever the existence of such isomers, esters, ethers and salts is possible within the specific chemical designation:

- (1) Acetylmethadol
- (2) Allylprodine
- (3) Alphacetylmethadol
- (4) Alphameprodine
- (5) Alphamethadol
- (6) Benzethidine
- (7) Betacetylmethadol
- (8) Betameprodine
- (9) Betamethadol
- (10) Betaprodine
- (11) Clonitazene
- (12) Dextromoramide

- (13) Dextrorphan
- (14) Diampromide
- (15) Diethylthiambutene
- (16) Dimenoxadol
- (17) Dimepheptanol
- (18) Dimethylthiambutene
- (19) Dioxaphetyl butyrate
- (20) Dipipanone
- (21) Ethylmethylthiambutene
- (22) Etonitazene
- (23) Etoxeridine
- (24) Furethidine
- (25) Hydroxypethidine
- (26) Ketobemidone
- (27) Levomoramide
- (28) Levophenacymorphan
- (29) Morpheridine
- (30) Noracymethadol
- (31) Norlevorphanol
- (32) Normethadone
- (33) Norpipanone
- (34) Phenadoxone
- (35) Phenampromide
- (36) Phenomorphan
- (37) Phenoperidine
- (38) Piritramide
- (39) Proheptazine
- (40) Properidine
- (41) Racemoramide
- (42) Trimeperidine.

d. Any of the following narcotic substances, their salts, isomers and salts of isomers, unless specifically excepted, whenever the existence of such salts, isomers and salts of isomers is possible within the specific chemical designation:

- (1) Acetorphine
- (2) Acetylcodone
- (3) Acetyldihydrocodeine
- (4) Benzylmorphine
- (5) Codeine methylbromide
- (6) Codeine-N-Oxide

- (7) Cyprenorphine
- (8) Desomorphine
- (9) Dihydromorphine
- (10) Etorphine
- (11) Heroin
- (12) Hydromorphenol
- (13) Methyldesorphine
- (14) Methylhydromorphine
- (15) Morphine methylbromide
- (16) Morphine methylsulfonate
- (17) Morphine-N-Oxide
- (18) Myrophine
- (19) Nicocodeine
- (20) Nicomorphine
- (21) Normorphine
- (22) Phoclodine
- (23) Thebacon.

e. Any material, compound, mixture or preparation which contains any quantity of the following hallucinogenic substances, their salts, isomers and salts of isomers, unless specifically excepted, whenever the existence of such salts, isomers, and salts of isomers is possible within the specific chemical designation:

- (1) 3,4-methylenedioxy amphetamine
- (2) 5-methoxy-3,4-methylenedioxy amphetamine
- (3) 3,4,5-trimethoxy amphetamine
- (4) Bufotenine
- (5) Diethyltryptamine
- (6) Dimethyltryptamine
- (7) 4-methyl-2,5-dimethoxylamphetamine
- (8) Ibogaine
- (9) Lysergic acid diethylamide
- (10) Marihuana
- (11) Mescaline
- (12) Peyote
- (13) N-ethyl-3-piperidyl benzilate
- (14) N-methyl-3-piperidyl benzilate
- (15) Psilocybin
- (16) Psilocyn
- (17) Tetrahydrocannabinols.

4. Section 6 of P.L.1970, c.226 (C.24:21-6) is amended to read as follows:

C.24:21-6 Schedule II.

6. Schedule II.

a. Tests. The director shall place a substance in Schedule II if he finds that the substance: (1) has high potential for abuse; (2) has currently accepted medical use in treatment in the United States, or currently accepted medical use with severe restrictions; and (3) abuse may lead to severe psychic or physical dependence.

b. The controlled dangerous substances listed in this section are included in Schedule II, subject to any revision and republishing by the director pursuant to subsection d. of section 3 of P.L.1970, c.226 (C.24:21-3), and except to the extent provided in any other schedule.

c. Any of the following substances except those narcotic drugs listed in other schedules whether produced directly or indirectly by extraction from substances of vegetable origin, or independently by means of chemical synthesis, or by combination of extraction and chemical synthesis:

(1) Opium and opiate, and any salt, compound, derivative, or preparation of opium or opiate.

(2) Any salt, compound, derivative, or preparation thereof which is chemically equivalent or identical with any of the substances referred to in clause 1, except that these substances shall not include the isoquinoline alkaloids of opium.

(3) Opium poppy and poppy straw.

(4) Coca leaves and any salt, compound, derivative, or preparation of coca leaves, and any salt, compound, derivative, or preparation thereof which is chemically equivalent or identical with any of these substances, except that the substances shall not include decocainized coca leaves or extractions which do not contain cocaine or ecogine.

d. Any of the following opiates, including their isomers, esters, ethers, salts, and salts of isomers, esters and ethers, unless specifically excepted, whenever the existence of such isomers, esters, ethers, and salts is possible within the specific chemical designation:

(1) Alphaprodine

(2) Anileridine

(3) Bezitramide

(4) Dihydrocodeine

(5) Diphenoxylate

(6) Fentanyl

- (7) Isomethadone
- (8) Levomethorphan
- (9) Levorphanol
- (10) Metazocine
- (11) Methadone
- (12) Methadone--Intermediate, 4-cyano-2-dimethylamino-4, 4-diphenyl butane
- (13) Moramide--Intermediate, 2-methyl-3-morpholino-1, 1-diphenylpropane-carboxylic acid
- (14) Pethidine
- (15) Pethidine--Intermediate--A, 4-cyano-1-methyl-4-phenylpiperidine
- (16) Pethidine--Intermediate--B, ethyl-4-phenylpiperidine-4-carboxylate
- (17) Pethidine--Intermediate--C, 1-methyl-4-phenylpiperidine-4-carboxylic acid
- (18) Phenazocine
- (19) Piminodine
- (20) Racemethorphan
- (21) Racemorphan.

5. Section 7 of P.L. 1970, c. 226 (C.24:21-7) is amended to read as follows:

C.24:21-7 Schedule III.

7. Schedule III.

a. Tests. The director shall place a substance in Schedule III if he finds that the substance: (1) has a potential for abuse less than the substances listed in Schedules I and II; (2) has currently accepted medical use in treatment in the United States; and (3) abuse may lead to moderate or low physical dependence or high psychological dependence.

b. The controlled dangerous substances listed in this section are included in Schedule III, subject to any revision and republishing by the director pursuant to subsection d. of section 3 of P.L.1970, c.226 (C.24:21-3), and except to the extent provided in any other schedule.

c. Any material, compound, mixture, or preparation which contains any quantity of the following substances associated with a stimulant effect on the central nervous system:

- (1) Amphetamine, its salts, optical isomers, and salts of its optical isomers.
- (2) Phenmetrazine and its salts.

(3) Any substance which contains any quantity of methamphetamine, including its salts, isomers, and salts of isomers.

(4) Methylphenidate.

d. Any material, compound, mixture, or preparation which contains any quantity of the following substances having a potential for abuse associated with a depressant effect on the central nervous system:

(1) Any substance which contains any quantity of a derivative of barbituric acid, or any salt of a derivative of barbituric acid, except those substances which are specifically listed in other schedules

(2) Chlorhexadol

(3) Glutethimide

(4) Lysergic acid

(5) Lysergic acid amide

(6) Methypylon

(7) Phencyclidine

(8) Sulfondiethylmethane

(9) Sulfonethylmethane

(10) Sulfonmethane

(11) Ketamine hydrochloride.

e. Nalorphine.

f. Any material, compound, mixture, or preparation containing limited quantities of any of the following narcotic drugs, or any salts thereof:

(1) Not more than 1.80 grams of codeine or any of its salts per 100 milliliters or not more than 90 milligrams per dosage unit, with an equal or greater quantity of an isoquinoline alkaloid of opium.

(2) Not more than 1.80 grams of codeine or any of its salts per 100 milliliters or not more than 90 milligrams per dosage unit, with one or more active, nonnarcotic ingredients in recognized therapeutic amounts.

(3) Not more than 300 milligrams of dihydrocodeinone or any of its salts per 100 milliliters or not more than 15 milligrams per dosage unit, with a four-fold or greater quantity of an isoquinoline alkaloid of opium.

(4) Not more than 300 milligrams of dihydrocodeinone or any of its salts per 100 milliliters or not more than 15 milligrams per dosage unit, with one or more active, nonnarcotic ingredients in recognized therapeutic amounts.

(5) Not more than 1.80 grams of dihydrocodeine or any of its salts per 100 milliliters or not more than 90 milligrams per dosage unit, with one or more active, nonnarcotic ingredients in recognized therapeutic amounts.

(6) Not more than 300 milligrams of ethylmorphine or any of its salts per 100 milliliters or not more than 15 milligrams per dosage unit, with one or more active, nonnarcotic ingredients in recognized therapeutic amounts.

(7) Not more than 500 milligrams of opium or any of its salts per 100 milliliters or per 100 grams, or not more than 25 milligrams per dosage unit, with one or more active, nonnarcotic ingredients in recognized therapeutic amounts.

(8) Not more than 50 milligrams of morphine or any of its salts per 100 milliliters or per 100 grams with one or more active, nonnarcotic ingredients in recognized therapeutic amounts.

g. The director may by regulation except any compound, mixture, or preparation containing any stimulant or depressant substance listed in subsections c. and d. of this schedule from the application of all or any part of this act if the compound, mixture, or preparation contains one or more active medicinal ingredients not having a stimulant or depressant effect on the central nervous system; provided, that such admixtures shall be included therein in such combinations, quantity, proportion, or concentration as to vitiate the potential for abuse of the substances which do have a stimulant or depressant effect on the central nervous system.

6. Section 8 of P.L.1970, c.226 (C.24:21-8) is amended to read as follows:

C.24:21-8 Schedule IV.

8. Schedule IV.

a. Tests. The director shall place a substance in Schedule IV if he finds that the substance: (1) has low potential for abuse relative to the substances listed in Schedule III; (2) has currently accepted medical use in treatment in the United States; and (3) may lead to limited physical dependence or psychological dependence relative to the substances listed in Schedule III.

b. The controlled dangerous substances listed in this section are included in Schedule IV.

c. Any material, compound, mixture or preparation which contains any quantity of the following substances having a potential for abuse associated with a depressant effect on the central nervous system:

- (1) Barbital
- (2) Chloral betaine
- (3) Chloral hydrate
- (4) Ethchlorovynol
- (5) Ethinamate
- (6) Methohexital
- (7) Meprobamate
- (8) Methylphenobarbital

- (9) Paraldehyde
- (10) Petrichloral
- (11) Phenobarbital.

d. The director may except by rule any compound, mixture, or preparation containing any depressant substance listed in subsection c. from the application of all or any part of this act if the compound, mixture or preparation contains one or more active medicinal ingredients not having a depressant effect on the central nervous system, and if the admixtures are included therein in combinations, quantity, proportion or concentration that vitiate the potential for abuse of the substances which have a depressant effect on the central nervous system.

7. Section 4 of P.L.1971, c.3 (C.24:21-8.1) is amended to read as follows:

C.24:21-8.1 Schedule V.

4. Schedule V.

a. Tests. The director shall place a substance in Schedule V if he finds that the substance: (1) has low potential for abuse relative to the substances listed in Schedule IV; (2) has currently accepted medical use in treatment in the United States; and (3) has limited physical dependence or psychological dependence liability relative to the substances listed in Schedule IV.

b. The controlled dangerous substances listed in this section are included in Schedule V.

c. Any compound, mixture, or preparation containing limited quantities of any of the following narcotic drugs, which also contains one or more nonnarcotic active medicinal ingredients in sufficient proportion to confer upon the compound, mixture, or preparation, valuable medicinal qualities other than those possessed by the narcotic drug alone:

(1) Not more than 200 milligrams of codeine or any of its salts per 100 milliliters or per 100 grams;

(2) Not more than 100 milligrams of dihydrocodeine or any of its salts per 100 milliliters or per 100 grams;

(3) Not more than 50 milligrams of ethylmorphine or any of its salts per 100 milliliters or per 100 grams;

(4) Not more than 2.5 milligrams of diphenoxylate and not less than 25 micrograms of atropine sulfate per dosage unit;

(5) Not more than 100 milligrams of opium or any of its salts per 100 milliliters or per 100 grams.

8. Section 9 of P.L.1970, c.226 (C.24:21-9) is amended to read as follows:

C.24:21-9 Rules and regulations.

9. Rules and regulations. The director is authorized to promulgate rules and regulations and to charge reasonable fees relating to the registration and control of the manufacture, distribution, and dispensing of controlled dangerous substances within this State.

9. Section 10 of P.L.1970, c.226 (C.24:21-10) is amended to read as follows:

C.24:21-10 Registration requirements.

10. Registration requirements. a. Every person who manufactures, distributes, or dispenses any controlled dangerous substance within this State or who proposes to engage in the manufacture, distribution, or dispensing of any controlled dangerous substance within this State, shall obtain a registration issued by the division in accordance with rules and regulations promulgated by it.

b. Persons registered by the director under this act to manufacture, distribute, dispense, or conduct research with controlled dangerous substances may possess, manufacture, distribute, dispense, or conduct research with those substances to the extent authorized by their registration and in conformity with the other provisions of this article.

c. The following persons shall not be required to register and may lawfully have under their control or possess controlled dangerous substances under the provisions of P.L.1970, c.226 (C.24:21-1 et seq.), as amended and supplemented; provided, however, that nothing in this section shall be construed as conferring on a person who is not registered or licensed as a practitioner or as a pharmacist any authority, right or privilege that is not granted him by the laws of this State:

(1) An agent, or an employee thereof, of any registered manufacturer, distributor, or dispenser of any controlled dangerous substance if such agent is acting in the usual course of his business or employment;

(2) A common carrier or warehouseman, or an employee thereof, whose possession of any controlled dangerous substance is in the usual course of his business or employment;

(3) An ultimate user or a person in possession of any controlled dangerous substance pursuant to a lawful order of a practitioner or in lawful possession of a Schedule V substance;

(4) Peace officers or employees in the performance of their official duties requiring possession or control of controlled dangerous substances; or to temporary incidental possession by employees or agents of persons lawfully entitled to possession, or by persons whose possession is authorized for the purpose of aiding peace officers in performing their official duties.

d. The director may, by regulation, waive the requirement for registration of certain manufacturers, distributors, or dispensers if he finds it consistent with the public health and safety.

e. A separate registration shall be required at each principal place of business or professional practice where the applicant manufactures, distributes, or dispenses controlled dangerous substances.

f. The director is authorized to inspect the establishment of a registrant or applicant for registration in accordance with the rules and regulations promulgated by him.

10. Section 11 of P.L.1970, c.226 (C.24:21-11) is amended to read as follows:

C.24:21-11 Registration.

11. Registration. a. The division shall not register an applicant to manufacture or distribute controlled dangerous substances included in Schedules I through IV of article 2 of P.L.1970, c.226 (C.24:21-3 et seq.), as amended and supplemented, unless it determines that the issuance of such registration is consistent with the public interest. In determining the public interest, the following factors shall be considered:

(1) Maintenance of effective controls against diversion of particular controlled dangerous substances into other than legitimate medical, scientific, or industrial channels;

(2) Compliance with applicable State and local laws;

(3) Any convictions of the applicant under any federal and State laws relating to any controlled dangerous substance;

(4) Past experience in the manufacture of controlled dangerous substances, and the existence in the applicant's establishment of effective controls against diversion;

(5) Furnishing by the applicant false or fraudulent material in any application filed under this act;

(6) Suspension or revocation of the applicant's federal registration to manufacture, distribute, or dispense controlled dangerous substances as authorized by federal law; and

(7) Such other factors as may be relevant to and consistent with the public health and safety.

b. Registration granted under subsection a. of this section shall not entitle a registrant to manufacture and distribute controlled dangerous substances in Schedule I or II other than those specified in the registration.

c. Practitioners shall be registered to dispense substances in Schedules II through IV if they are authorized to dispense or conduct research under the law of this State. The director need not require separate registration under this article for practitioners engaging in research with nonnarcotic controlled dangerous substances in Schedules II through IV where the registrant is already registered under this article in another capacity. Practitioners registered under federal law to conduct research in Schedule I substances are permitted to conduct research in Schedule I substances within this State upon furnishing the director evidence of that federal registration.

d. Compliance by manufacturers and distributors with the provisions of the federal law respecting registration (excluding fees) entitles them to be registered under P.L.1970, c.226 (C.24:21-1 et seq.), as amended and supplemented.

e. The division shall initially permit persons to register who own or operate any establishment engaged in the manufacture, distribution or dispensing of any controlled dangerous substances prior to the effective date of P.L.1970, c.226, as amended and supplemented, and who are registered or licensed by the State.

f. An incorporated humane society or a licensed animal control facility may designate an officer, a member of its board of trustees, the owner, the operator or the manager as its duly authorized agent. The division shall, consistent with the public interest, register such duly authorized agent for the limited purpose of buying, possessing, and dispensing to registered and certified personnel sodium pentobarbital to euthanize injured, sick, homeless and unwanted domestic pets or domestic or wild animals. The duly authorized agent shall file, on a quarterly basis, a report of any purchase, possession and use of sodium pentobarbital, which report shall be certified by the humane society or animal control facility as to its accuracy and validity. This report shall be in addition to any other recordkeeping and reporting requirements of State and federal law and regulation.

The division shall adopt rules and regulations providing for the registration and certification of any individual who, under the direction of the duly authorized and registered agent of an incorporated humane society or licensed animal control facility, uses sodium pentobarbital to euthanize injured, sick, homeless and unwanted domestic pets or domestic or wild ani-

mals. The division may also adopt such other rules and regulations as shall provide for the safe and efficient use of sodium pentobarbital by animal control facilities and humane societies. Nothing herein shall be deemed to waive any other requirement imposed on animal control facilities and humane societies by State and federal law and regulation.

11. Section 12 of P.L.1970, c.226 (C.24:21-12) is amended to read as follows:

C.24:21-12 Denial, revocation, or suspension of registration.

12. Denial, revocation, or suspension of registration. a. A registration pursuant to section 11 of P.L.1970, c.226 (C.24:21-11) to manufacture, distribute, or dispense a controlled dangerous substance, may be suspended or revoked by the director upon a finding that the registrant:

(1) Has materially falsified any application filed pursuant to P.L.1970, c.226 (C.24:21-1 et seq.), as amended and supplemented, or required by P.L.1970, c.226, as amended and supplemented; or

(2) Has been convicted of an indictable offense under P.L.1970, c.226, as amended and supplemented, or any law of the United States, or of any State, relating to any substance defined herein as a controlled dangerous substance; or

(3) Has violated or failed to comply with any duly promulgated regulation of the director and such violation or failure to comply reflects adversely on the licensee's reliability and integrity with respect to controlled dangerous substances; or

(4) Has had his federal registration suspended or revoked by competent federal authority and is no longer authorized by federal law to engage in the manufacturing, distribution, or dispensing of controlled dangerous substances; or

(5) Has had his registration suspended or revoked by competent authority of another state for violation of its laws or regulations comparable to those of this State relating to the manufacture, distribution or dispensing of controlled dangerous substances.

b. The director may limit revocation or suspension of a registration to the particular controlled dangerous substance with respect to which grounds for revocation or suspension exist.

c. Before taking action pursuant to this section or pursuant to a denial of registration under section 11 of P.L.1970, c.226 (C.24:21-11), the director shall serve upon the applicant or registrant an order to show cause why registration should not be denied, revoked, or suspended. The order to

show cause shall contain a statement of the basis thereof and shall call upon the applicant or registrant to appear before the director at a time and place stated in the order, but in no event less than 30 days after the date of receipt of the order unless an earlier date is requested by the applicant or registrant and agreed to by the director. Proceedings to deny, revoke, or suspend shall be conducted pursuant to this section in accordance with the provisions of the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.). Such proceedings shall be independent of, and not in lieu of, criminal prosecutions or other proceedings under P.L.1970, c.226, as amended and supplemented, or any law of the State.

d. The director may, in his discretion, suspend any registration simultaneously with the institution of proceedings under this section in cases where he finds that there is an imminent danger to the public health or safety. Such suspensions shall continue in effect until the conclusion of such proceedings, including judicial review thereof, unless sooner withdrawn by the director or dissolved by a court of competent jurisdiction.

e. In the event the director suspends or revokes a registration granted under section 11 of P.L.1970, c.226 (C.24:21-11), all controlled dangerous substances owned or possessed by the registrant pursuant to such registration at the time of suspension or the effective date of the revocation order, as the case may be, may in the discretion of the director be placed under seal. No disposition may be made of substances under seal until the time for taking an appeal has elapsed or until all appeals have been concluded unless a court, upon application therefor, orders the sale of perishable substances and the deposit of the proceeds of the sale with the court. Upon a revocation order becoming final, all such controlled dangerous substances may be forfeited to the State.

f. The director shall promptly notify the Drug Enforcement Administration of all orders suspending or revoking registration and all forfeitures of controlled dangerous substances.

12. Section 13 of P.L.1970, c.226 (C.24:21-13) is amended to read as follows:

C.24:21-13 Records of registrants.

13. Records of registrants. Persons registered to manufacture, distribute, or dispense controlled dangerous substances under P.L.1970, c.226 (C.24:21-1 et seq.), as amended and supplemented, shall keep records and maintain inventories in conformance with the recordkeeping and inventory

requirements of federal law and with such additional rules as may be issued by the director.

13. Section 14 of P.L.1970, c.226 (C.24:21-14) is amended to read as follows:

C.24:21-14 Order forms.

14. Order forms. a. Controlled dangerous substances in Schedules I and II shall be distributed only by a registrant, pursuant to an official written order form, clearly identifying it as covering or relating to Schedule I and Schedule II, or either thereof, controlled dangerous substances and bearing the registration number of the registrant. Compliance with federal law respecting order forms shall be deemed compliance with this section.

b. A pharmacist, only upon an official written order, may sell to a practitioner in quantities not exceeding one ounce at any one time, aqueous or oleaginous solutions compounded by him of which the content of narcotic drugs or other controlled dangerous substances does not exceed a proportion greater than 20% of the complete solution, to be used for medical purposes.

c. An official written order for any controlled dangerous substance in Schedule I or Schedule II shall be signed in triplicate by the person giving said order or by his duly authorized agent. The original and triplicate shall be presented to the person who sells or dispenses the controlled dangerous substance or substances named therein. In the event of the acceptance of such order by said person, except as may be otherwise required by rule, regulation, or order of the director, each party to the transaction shall preserve his copy of such order for a period of two years, in such a way as to be readily accessible for inspection by any public officer or employee engaged in the enforcement of this chapter.

d. Use of an official written order in electronic form shall comply with the requirements of State law and regulations.

14. Section 15 of P.L.1970, c.226 (C.24:21-15) is amended to read as follows:

C.24:21-15 Prescriptions.

15. Prescriptions. a. Except when dispensed directly in good faith by a practitioner, other than a pharmacist, in the course of his professional practice only, to an ultimate user, no controlled dangerous substance included in Schedule II, which is a prescription drug as defined in section 2 of P.L.2003, c.280 (C.45:14-41), may be dispensed without the written prescription of a

practitioner; provided that in emergency situations, as prescribed by the division by regulation, such drug may be dispensed upon oral prescription reduced promptly to writing and filed by the pharmacist, if such oral prescription is authorized by federal law. Prescriptions shall be retained in conformity with the requirements of section 13 of P.L.1970, c.226 (C.24:21-13). No prescription for a Schedule II substance may be refilled.

b. Except when dispensed directly in good faith by a practitioner, other than a pharmacist, in the course of his professional practice only, to an ultimate user, no controlled dangerous substance included in Schedules III and IV which is a prescription drug as defined in section 2 of P.L.2003, c.280 (C.45:14-41) may be dispensed without a written or oral prescription. Such prescription may not be filled or refilled more than six months after the date thereof or be refilled more than five times after the date of the prescription, unless renewed by the practitioner.

c. No controlled dangerous substance included in Schedule V may be distributed or dispensed other than for a valid and accepted medical purpose.

d. A practitioner other than a veterinarian who prescribes a controlled dangerous substance in good faith and in the course of his professional practice may administer the same or cause the same to be administered by a nurse or intern under his direction and supervision.

e. A veterinarian who prescribes a controlled dangerous substance not for use by a human being in good faith and in the course of his professional practice may administer the same or cause the same to be administered by an assistant or orderly under his direction and supervision.

f. A person who has obtained a controlled dangerous substance from the prescribing practitioner for administration to a patient during the absence of the practitioner shall return to the practitioner any unused portion of the substance when it is no longer required by the patient or when its return is requested by the practitioner.

g. Whenever it appears to the division that a drug not considered to be a prescription drug under existing State law should be so considered because of its abuse potential, it shall so advise the New Jersey State Board of Pharmacy and furnish to it all available data relevant thereto.

15. Section 17 of P.L.1970, c.226 (C.24:21-17) is amended to read as follows:

C.24:21-17 Form of label to be used by pharmacists; altering or removing label.

17. Form of label to be used by pharmacists; altering or removing label. Whenever a pharmacist sells or dispenses any controlled dangerous sub-

stance on a prescription issued by a practitioner, he shall affix to the container in which such drug is sold or dispensed, a label showing his own name, address, and registry number, or the name, address, and registry number of the pharmacist or pharmacy owner for whom he is lawfully acting; the name of the patient or, if the patient is an animal, the name of the owner of the animal and the species of the animal; the name of the practitioner by whom the prescription was issued; the brand name or generic name of the drug dispensed unless the prescriber states otherwise on the prescription, such directions as may be stated on the prescription and such directions as may be required by rules or regulations promulgated by the director.

No person shall alter, deface, or remove any label so affixed as long as any of the original contents remain.

16. Section 31 of P.L.1970, c.226 (C.24:21-31) is amended to read as follows:

C.24:21-31 Powers of enforcement personnel.

31. Powers of enforcement personnel. a. It is hereby made the duty of the division, its officers, agents, inspectors and representatives, and of all peace officers within the State, and of the Attorney General and all county prosecutors, to enforce all provisions of P.L.1970, c.226 (C.24:21-1 et seq.), as amended and supplemented, except those specifically delegated, and to cooperate with all agencies charged with the enforcement of the laws of the United States, of this State, and of all other states, relating to narcotic drugs or controlled dangerous substances, and it shall be the duty of the New Jersey Board of Pharmacy in the Division of Consumer Affairs in the Department of Law and Public Safety, its officers, agents, inspectors and representatives also to assist the division, peace officers and county prosecutors in the enforcement of all provisions of P.L.1970, c.226, as amended and supplemented, relating to the handling of controlled dangerous substances by pharmacy owners and pharmacists.

b. Authority is hereby granted to the director:

(1) To promulgate all necessary rules and regulations for the efficient enforcement of P.L.1970, c.226, as amended and supplemented;

(2) To promulgate, insofar as applicable, regulations from time to time promulgated by the Attorney General of the United States;

(3) To promulgate an order relative to any controlled dangerous substance under P.L.1970, c.226, as amended and supplemented, when the delay occasioned by acting through promulgation of a regulation would constitute an imminent danger to the public health or safety.

(a) An order of the director shall take effect immediately, but it shall expire 270 days after promulgation thereof. Rules and regulations pursuant to such order may be adopted and promulgated by the director but they shall not take effect until he has given due notice of his intention to take such action and has held a public hearing.

(b) Any person who denies that a drug or pharmaceutical preparation is properly subject to an order by the director which applies the provisions of P.L.1970, c.226, as amended and supplemented, to such drug or pharmaceutical preparation, may apply to the director for a hearing which must be afforded, except where a drug or pharmaceutical preparation has been the subject of a prior hearing or determination by the director, in which case a hearing shall be discretionary with the director. In such case a decision must be rendered by the director or his designee within 48 hours of the request for a hearing. If the petitioning party is aggrieved by the decision, he shall have the right to apply for injunctive relief against the order. Jurisdiction for such injunctive relief shall be in the Superior Court of New Jersey by way of summary proceedings.

c. In addition to the powers set forth in subsection a. of this section, any officer or employee of the division designated by the director may:

- (1) Execute search warrants, arrest warrants, administrative inspection warrants, subpoenas, and summonses issued under the authority of this State;
- (2) Make seizures of property pursuant to the provisions of this act; and
- (3) Perform such other law enforcement duties as may be designated by the director with the approval of the Attorney General.

17. Section 32 of P.L.1970, c.226 (C.24:21-32) is amended to read as follows:

C.24:21-32 Administrative inspections and warrants.

32. Administrative inspections and warrants. a. Issuance and execution of administrative inspection warrants shall be as follows:

- (1) Any judge of a court having jurisdiction in the municipality where the inspection or seizure is to be conducted, may, upon proper oath or affirmation showing probable cause, issue warrants for the purpose of conducting administrative inspections authorized by P.L.1970, c.226 (C.24:21-1 et seq.), as amended and supplemented, or regulations thereunder, and seizures of property appropriate to such inspections. For the purposes of this section, "probable cause" means a valid public interest in the effective enforcement of P.L.1970, c.226, as amended and supplemented, or regulations sufficient to justify administrative inspection of the area, premises,

building or conveyance in the circumstances specified in the application for the warrant;

(2) A warrant shall issue only upon an affidavit of an officer or employee duly designated and having knowledge of the facts alleged, sworn to before the judge and establishing the grounds for issuing the warrant. If the judge is satisfied that grounds for the application exist or that there is probable cause to believe they exist, he shall issue a warrant identifying the area, premises, building, or conveyance to be inspected, the purpose of such inspection, and, where appropriate, the type of property to be inspected, if any. The warrant shall identify the item or types of property to be seized, if any. The warrant shall be directed to a person authorized by section 31 of P.L.1970, c.226 (C.24:21-31) to execute it. The warrant shall state the grounds for its issuance and the name of the person or persons whose affidavit has been taken in support thereof. It shall command the person to whom it is directed to inspect the area, premises, building, or conveyance identified for the purpose specified, and where appropriate, shall direct the seizure of the property specified. The warrant shall direct that it be served during normal business hours. It shall designate the judge to whom it shall be returned;

(3) A warrant issued pursuant to this section must be executed and returned within 10 days of its date. If property is seized pursuant to a warrant, the person executing the warrant shall give to the person from whom or from whose premises the property was taken a copy of the warrant and a receipt for the property taken or shall leave the copy and receipt at the place from which the property was taken. The return of the warrant shall be made promptly and shall be accompanied by a written inventory of any property taken. The inventory shall be made in the presence of the person executing the warrant and of the person from whose possession or premises the property was taken, if they are present, or in the presence of at least one credible person other than the person executing the warrant. The clerk of the court, upon request, shall deliver a copy of the inventory to the person from whom or from whose premises the property was taken and to the applicant for the warrant; and

(4) The judge who has issued a warrant under this section shall attach to the warrant a copy of the return and all papers filed in connection therewith and shall cause them to be filed with the court which issued such warrant.

b. The director is authorized to make administrative inspections of controlled premises in accordance with the following provisions:

(1) For the purposes of this article only, "controlled premises" means:

(a) Places where persons registered or exempted from registration requirements under P.L.1970, c.226, as amended and supplemented, are required to keep records, and

(b) Places including factories, warehouses, establishments, and conveyances where persons registered or exempted from registration requirements under P.L.1970, c.226, as amended and supplemented, are permitted to hold, manufacture, compound, process, sell, deliver, or otherwise dispose of any controlled dangerous substance.

(2) When so authorized by an administrative inspection warrant issued pursuant to paragraph (1) of subsection a. of this section, an officer or employee designated by the director upon presenting the warrant and appropriate credentials to the owner, operator, or agent in charge, shall have the right to enter controlled premises for the purpose of conducting an administrative inspection.

(3) When so authorized by an administrative inspection warrant, an officer or employee designated by the director shall have the right:

(a) To inspect and copy records required by P.L.1970, c.226, as amended and supplemented, to be kept;

(b) To inspect, within reasonable limits and in a reasonable manner, controlled premises and all pertinent equipment, finished and unfinished material, containers and labeling found therein, and, except as provided in paragraph (5) of subsection b. of this section, all other things therein including records, files, papers, processes, controls, and facilities bearing on violation of P.L.1970, c.226, as amended and supplemented; and

(c) To inventory any stock of any controlled dangerous substance therein and obtain samples of any such substance.

(4) This section shall not be construed to prevent entries and administrative inspections (including seizures of property) without a warrant:

(a) With the consent of the owner, operator or agent in charge of the controlled premises;

(b) In situations presenting imminent danger to health or safety;

(c) In situations involving inspection of conveyances where there is reasonable cause to believe that the mobility of the conveyance makes it impracticable to obtain a warrant;

(d) In any other exceptional or emergency circumstance where time or opportunity to apply for a warrant is lacking; and

(e) In all other situations where a warrant is not constitutionally required.

(5) Except when the owner, operator, or agent in charge of the controlled premises so consents in writing, no inspection authorized by this section shall extend to:

- (a) Financial data;
- (b) Sales data other than shipment data;
- (c) Pricing data;
- (d) Personnel data; or
- (e) Research data.

18. Section 34 of P.L.1970, c.226 (C.24:21-34) is amended to read as follows:

C.24:21-34 Cooperative arrangements.

34. Cooperative arrangements. a. The director may cooperate with federal and other State agencies in discharging his responsibilities concerning traffic in dangerous substances and in suppressing the abuse of dangerous substances. To this end, he is authorized to:

(1) Except as otherwise provided by law, arrange for the exchange of information between government officials concerning the use and abuse of dangerous substances; provided, however, that in no case shall any officer having knowledge by virtue of his office of any such prescription, order or record divulge such knowledge, except in connection with a prosecution or proceeding in court or before a licensing board or officer to which prosecution or proceeding the person to whom the records relate, is a party;

(2) Coordinate and cooperate in training programs on dangerous substances law enforcement at the local and State levels;

(3) Conduct programs of eradication aimed at destroying wild or illicit growth of plant species from which controlled dangerous substances may be extracted.

b. Results, information, and evidence received from the Drug Enforcement Administration relating to the regulatory functions of P.L.1970, c.226 (C.24:21-1 et seq.), as amended and supplemented, including results of inspections conducted by that agency, may be relied upon and acted upon by the director in conformance with his regulatory functions under P.L.1970, c.226, as amended and supplemented.

19. Section 36 of P.L.1970, c.226 (C.24:21-36) is amended to read as follows:

C.24:21-36 Reports of convictions of manufacturers and practitioners.

36. Reports of convictions of manufacturers and practitioners. Whenever a manufacturer or practitioner is convicted of violating any provision of P.L.1970, c.226 (C.24:21-1 et seq.), as amended and supplemented, or of

a rule or regulation issued thereunder or of any offense defined in chapter 35 or 36 of Title 2C of the New Jersey Statutes, the court shall cause a copy of the judgment and sentence and opinion of the court, if any, to be sent to the division or professional board, as the case may be, by which the defendant was registered or licensed.

20. Section 38 of P.L.1970, c.226 (C.24:21-38) is amended to read as follows:

C.24:21-38 Judicial review.

38. Judicial review. All final determinations, findings and conclusions of the director under P.L.1970, c.226 (C.24:21-1 et seq.), as amended and supplemented, shall be final and conclusive decisions of the matters involved, subject to the provisions for judicial review provided by the Rules of Court.

21. Section 39 of P.L.1970, c.226 (C.24:21-39) is amended to read as follows:

C.24:21-39 Reports by practitioners of drug dependent persons.

39. Reports by practitioners of drug dependent persons. Every practitioner, within 24 hours after determining that a person is a drug dependent person by reason of the use of a controlled dangerous substance for purposes other than the treatment of sickness or injury prescribed and administered as authorized by law, shall report such determination verbally or by mail to the director. Such a report by a physician shall be confidential and shall not be admissible in any criminal proceeding. The director, in his discretion, may also treat any other reports submitted under this section as confidential if he determines that it is in the best interest of the drug dependent person and the public health and welfare. A practitioner who fails to make a report required by this section is a disorderly person.

22. Section 20 of P.L.2003, c.280 (C.45:14-59) is amended to read as follows:

C.45:14-59 Format for New Jersey Prescription Blanks.

20. The Division of Consumer Affairs in the Department of Law and Public Safety shall establish the format for uniform, non-reproducible, non-erasable safety paper prescription blanks, to be known as New Jersey Prescription Blanks, which format shall include an identifiable logo or symbol that will appear on all prescription blanks. The prescription blanks for each

prescriber or health care facility shall be numbered consecutively and if the prescriber or health care facility has a National Provider Identifier, the prescription blank shall include the National Provider Identifier. The division shall approve a sufficient number of vendors to ensure production of an adequate supply of New Jersey Prescription Blanks for practitioners and health care facilities Statewide.

C.24:21-54 “Controlled Dangerous Substances Administration and Enforcement Fund.”

23. a. There is established in the Department of the Treasury a special, dedicated nonlapsing fund to be known as the “Controlled Dangerous Substances Administration and Enforcement Fund.” The fund shall be the depository for fees, cost recoveries and penalties collected in connection with the “New Jersey Controlled Dangerous Substances Act,” P.L.1970, c.226 (C.24:21-1 et seq.), as amended and supplemented, and the Prescription Monitoring Program established pursuant to section 25 of P.L.2007, c.244 (C.45:1-45). Monies deposited in the fund and the interest earned thereon shall be used for the collection of information, administration and enforcement of laws relating to controlled dangerous substances.

b. The Legislature shall annually appropriate monies from the fund to the Division of Consumer Affairs in the Department of Law and Public Safety for the collection of information, administration, and enforcement of laws relating to controlled dangerous substances.

C.45:1-44 Definitions.

24. Definitions. As used in sections 25 through 30 of P.L.2007, c.244 (C.45:1-45 through C.45:1-50):

“Controlled dangerous substance” means any substance that is listed in Schedules II, III and IV of the schedules provided under the “New Jersey Controlled Dangerous Substances Act,” P.L.1970, c.226 (C.24:21-1 et seq.). Controlled dangerous substance also means any substance that is listed in Schedule V under the “New Jersey Controlled Dangerous Substances Act” when the director has determined that reporting Schedule V substances is required by federal law, regulation or funding eligibility.

“Director” means the Director of the Division of Consumer Affairs in the Department of Law and Public Safety.

“Division” means the Division of Consumer Affairs in the Department of Law and Public Safety.

“Practitioner” means an individual currently licensed, registered or otherwise authorized by this State or another state to prescribe drugs in the course of professional practice.

“Ultimate user” means a person who has obtained from a dispenser and possesses for his own use, or for the use of a member of his household or an animal owned by him or by a member of his household, a controlled dangerous substance.

C.45:1-45 Prescription monitoring program; requirements.

25. Prescription Monitoring Program; requirements.

a. There is established the Prescription Monitoring Program in the Division of Consumer Affairs in the Department of Law and Public Safety. The program shall consist of an electronic system for monitoring controlled dangerous substances that are dispensed in or into the State by a pharmacist in an outpatient setting.

b. Each pharmacy permit holder shall submit, or cause to be submitted, to the division, by electronic means in a format and at such intervals as are specified by the director, information about each prescription for a controlled dangerous substance dispensed by the pharmacy that includes:

- (1) The surname, first name, and date of birth of the patient for whom the medication is intended;
- (2) The street address and telephone number of the patient;
- (3) The date that the medication is dispensed;
- (4) The number or designation identifying the prescription and the National Drug Code of the drug dispensed;
- (5) The pharmacy permit number of the dispensing pharmacy;
- (6) The prescribing practitioner’s name and Drug Enforcement Administration registration number;
- (7) The name, strength and quantity of the drug dispensed, the number of refills ordered, and whether the drug was dispensed as a refill or a new prescription;
- (8) The date that the prescription was issued by the practitioner;
- (9) The source of payment for the drug dispensed; and
- (10) Such other information, not inconsistent with federal law, regulation or funding eligibility requirements, as the director determines necessary.

The pharmacy permit holder shall submit the information to the division with respect to the prescriptions dispensed during the reporting period not less frequently than every 30 days, or according to a schedule to be determined by the director if federal law, regulation or funding eligibility otherwise requires.

c. The division may grant a waiver of electronic submission to any pharmacy permit holder for good cause, including financial hardship, as determined by the director. The waiver shall state the format in which the pharmacy permit holder shall submit the required information.

d. The requirements of this act shall not apply to: the direct administration of a controlled dangerous substance to the body of an ultimate user; or the administration or dispensing of a controlled dangerous substance that is otherwise exempted as determined by the Secretary of Health and Human Services pursuant to the "National All Schedules Prescription Electronic Reporting Act of 2005," Pub.L.109-60.

C.45:1-46 Access to prescription information.

26. Access to prescription information.

a. The division shall maintain procedures to ensure privacy and confidentiality of patients and that patient information collected, recorded, transmitted and maintained is not disclosed, except as permitted in this section, including, but not limited to, the use of a password-protected system for maintaining this information and permitting access thereto as authorized under sections 25 through 30 of P.L.2007, c.244 (C.45:1-45 through C.45:1-50), and a requirement that a person as listed in subsection d. of this section provide on-line affirmation of the person's intent to comply with the provisions of sections 25 through 30 of P.L.2007, c.244 (C.45:1-45 through C.45:1-50) as a condition of accessing the information.

b. The prescription monitoring information submitted to the division 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.).

c. The division shall review the prescription monitoring information provided by a pharmacy permit holder pursuant to sections 25 through 30 of P.L.2007, c.244 (C.45:1-45 through C.45:1-50). If the division determines that a violation of law or regulations, or a breach of the applicable standards of practice, may have occurred, the division shall notify the appropriate law enforcement agency or professional licensing board, and provide the prescription monitoring information required for an investigation.

d. The division may provide prescription monitoring information to the following persons:

(1) a practitioner authorized to prescribe, dispense or administer controlled dangerous substances who certifies that the request is for the purpose of providing health care to a current patient of the practitioner. Nothing in sections 25 through 30 of P.L.2007, c.244 (C.45:1-45 through C.45:1-50) shall be construed to require or obligate a practitioner to access or check the prescription monitoring information prior to prescribing, dispensing or administering medications beyond that which may be required as part of the practitioner's professional practice;

(2) a pharmacist authorized to dispense controlled dangerous substances who certifies that the request is for the purpose of providing health care to a current patient. Nothing in sections 25 through 30 of P.L.2007, c.244 (C.45:1-45 through C.45:1-50) shall be construed to require or obligate a pharmacist to access or check the prescription monitoring information prior to dispensing medications beyond that which may be required as part of the pharmacist's professional practice;

(3) a designated representative of the State Board of Medical Examiners, New Jersey State Board of Dentistry, New Jersey Board of Nursing, New Jersey State Board of Optometrists, New Jersey State Board of Pharmacy, State Board of Veterinary Medical Examiners, or any other board in this State or another state that regulates the practice of persons who are authorized to prescribe or dispense controlled dangerous substances, as applicable, who certifies that he is engaged in a bona fide specific investigation of a designated practitioner whose professional practice was or is regulated by that board;

(4) a State, federal or municipal law enforcement officer who is acting pursuant to a court order and certifies that the officer is engaged in a bona fide specific investigation of a designated practitioner or patient;

(5) a designated representative of a state Medicaid or other program who certifies that he is engaged in a bona fide investigation of a designated practitioner or patient;

(6) a properly convened grand jury pursuant to a subpoena properly issued for the records;

(7) authorized personnel of the division or vendor or contractor responsible for establishing and maintaining the program; and

(8) the controlled dangerous substance monitoring program in another state with which the division has established an interoperability agreement.

e. A person listed in subsection d. of this section, as a condition of obtaining prescription monitoring information pursuant thereto, shall certify, by means of entering an on-line statement in a form and manner prescribed by regulation of the director, the reasons for seeking to obtain that information.

f. The division shall offer an on-line tutorial for those persons listed in subsection d. of this section, which shall, at a minimum, include: how to access prescription monitoring information; the rights and responsibilities of persons who are the subject of or access this information and the other provisions of sections 25 through 30 of P.L.2007, c.244 (C.45:1-45 through C.45:1-50) and the regulations adopted pursuant thereto, regarding the permitted uses of that information and penalties for violations thereof; and a summary of the requirements of the federal health privacy rule set forth at

45 CFR Parts 160 and 164 and a hypertext link to the federal Department of Health and Human Services website for further information about the specific provisions of the privacy rule.

g. The director may provide nonidentifying prescription drug monitoring information to public or private entities for statistical, research or educational purposes.

C.45:1-47 Prescription monitoring program; provisions for expansion.

27. Prescription Monitoring Program; provisions for expansion.

a. Notwithstanding the provisions of section 25 of P.L.2007, c.244 (C.45:1-45) to the contrary, the director may adopt a regulation to expand the program to include information about each prescription dispensed for a prescription drug that is not a controlled dangerous substance. In determining whether a prescription drug other than a controlled dangerous substance should be monitored, the director shall consider: the actual or relative potential for abuse; scientific evidence of its pharmacological effect, if known; the state of current scientific knowledge regarding the drug; its history and current pattern of abuse; the scope, duration and significance of abuse; what, if any, risk to the public health; and its psychic or physiological dependence liability. The regulation shall provide that the prescription drug shall be monitored for a period of time. At the conclusion of the monitoring period, the director shall publish and make public the decision of whether inclusion of the prescription drug in the program shall be permanent.

b. At the time the notice to expand the program pursuant to subsection a. is published in the New Jersey Register, the director shall provide a copy of the notice of proposed rule making to the chairpersons of the standing legislative reference committees on health of the Senate and General Assembly.

C.45:1-48 Immunity from liability.

28. Immunity from liability.

a. The division shall be immune from civil liability arising from inaccuracy of any of the information submitted to it pursuant to sections 25 through 30 of P.L.2007, c.244 (C.45:1-45 through C.45:1-50).

b. A pharmacy permit holder, pharmacist or practitioner shall be immune from civil liability arising from compliance with sections 25 through 30 of P.L.2007, c.244 (C.45:1-45 through C.45:1-50).

C.45:1-49 Penalties.

29. Penalties.

a. A pharmacy permit holder, or a person designated by a pharmacy permit holder to be responsible for submitting data required by section 25

of P.L.2007, c.244 (C.45:1-45), who knowingly fails to submit data as required, shall be subject to disciplinary action pursuant to section 8 of P.L.1978, c.73 (C.45:1-21) and may be subject to a civil penalty in an amount not to exceed \$1,000 for repeated failure to comply with sections 25 through 30 of P.L.2007, c.244 (C.45:1-45 through C.45:1-50).

b. (1) A pharmacy permit holder, pharmacist or practitioner, or any other person or entity who knowingly discloses or uses prescription monitoring information in violation of the provisions of sections 25 through 30 of P.L.2007, c.244 (C.45:1-45 through C.45:1-50) shall be subject to a civil penalty in an amount not to exceed \$10,000.

(2) A pharmacy permit holder, pharmacist, or practitioner who knowingly discloses or uses prescription monitoring information in violation of the provisions of sections 25 through 30 of P.L.2007, c.244 (C.45:1-45 through C.45:1-50), shall also be subject to disciplinary action pursuant to section 8 of P.L.1978, c.73 (C.45:1-21).

c. A penalty imposed under this section 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.45:1-50 Authority to contract.

30. Authority to contract. The division may contract with one or more vendors to establish and maintain the Prescription Monitoring Program pursuant to guidelines established by the director.

C.45:1-51 Rules, regulations.

31. Pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), the Director of the Division of Consumer Affairs shall adopt rules and regulations necessary to effectuate the purposes of sections 24 through 30 of P.L.2007, c.244 (C.45:1-44 through C.45:1-50).

C.45:1-52 Continuation of regulations.

32. Continuation of regulations. Orders, rules and regulations concerning implementation of P.L.1970, c.226 (C.24:21-1 et seq.), as amended and supplemented, issued or promulgated by the Department of Health and Senior Services prior to the effective date of P.L.2007, c.244 (C.24:21-54 et al.), shall continue with full force and effect until amended or repealed by the Division of Consumer Affairs pursuant to law.

Repealer.

33. The following section is repealed:

Section 41 of P.L.1970, c. 226 (C.24:21-41).

34. Sections 1 through 23 and 31 through 34 of this act shall take effect upon enactment, provided however that section 22 shall remain inoperative until May 23, 2008, and sections 24 through 30 shall take effect on the first day of the 19th month after the date of enactment. The Director of the Division of Consumer Affairs may take such anticipatory administrative action in advance thereof as shall be necessary for the implementation of this act.

Approved January 4, 2008.

CHAPTER 245

AN ACT concerning the payment of prevailing wages on certain projects and amending P.L.1979, c.303.

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

1. Section 1 of P.L.1979, c.303 (C.34:1B-5.1) is amended to read as follows:

C.34:1B-5.1 Rules and regulations relative to payment of prevailing wage rate; "authority financial assistance" defined.

1. The New Jersey Economic Development Authority shall adopt rules and regulations requiring that not less than the prevailing wage rate be paid to workers employed in the performance of any construction contract, including contracts for millwork fabrication, undertaken in connection with authority financial assistance or any of its projects, those projects which it undertakes pursuant to P.L.2002, c.43 (C.52:27BBB-1 et al.), or undertaken to fulfill any condition of receiving authority financial assistance, including the performance of any contract to construct, renovate or otherwise prepare a facility for operations which are necessary for the receipt of authority financial assistance, unless the work performed under the contract is performed on a facility owned by a landlord of the entity receiving the assistance and less than 55% of the facility is leased by the entity at the time of the contract and under any agreement to subsequently lease the facility. The prevailing wage rate shall be the rate determined by the Commissioner of Labor and Workforce Development pursuant to the provisions of P.L.1963, c.150 (C.34:11-56.25 et seq.). For the purposes of this section, "authority financial assistance" means any loan, loan guarantee, grant, incentive, tax exemption or other financial assis-

tance that is approved, funded, authorized, administered or provided by the authority to any entity and is provided before, during or after completion of a project, including but not limited to, all authority financial assistance received by the entity pursuant to the "Business Employment Incentive Program Act," P.L.1996, c.26 (C.34:1B-124 et al.) that enables the entity to engage in a construction contract, but this section shall not be construed as requiring the payment of the prevailing wage for construction commencing more than two years after an entity has executed with the authority a commitment letter regarding authority financial assistance and the first payment or other provision of the assistance is received.

2. This act shall take effect immediately.

Approved January 4, 2008.

CHAPTER 246

AN ACT concerning the enforcement of the State's environmental laws, and amending parts of the statutory law.

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

1. R.S.12:5-6 is amended to read as follows:

Actions for violations.

12:5-6. a. Any development or improvement enumerated in R.S.12:5-3 and in P.L.1975, c.232 (C.13:1D-29 et al.) or included within any rule or regulation adopted pursuant thereto, which is commenced or executed without first obtaining approval, or contrary to the conditions of approval, as provided in R.S.12:5-3 and in P.L.1975, c.232 (C.13:1D-29 et al.), or any rule or regulation adopted, or permit or order issued pursuant thereto, shall be deemed to be a violation under this section.

b. Whenever, on the basis of available information, the commissioner finds that a person is in violation of any provision of R.S.12:5-3 or P.L.1975, c.232 (C.13:1D-29 et al.), or any rule or regulation adopted, or permit or order issued pursuant thereto, the commissioner may:

(1) Issue an order requiring any such person to comply in accordance with subsection c. of this section; or

- (2) Bring a civil action in accordance with subsection d. of this section; or
- (3) Levy a civil administrative penalty in accordance with subsection e. of this section; or
- (4) Bring an action for a civil penalty in accordance with subsection f. of this section; or
- (5) Petition the Attorney General to bring a criminal action in accordance with subsection g. of this section.

Recourse to any of the remedies available under this section shall not preclude recourse to any of the other remedies.

c. Whenever, on the basis of available information, the commissioner finds a person in violation of any provision of R.S.12:5-3 or P.L.1975, c.232 (C.13:1D-29 et al.), or any rule or regulation adopted, or permit or order issued pursuant thereto, the commissioner may issue an order: (1) specifying the provision or provisions of R.S.12:5-3 or P.L.1975, c.232 (C.13:1D-29 et al.), or the rule, regulation, permit or order of which the person is in violation; (2) citing the action which constituted the violation; (3) requiring compliance with the provision or provisions violated; (4) requiring the restoration to address any adverse effects resulting from the violation; and (5) providing notice to the person of the right to a hearing on the matters contained in the order.

d. The commissioner is authorized to institute a civil action in Superior Court for appropriate relief from any violation of any provisions of R.S.12:5-3 or P.L.1975, c.232 (C.13:1D-29 et al.), or any rule or regulation adopted, or permit or order issued pursuant thereto. Such relief may include, singly or in combination:

- (1) A temporary or permanent injunction;
- (2) Recovery of reasonable costs of any investigation, inspection, or monitoring survey which led to the discovery of the violation, and for the reasonable costs of preparing and bringing a civil action commenced under this subsection;
- (3) Recovery of reasonable costs incurred by the State in removing, correcting, or terminating the adverse effects resulting from any violation for which a civil action has been commenced and brought under this subsection;
- (4) Recovery of compensatory damages for any loss or destruction of natural resources, including but not limited to, wildlife, fish, aquatic life, habitat, plants, or historic or archeological resources, and for any other actual damages caused by any violation for which a civil action has been commenced and brought under this subsection. Recovery of damages and costs under this subsection shall be paid to the State Treasurer;

(5) An order requiring the violator restore the site of the violation to the maximum extent practicable and feasible or, in the event that restoration of the site of the violation is not practicable or feasible, provide for off-site restoration alternatives as approved by the department.

e. The commissioner is authorized to assess a civil administrative penalty of not more than \$25,000 for each violation of the provisions of R.S.12:5-3 or P.L.1975, c.232 (C.13:1D-29 et al.), or any rule or regulation adopted, or permit or order issued pursuant thereto, and each day during which each violation continues shall constitute an additional, separate, and distinct offense. Any amount assessed under this subsection shall fall within a range established by regulation by the commissioner for violations of similar type, seriousness, duration and conduct; provided, however, that prior to the adoption of the regulation, the commissioner may, on a case-by-case basis, assess civil administrative penalties up to a maximum of \$25,000 per day for each violation, utilizing the criteria set forth herein. In addition to any administrative penalty assessed under this subsection and notwithstanding the \$25,000 maximum penalty set forth above, the commissioner may assess any economic benefits from the violation gained by the violator. Prior to assessment of a penalty under this subsection, the property owner or person committing the violation shall be notified by certified mail or personal service that the penalty is being assessed. The notice shall identify the section of the statute, regulation, or order or permit condition violated; recite the facts alleged to constitute a violation; state the basis for the amount of the civil penalties to be assessed; and affirm the rights of the alleged violator to a hearing. The ordered party shall have 35 days from receipt of the notice within which to deliver to the commissioner a written request for a hearing. After the hearing and upon finding that a violation has occurred, the commissioner may issue a final order after assessing the amount of the fine specified in the notice. If no hearing is requested, the notice shall become a final order after the expiration of the 35-day period. Payment of the assessment is due when a final order is issued or the notice becomes a final order. The authority to levy an administrative order is in addition to all other enforcement provisions in R.S.12:5-3 or P.L.1975, c.232 (C.13:1D-29 et al.), and the payment of any assessment shall not be deemed to affect the availability of any other enforcement provisions in connection with the violation for which the assessment is levied. The department may compromise any civil administrative penalty assessed under this section in an amount and with conditions the department determines appropriate. A civil administrative penalty assessed, including any portion thereof required to be paid pursuant to a payment schedule approved by the

department, which is not paid within 90 days of the date that payment of the penalty is due, shall be subject to an interest charge on the amount of the penalty, or portion thereof, which shall accrue as of the date payment is due. If the penalty is contested, no additional interest charge shall accrue on the amount of the penalty until 90 days after the date on which a final order is issued. Interest charges assessed and collectible pursuant to this subsection shall be based on the rate of interest on judgments provided in the New Jersey Rules of Court.

f. A person who violates any provision of R.S.12:5-3 or P.L.1975, c.232 (C.13:1D-29 et al.), or any rule or regulation adopted, or permit or order issued pursuant thereto, or an administrative order issued pursuant to subsection c. of this section, or a court order issued pursuant to subsection d. of this section, or who fails to pay a civil administrative penalty in full pursuant to subsection e. of this section, or who fails to make a payment pursuant to a penalty payment schedule entered into with the department, or who knowingly makes any false or misleading statement on any application, record, report, or other document required to be submitted to the department, shall be subject, upon order of a court, to a civil penalty not to exceed \$25,000 per day of the violation, and each day during which the violation continues shall constitute an additional, separate, and distinct offense. Any civil penalty imposed pursuant to this subsection may be collected with costs in a summary proceeding pursuant to the "Penalty Enforcement Law of 1999," P.L.1999, c.274 (C.2A:58-10 et seq.). In addition to any penalties, costs or interest charges, the court may assess against the violator the amount of economic benefit accruing to the violator from the violation.

g. A person who purposely, knowingly or recklessly violates any provision of R.S.12:5-3 or P.L.1975, c.232 (C.13:1D-29 et al.), or any rule or regulation adopted, or permit or order issued pursuant thereto, shall be guilty, upon conviction, of a crime of the third degree and shall, notwithstanding the provisions of subsection b. of N.J.S.2C:43-3, be subject to a fine of not less than \$5,000 nor more than \$50,000 per day of violation, or by imprisonment, or both. A person who purposely, knowingly or recklessly makes a false statement, representation, or certification in any application, record, or other document filed or required to be maintained under any provision of R.S.12:5-3 or P.L.1975, c.232 (C.13:1D-29 et al.), or any rule or regulation adopted, or permit or order issued pursuant thereto, or who falsifies, tampers with or purposely, knowingly or recklessly renders inaccurate, any monitoring device or method required to be maintained pursuant to R.S.12:5-3 or P.L.1975, c.232 (C.13:1D-29 et al.), or any rule or regulation adopted, or permit or order issued pursuant thereto, shall be guilty, upon

conviction, of a crime of the third degree and shall, notwithstanding the provisions of subsection b. of N.J.S.2C:43-3, be subject to a fine of not more than \$50,000 per day of violation, or by imprisonment, or both.

h. Each applicant or permittee shall provide, upon the request of the department, any information the department requires to determine compliance with the provisions of R.S.12:5-3 or P.L.1975, c.232 (C.13:1D-29 et al.), or any rule or regulation adopted, or permit or order issued pursuant thereto.

2. Section 12 of P.L.1970, c.33 (C.13:1D-9) is amended to read as follows:

C.13:1D-9 Powers of department.

12. The department shall formulate comprehensive policies for the conservation of the natural resources of the State, the promotion of environmental protection and the prevention of pollution of the environment of the State. The department shall in addition to the powers and duties vested in it by this act or by any other law have the power to:

a. Conduct and supervise research programs for the purpose of determining the causes, effects and hazards to the environment and its ecology;

b. Conduct and supervise Statewide programs of education, including the preparation and distribution of information relating to conservation, environmental protection and ecology;

c. Require the registration of persons engaged in operations which may result in pollution of the environment and the filing of reports by them containing such information as the department may prescribe to be filed relative to pollution of the environment, all in accordance with applicable codes, rules or regulations established by the department;

d. Enter and inspect any property, facility, building, premises, site or place for the purpose of investigating an actual or suspected source of pollution of the environment and conducting inspections, collecting samples, copying or photocopying documents or records, and for otherwise ascertaining compliance or noncompliance with any laws, permits, orders, codes, rules and regulations of the department. Any information relating to secret processes concerning methods of manufacture or production, obtained in the course of such inspection, investigation or determination, shall be kept confidential, except this information shall be available to the department for use, when relevant, in any administrative or judicial proceedings undertaken to administer, implement, and enforce State environmental law, but shall remain subject only to those confidentiality protections otherwise afforded by federal law and by the specific State environmental laws and regulations that

the department is administering, implementing and enforcing in that particular case or instance. In addition, this information shall be available upon request to the United States Government for use in administering, implementing, and enforcing federal environmental law, but shall remain subject to the confidentiality protection afforded by federal law. If samples are taken for analysis, a duplicate of the analytical report shall be furnished promptly to the person suspected of causing pollution of the environment;

e. Receive or initiate complaints of pollution of the environment, including thermal pollution, hold hearings in connection therewith and institute legal proceedings for the prevention of pollution of the environment and abatement of nuisances in connection therewith and shall have the authority to seek and obtain injunctive relief and the recovery of fines and penalties in a court of competent jurisdiction;

f. Prepare, administer and supervise Statewide, regional and local programs of conservation and environmental protection, giving due regard for the ecology of the varied areas of the State and the relationship thereof to the environment, and in connection therewith prepare and make available to appropriate agencies in the State technical information concerning conservation and environmental protection, cooperate with the Commissioner of Health and Senior Services in the preparation and distribution of environmental protection and health bulletins for the purpose of educating the public, and cooperate with the Commissioner of Health and Senior Services in the preparation of a program of environmental protection;

g. Encourage, direct and aid in coordinating State, regional and local plans and programs concerning conservation and environmental protection in accordance with a unified Statewide plan which shall be formulated, approved and supervised by the department. In reviewing such plans and programs and in determining conditions under which such plans may be approved, the department shall give due consideration to the development of a comprehensive ecological and environmental plan in order to be assured insofar as is practicable that all proposed plans and programs shall conform to reasonably contemplated conservation and environmental protection plans for the State and the varied areas thereof;

h. Administer or supervise programs of conservation and environmental protection, prescribe the minimum qualifications of all persons engaged in official environmental protection work, and encourage and aid in coordinating local environmental protection services;

i. Establish and maintain adequate bacteriological, radiological and chemical laboratories with such expert assistance and such facilities as are

necessary for routine examinations and analyses, and for original investigations and research in matters affecting the environment and ecology;

j. Administer or supervise a program of industrial planning for environmental protection; encourage industrial plants in the State to undertake environmental and ecological engineering programs; and cooperate with the State Departments of Health and Senior Services, Labor and Workforce Development, and the New Jersey Commerce Commission in formulating rules and regulations concerning industrial sanitary conditions;

k. Supervise sanitary engineering facilities and projects within the State, authority for which is now or may hereafter be vested by law in the department, and shall, in the exercise of such supervision, make and enforce rules and regulations concerning plans and specifications, or either, for the construction, improvement, alteration or operation of all public water supplies, all public bathing places, landfill operations and of sewerage systems and disposal plants for treatment of sewage, wastes and other deleterious matter, liquid, solid or gaseous, require all such plans or specifications, or either, to be first approved by it before any work thereunder shall be commenced, inspect all such projects during the progress thereof and enforce compliance with such approved plans and specifications;

l. Undertake programs of research and development for the purpose of determining the most efficient, sanitary and economical ways of collecting, disposing, recycling or utilizing of solid waste;

m. Construct and operate, on an experimental basis, incinerators or other facilities for the disposal of solid waste, provide the various municipalities and counties of this State, and the Division of Local Government Services in the Department of Community Affairs with statistical data on costs and methods of solid waste collection, disposal and utilization;

n. Enforce the State air pollution, water pollution, conservation, environmental protection, solid and hazardous waste management laws, rules and regulations, including the making and signing of a complaint and summons for their violation by serving the summons upon the violator and thereafter filing the complaint promptly with a court having jurisdiction;

o. Acquire by purchase, grant, contract or condemnation, title to real property, for the purpose of demonstrating new methods and techniques for the collection or disposal of solid waste;

p. Purchase, operate and maintain, pursuant to the provisions of this act, any facility, site, laboratory, equipment or machinery necessary to the performance of its duties pursuant to this act;

q. Contract with any other public agency or corporation incorporated under the laws of this or any other state for the performance of any function under this act;

r. With the approval of the Governor, cooperate with, apply for, receive and expend funds from, the federal government, the State Government, or any county or municipal government or from any public or private sources for any of the objects of this act;

s. Make annual and such other reports as it may deem proper to the Governor and the Legislature, evaluating the demonstrations conducted during each calendar year;

t. Keep complete and accurate minutes of all hearings held before the commissioner or any member of the department pursuant to the provisions of this act. All such minutes shall be retained in a permanent record, and shall be available for public inspection at all times during the office hours of the department;

u. Require any person subject to a lawful order of the department, which provides for a period of time during which such person subject to the order is permitted to correct a violation, to post a performance bond or other security with the department in such form and amount as shall be determined by the department. Such bond need not be for the full amount of the estimated cost to correct the violation but may be in such amount as will tend to insure good faith compliance with said order. The department shall not require such a bond or security from any public body, agency or authority. In the event of a failure to meet the schedule prescribed by the department, the sum named in the bond or other security shall be forfeited unless the department shall find that the failure is excusable in whole or in part for good cause shown, in which case the department shall determine what amount of said bond or security, if any, is a reasonable forfeiture under the circumstances. Any amount so forfeited shall be utilized by the department for the correction of the violation or violations, or for any other action required to insure compliance with the order; and

v. Encourage and aid in coordinating State, regional and local plans, efforts and programs concerning the remediation and reuse of former industrial or commercial properties that are currently underutilized or abandoned and at which there has been, or is perceived to have been, a discharge, or threat of a discharge, of a contaminant. For the purposes of this subsection, "underutilized property" shall not include properties undergoing a reasonably timely remediation or redevelopment process.

3. Section 10 of P.L.1971, c.176 (C.13:1F-10) is amended to read as follows:

C.13:1F-10 Violations, enforcement, remedies.

10. a. Whenever, on the basis of available information, the commissioner finds that a person is in violation of the provisions of P.L.1971, c.176 (C.13:1F-1 et seq.), or any rule or regulation adopted, or permit or order issued pursuant thereto, the commissioner may:

- (1) Issue an administrative enforcement order in accordance with subsection b. of this section requiring the person to comply;
- (2) Bring a civil action in accordance with subsection c. of this section;
- (3) Levy a civil administrative penalty in accordance with subsection d. of this section;
- (4) Bring an action for a civil penalty in accordance with subsection e. of this section; or
- (5) Petition the Attorney General to bring a criminal action in accordance with subsection f. of this section.

The exercise of any of the remedies provided in this section shall not preclude recourse to any other remedy so provided.

b. Whenever, on the basis of available information, the commissioner finds that a person is in violation of any provision of P.L.1971, c.176, or any rule or regulation adopted, or permit or order issued pursuant thereto, the commissioner may issue an administrative enforcement order: (1) specifying the provision or provisions of P.L.1971, c.176, or of the rule, regulation, permit or order of which the person is in violation; (2) citing the action that constituted the violation; (3) requiring compliance with the provision or provisions violated; and (4) giving notice to the person of a right to a hearing on the matters contained in the order.

c. The commissioner is authorized to commence a civil action in Superior Court for appropriate relief from a violation of the provisions of P.L.1971, c.176, or any rule or regulation adopted, or permit or order issued pursuant thereto. This relief may include, singly or in combination:

- (1) A temporary or permanent injunction;
- (2) Recovery of reasonable costs of any investigation, inspection, sampling or monitoring survey that led to the discovery of the violation, and for the reasonable costs of preparing and bringing a civil action commenced under this subsection;
- (3) Recovery of reasonable costs incurred by the State in removing, correcting, or terminating the adverse effects resulting from any violation of P.L.1971, c.176, or any rule or regulation adopted, or permit or order

issued pursuant thereto, for which legal action under this subsection may have been brought;

(4) An order requiring the violator restore the site of the violation to the maximum extent practicable and feasible or, in the event that restoration of the site of the violation is not practicable or feasible, provide for off-site restoration alternatives as approved by the department.

(5) Recovery of compensatory damages for any loss or destruction of natural resources, including but not limited to, wildlife, fish, aquatic life, habitat, plants, or historic or archeological resources, and for any other actual damages caused by any violation for which a civil action has been commenced and brought under this subsection. Recovery of damages and costs under this subsection shall be paid to the State Treasurer.

d. The commissioner is authorized to assess a civil administrative penalty of not more than \$25,000 for each violation of the provisions of P.L.1971, c.176, or any rule or regulation adopted, or permit or order issued pursuant thereto, and each day during which each violation continues shall constitute an additional, separate, and distinct offense. Any amount assessed under this subsection shall fall within a range established by regulation by the commissioner for violations of similar type, seriousness, duration and conduct; provided, however, that prior to the adoption of the regulation, the commissioner may, on a case-by-case basis, assess civil administrative penalties up to a maximum of \$25,000 per day for each violation, utilizing the criteria set forth herein. In addition to any administrative penalty assessed under this subsection and notwithstanding the \$25,000 maximum penalty set forth above, the commissioner may assess any economic benefits from the violation gained by the violator. Prior to assessment of a penalty under this subsection, the property owner or person committing the violation shall be notified by certified mail or personal service that the penalty is being assessed. The notice shall include: a reference to the section of the statute, regulation, or order or permit condition violated; recite the facts alleged to constitute a violation; state the basis for the amount of the civil penalties to be assessed; and affirm the rights of the alleged violator to a hearing. The ordered party shall have 35 calendar days from receipt of the notice within which to deliver to the commissioner a written request for a hearing. After the hearing and upon finding that a violation has occurred, the commissioner may issue a final order after assessing the amount of the fine specified in the notice. If no hearing is requested, the notice shall become a final order after the expiration of the 35-day period. Payment of the assessment is due when a final order is issued or the notice becomes a final order. The authority to levy an administrative order is in addition to all

other enforcement provisions in P.L.1971, c.176, or of any rule or regulation adopted, or permit or order issued pursuant thereto, and the payment of any assessment shall not be deemed to affect the availability of any other enforcement provisions in connection with the violation for which the assessment is levied. The department may compromise any civil administrative penalty assessed under this section in an amount and with conditions the department determines appropriate. A civil administrative penalty assessed, including a portion thereof required to be paid pursuant to a payment schedule approved by the department, which is not paid within 90 days of the date that payment of the penalty is due, shall be subject to an interest charge on the amount of the penalty, or portion thereof, which shall accrue as of the date payment is due. If the penalty is contested, no additional interest charge shall accrue on the amount of the penalty until 90 days after the date on which a final order is issued. Interest charges assessed and collectible pursuant to this subsection shall be based on the rate of interest on judgments provided in the New Jersey Rules of Court.

e. Any person who violates the provisions of P.L.1971, c.176, or any rule or regulation adopted, or permit or order issued pursuant thereto, or violates an administrative enforcement order issued pursuant to subsection b. of this section, or a court order issued pursuant to subsection c. of this section, or who fails to pay in full a civil administrative penalty levied pursuant to subsection d. of this section, or who fails to make a payment pursuant to a penalty payment schedule entered into with the department, or who knowingly makes any false or misleading statement on any application, record, report, or other document required to be submitted to the department, shall be subject, upon order of a court, to a civil penalty not to exceed \$25,000 for each day during which the violation continues. Any civil penalty imposed pursuant to this subsection may be collected, and any costs incurred in connection therewith may be recovered, in a summary proceeding pursuant to the "Penalty Enforcement Law of 1999," P.L.1999, c.274 (C.2A:58-10 et seq.). In addition to any penalties, costs or interest charges, the court may assess against the violator the amount of economic benefit accruing to the violator from the violation. The Superior Court shall have jurisdiction to enforce the "Penalty Enforcement Law of 1999."

f. A person who purposely, knowingly or recklessly violates any provision of P.L.1971, c.176, or any rule or regulation adopted, or permit or order issued pursuant thereto, shall be guilty, upon conviction, of a crime of the third degree and shall, notwithstanding the provisions of subsection b. of N.J.S.2C:43-3, be subject to a fine of not less than \$5,000 nor more than \$50,000 per day of violation, or by imprisonment, or both. A person who

purposely, knowingly or recklessly makes a false statement, representation, or certification in any application, record, or other document filed or required to be maintained under any provision of P.L.1971, c.176, or any rule or regulation adopted, or permit or order issued pursuant thereto, or who falsifies, tampers with or purposely, knowingly or recklessly renders inaccurate, any monitoring device or method required to be maintained pursuant to P.L.1971, c.176, or any rule or regulation adopted, or permit or order issued pursuant thereto, shall be guilty, upon conviction, of a crime of the third degree and shall, notwithstanding the provisions of subsection b. of N.J.S.2C:43-3, be subject to a fine of not more than \$50,000 per day of violation, or by imprisonment, or both.

g. Each applicant, permittee or licensee shall provide, upon the request of the department, any information the department requires to determine compliance with the provisions of P.L.1971, c.176.

4. Section 9 of P.L.1970, c.272 (C.13:9A-9) is amended to read as follows:

C.13:9A-9 Violations; penalties.

9. a. Whenever, on the basis of available information, the commissioner finds that a person is in violation of any provision of P.L.1970, c.272, or any rule or regulation adopted, or permit or order issued pursuant thereto, the commissioner may:

- (1) Issue an administrative enforcement order requiring any such person to comply in accordance with subsection b. of this section; or
- (2) Bring a civil action in accordance with subsection c. of this section; or
- (3) Levy a civil administrative penalty in accordance with subsection d. of this section; or
- (4) Bring an action for a civil penalty in accordance with subsection e. of this section; or
- (5) Petition the Attorney General to bring a criminal action in accordance with subsection f. of this section.

Recourse to any of the remedies available under this section shall not preclude recourse to any of the other remedies.

b. Whenever, on the basis of available information, the commissioner finds a person in violation of any provision of P.L.1970, c.272, or any rule or regulation adopted, or permit or order issued pursuant thereto, the commissioner may issue an administrative enforcement order: (1) specifying the provision or provisions of P.L.1970, c.272, or the rule, regulation, permit or order of which the person is in violation; (2) citing the action which

constituted the violation; (3) requiring compliance with the provision or provisions violated; (4) requiring the restoration to address any adverse effects upon a coastal wetland resulting from the violation; and (5) providing notice to the person of the right to a hearing on the matters contained in the administrative enforcement order.

c. The commissioner is authorized to institute a civil action in Superior Court for appropriate relief from any violation of any provision of P.L.1970, c.272, or any rule or regulation adopted, or permit or order issued pursuant thereto. Such relief may include, singly or in combination:

- (1) A temporary or permanent injunction;
- (2) Recovery of reasonable costs of any investigation, inspection, or monitoring survey which led to the discovery of the violation, and for the reasonable costs of preparing and bringing a civil action commenced under this subsection;
- (3) Recovery of reasonable costs incurred by the State in removing, correcting, or terminating the adverse effects upon a coastal wetland resulting from any violation for which a civil action has been commenced and brought under this subsection;
- (4) Recovery of compensatory damages for any loss or destruction of natural resources, including but not limited to, wildlife, fish, aquatic life, habitat, plants, or historic or archeological resources, and for any other actual damages caused by any violation for which a civil action has been commenced and brought under this subsection. Recovery of damages and costs ordered under this subsection shall be paid to the State Treasurer;
- (5) An order requiring the violator restore the site of the violation to the maximum extent practicable and feasible or, in the event that restoration of the site of the violation is not practicable or feasible, provide for off-site restoration alternatives as approved by the department.

d. The commissioner is authorized to assess a civil administrative penalty of not more than \$25,000 for each violation of the provisions of P.L.1970, c.272, or any rule or regulation adopted, or permit or order issued pursuant thereto, and each day during which each violation continues shall constitute an additional, separate and distinct offense. Any amount assessed under this subsection shall fall within a range established by regulation by the commissioner for violations of similar type, seriousness, duration and conduct; provided, however, that prior to the adoption of the regulation, the commissioner may, on a case-by-case basis, assess civil administrative penalties up to a maximum of \$25,000 per day for each violation, utilizing the criteria set forth herein. In addition to any administrative penalty assessed under this subsection and notwithstanding the \$25,000 maximum penalty set

forth above, the commissioner may assess any economic benefits from the violation gained by the violator. Prior to assessment of a penalty under this subsection, the property owner or person committing the violation shall be notified by certified mail or personal service that the penalty is being assessed. The notice shall include a reference to the section of the statute, regulation, order or permit condition violated; recite the facts alleged to constitute a violation; state the basis for the amount of the civil penalties to be assessed; and affirm the rights of the alleged violator to a hearing. The ordered party shall have 35 calendar days from receipt of the notice within which to deliver to the commissioner a written request for a hearing. After the hearing and upon finding that a violation has occurred, the commissioner may issue a final administrative enforcement order after assessing the amount of the fine specified in the notice. If no hearing is requested, the notice shall become a final administrative enforcement order after the expiration of the 35-day period. Payment of the assessment is due when a final administrative enforcement order is issued or the notice becomes a final administrative enforcement order. The authority to levy a civil administrative order is in addition to all other enforcement provisions in P.L.1970, c.272, and the payment of any assessment shall not be deemed to affect the availability of any other enforcement provisions in connection with the violation for which the assessment is levied. The department may compromise any civil administrative penalty assessed under this section in an amount and with conditions the department determines appropriate. A civil administrative penalty assessed, including a portion thereof required to be paid pursuant to a payment schedule approved by the department, which is not paid within 90 days of the date that payment of the penalty is due, shall be subject to an interest charge on the amount of the penalty, or portion thereof, which shall accrue as of the date payment is due. If the penalty is contested, no additional interest charge shall accrue on the amount of the penalty until 90 days after the date on which a final order is issued. Interest charges assessed and collectible pursuant to this subsection shall be based on the rate of interest on judgments provided in the New Jersey Rules of Court.

e. A person who violates any provision of P.L.1970, c.272, or any rule or regulation adopted, or permit or order issued pursuant thereto, or an administrative order issued pursuant to subsection b. of this section, or a court order issued pursuant to subsection c. of this section, who fails to pay a civil administrative penalty in full pursuant to subsection d. of this section, or who fails to make a payment pursuant to a penalty payment schedule entered into with the department, or who knowingly makes any false or misleading statement on any application, record, report, or other document

required to be submitted to the department, shall be subject, upon order of a court, to a civil penalty not to exceed \$25,000 per day of the violation, and each day during which the violation continues shall constitute an additional, separate, and distinct offense. Any civil penalty imposed pursuant to this subsection may be collected with costs in a summary proceeding pursuant to the "Penalty Enforcement Law of 1999," P.L.1999, c.274 (C.2A:58-10 et seq.). In addition to any penalties, costs or interest charges, the court may assess against the violator the amount of economic benefit accruing to the violator from the violation. The Superior Court shall have jurisdiction to enforce the "Penalty Enforcement Law of 1999."

f. A person who purposely, knowingly or recklessly violates any provision of P.L.1970, c.272, or any rule or regulation adopted, or permit or order issued pursuant thereto, shall be guilty, upon conviction, of a crime of the third degree and shall, notwithstanding the provisions of subsection b. of N.J.S.2C:43-3, be subject to a fine of not less than \$5,000 nor more than \$50,000 per day of violation, or by imprisonment, or both. A person who purposely, knowingly or recklessly makes a false statement, representation, or certification in any application, record, or other document filed or required to be maintained under any provision of P.L.1970, c.272, or any rule or regulation adopted, or permit or order issued pursuant thereto, or who falsifies, tampers with or purposely, knowingly or recklessly renders inaccurate, any monitoring device or method required to be maintained pursuant to P.L.1970, c.272, or any rule or regulation adopted, or permit or order issued pursuant thereto, shall be guilty, upon conviction, of a crime of the third degree and shall, notwithstanding the provisions of subsection b. of N.J.S.2C:43-3, be subject to a fine of not more than \$50,000 per day of violation, or by imprisonment, or both.

g. Each applicant or permittee shall provide, upon the request of the department, any information the department requires to determine compliance with the provisions of P.L.1970, c.272, or any rule or regulation adopted, or permit or order issued pursuant thereto.

5. Section 21 of P.L.1987, c.156 (C.13:9B-21) is amended to read as follows:

C.13:9B-21 Remedies for violations.

21. a. Whenever, on the basis of available information, the commissioner finds that a person is in violation of any provision of P.L.1987, c.156, or any rule or regulation adopted, or permit or order issued pursuant thereto, the commissioner may:

- (1) Issue an order requiring any such person to comply in accordance with subsection b. of this section; or
- (2) Bring a civil action in accordance with subsection c. of this section; or
- (3) Levy a civil administrative penalty in accordance with subsection d. of this section; or
- (4) Bring an action for a civil penalty in accordance with subsection e. of this section; or
- (5) Petition the Attorney General to bring a criminal action in accordance with subsection f. of this section.

Recourse to any of the remedies available under this section shall not preclude recourse to any of the other remedies.

b. Whenever, on the basis of available information, the commissioner finds a person in violation of any provision of P.L.1987, c.156, or any rule or regulation adopted, or permit or order issued pursuant thereto, the commissioner may issue an order: (1) specifying the provision or provisions of P.L.1987, c.156, or the rule, regulation, permit or order of which the person is in violation; (2) citing the action which constituted the violation; (3) requiring compliance with the provision or provisions violated; (4) requiring the restoration to address any adverse effects upon the freshwater wetland or transition area resulting from any violation; and (5) providing notice to the person of the right to a hearing on the matters contained in the order.

c. The commissioner is authorized to institute a civil action in Superior Court for appropriate relief from any violation of any provisions of P.L.1987, c.156, or any rule or regulation adopted, or permit or order issued pursuant thereto. Such relief may include, singly or in combination:

- (1) A temporary or permanent injunction;
- (2) Recovery of reasonable costs of any investigation, inspection, or monitoring survey which led to the discovery of the violation, and for the reasonable costs of preparing and bringing a civil action commenced under this subsection;
- (3) Recovery of reasonable costs incurred by the State in removing, correcting, or terminating the adverse effects upon the freshwater wetland or transition area resulting from any violation for which a civil action has been commenced and brought under this subsection;
- (4) Recovery of compensatory damages for any loss or destruction of natural resources, including but not limited to, wildlife, fish, aquatic life, habitat, plants, or historic or archeological resources, and for any other actual damages caused by any violation for which a civil action has been commenced and brought under this subsection. Recovery of damages and costs under this subsection shall be paid to the State Treasurer;

(5) An order requiring the violator restore the site of the violation to the maximum extent practicable and feasible or, in the event that restoration of the site of the violation is not practicable or feasible, provide for off-site restoration alternatives as approved by the department.

d. The commissioner is authorized to assess a civil administrative penalty of not more than \$25,000 for each violation of the provisions of P.L.1987, c.156, or any rule or regulation adopted, or permit or order issued pursuant thereto, and each day during which each violation continues shall constitute an additional, separate, and distinct offense. Any amount assessed under this subsection shall fall within a range established by regulation by the commissioner for violations of similar type, seriousness, duration and conduct; provided, however, that prior to the adoption of the regulation, the commissioner may, on a case-by-case basis, assess civil administrative penalties up to a maximum of \$25,000 per day for each violation, utilizing the criteria set forth herein. In addition to any administrative penalty assessed under this subsection and notwithstanding the \$25,000 maximum penalty set forth above, the commissioner may assess any economic benefits from the violation gained by the violator. Prior to the assessment of a penalty under this subsection, the property owner or person committing the violation shall be notified by certified mail or personal service that the penalty is being assessed. The notice shall identify the section of the statute, regulation, or order or permit condition violated; recite the facts alleged to constitute a violation; state the basis for the amount of the civil penalties to be assessed; and affirm the rights of the alleged violator to a hearing. The ordered party shall have 35 days from receipt of the notice within which to deliver to the commissioner a written request for a hearing. After the hearing and upon finding that a violation has occurred, the commissioner may issue a final order after assessing the amount of the fine specified in the notice. If no hearing is requested, the notice shall become a final order after the expiration of the 35-day period. Payment of the assessment is due when a final order is issued or the notice becomes a final order. The authority to levy an administrative order is in addition to all other enforcement provisions in P.L.1987, c.156, and the payment of any assessment shall not be deemed to affect the availability of any other enforcement provisions in connection with the violation for which the assessment is levied. The department may compromise any civil administrative penalty assessed under this section in an amount and with conditions the department determines appropriate. A civil administrative penalty assessed, including any portion thereof required to be paid pursuant to a payment schedule approved by the department, which is not paid within 90 days of the date that payment of the penalty is due, shall be sub-

ject to an interest charge on the amount of the penalty, or portion thereof, which shall accrue as of the date payment is due. If the penalty is contested, interest shall accrue on the amount of the penalty commencing on the date a final order is issued. Interest charges assessed and collectible pursuant to this subsection shall be based on the rate of interest on judgments provided in the New Jersey Rules of Court. For the purposes of this subsection, the date that a penalty is due is the date that written notice of the penalty is received by the person responsible for payment thereof, or a later date as may be specified in the notice.

e. A person who violates any provision of P.L.1987, c.156, or any rule or regulation adopted, or permit or order issued pursuant thereto, or an administrative order issued pursuant to subsection b. of this section, or a court order issued pursuant to subsection c. of this section, or who fails to pay a civil administrative penalty in full pursuant to subsection d. of this section, or who fails to make a payment pursuant to a penalty payment schedule entered into with the department, or who knowingly makes any false or misleading statement on any application, record, report, or other document required to be submitted to the department, shall be subject, upon order of a court, to a civil penalty not to exceed \$25,000 per day of the violation, and each day during which the violation continues shall constitute an additional, separate, and distinct offense. Any civil penalty imposed pursuant to this subsection may be collected with costs in a summary proceeding pursuant to the "Penalty Enforcement Law of 1999," P.L.1999, c.274 (C.2A:58-10 et seq.). The Superior Court shall have jurisdiction to enforce the "Penalty Enforcement Law of 1999" in conjunction with this act.

f. A person who purposely, knowingly or recklessly violates any provision of P.L.1987, c.156, or any rule or regulation adopted, or permit or order issued pursuant thereto, shall be guilty, upon conviction, of a crime of the third degree and shall, notwithstanding the provisions of subsection b. of N.J.S.2C:43-3, be subject to a fine of not less than \$5,000 nor more than \$50,000 per day of violation, or by imprisonment, or both. A person who purposely, knowingly or recklessly makes a false statement, representation, or certification in any application, record, or other document filed or required to be maintained under any provision of P.L.1987, c.156, or any rule or regulation adopted, or permit or order issued pursuant thereto, or who falsifies, tampers with or purposely, knowingly or recklessly renders inaccurate, any monitoring device or method required to be maintained pursuant to P.L.1987, c.156, shall be guilty, upon conviction, of a crime of the third degree and shall, notwithstanding the provisions of subsection b. of

N.J.S.2C:43-3, be subject to a fine of not more than \$50,000 per day of violation, or by imprisonment, or both.

g. In addition to the penalties prescribed in this section, the commissioner may record a notice for a violation of any provision of P.L.1987, c.156, or any rule or regulation adopted, or permit or order issued pursuant thereto, which shall be recorded on the deed of the property wherein the violation occurred, on order of the commissioner, by the clerk or register of deeds and mortgages of the county wherein the affected property is located and shall remain attached thereto until such time as the violation has been remedied and the commissioner orders the notice of violation removed. Any fees or other charges that are assessed against the department by either the clerk or register of deeds and mortgages of the county wherein the affected property is located for the recording of the notice of violation on the deed required pursuant to this subsection shall be paid by the owner of the affected property or the person committing the violation. The commissioner shall immediately order the notice removed once the violation is remedied or upon other conditions set forth by the commissioner.

h. If the violation is one in which the department has determined that the restoration of the site to its pre-violation condition would increase the harm to the freshwater wetland or its ecology, the department may issue an "after the fact" permit for the regulated activity that has already occurred; provided that any recovery of costs or damages ordered pursuant to subsection c. of this section has been satisfied, the creation or restoration of freshwater wetlands resources at another site has been required of the violator, an opportunity has been afforded for public hearing and comment, and the reasons for the issuance of the "after the fact" permit are published in the New Jersey Register and in a newspaper of general circulation in the geographical area of the violation. Any person violating an "after the fact" permit issued pursuant to this subsection shall be subject to the provisions of this section.

i. The burden of proof and degree of knowledge or intent required to establish a violation of any provision of P.L.1987, c.156, or any rule or regulation adopted, or permit or order issued pursuant thereto, shall be no greater than the burden of proof or degree of knowledge or intent which the United States Environmental Protection Agency must meet in establishing a violation of the Federal Act or implementing regulations.

j. The department shall establish and implement a program designed to facilitate public participation in the enforcement of the provisions of P.L.1987, c.156, or any rule or regulation adopted, or permit or order issued

pursuant thereto, which complies with the requirements of the Federal Act and implementing regulations.

k. The department shall make available without restriction any information obtained or used in the implementation of P.L.1987, c.156 to the United States Environmental Protection Agency upon a request therefor.

l. Each applicant or permittee shall provide, upon the request of the department, any information the department requires to determine compliance with the provisions of P.L.1987, c.156.

m. The department shall have the authority to enter any property, facility, premises or site for the purpose of conducting inspections, sampling of soil or water, copying or photocopying documents or records, and for otherwise determining compliance with the provisions of P.L.1987, c.156.

6. Section 18 of P.L.1973, c.185 (C.13:19-18) is amended to read as follows:

C.13:19-18 Violations, remedies, penalties; "Cooperative Coastal Monitoring, Restoration and Enforcement Fund."

18. a. Whenever, on the basis of available information, the department finds that a person has violated any provision of P.L.1973, c.185 (C.13:19-1 et seq.), or any rule or regulation adopted, or permit or order issued by the department pursuant thereto, the department may:

(1) Issue an order requiring the person found to be in violation to comply in accordance with subsection b. of this section;

(2) Bring a civil action in accordance with subsection c. of this section;

(3) Levy a civil administrative penalty in accordance with subsection d. of this section;

(4) Bring an action for a civil penalty in accordance with subsection e. of this section; or

(5) Petition the Attorney General to bring a criminal action in accordance with subsection f. of this section.

Pursuit of any of the remedies specified under this section shall not preclude the seeking of any other remedy specified.

b. Whenever, on the basis of available information, the department finds that a person has violated any provision of P.L.1973, c.185, or any rule or regulation adopted, or permit or order issued by the department pursuant thereto, the department may issue an order: (1) specifying the provision or provisions of the act, regulation, rule, permit, or order of which the person is in violation; (2) citing the action which constituted the violation; (3) requiring compliance with the provision or provisions violated; (4) re-

quiring the restoration to address any adverse effects resulting from the violation; and (5) providing notice to the person of the right to a hearing on the matters contained in the order. The ordered party shall have 35 days from receipt of the order within which to deliver to the department a written request for a hearing. After the hearing and upon finding that a violation has occurred, the department may issue a final order. If no hearing is requested, then the order shall become final after the expiration of the 35-day period. A request for hearing shall not automatically stay the effect of the order.

c. The department may institute a civil action in the Superior Court for appropriate relief, including the appointment of a receiver, from any violation of any provision of P.L.1973, c.185, or any rule or regulation adopted, or permit or order issued by the department pursuant thereto, and the court may proceed in the action in a summary manner.

Such relief may include, singly or in combination:

- (1) A temporary or permanent injunction;
- (2) Recovery of reasonable costs of any investigation, inspection, or monitoring survey which led to the discovery of the violation, and for the reasonable costs of preparing and bringing a civil action commenced under this subsection;
- (3) Recovery of reasonable costs incurred by the department in removing, correcting or terminating the adverse effects upon the land or upon water or air quality resulting from any violation of any provision of P.L.1973, c.185, or any rule or regulation adopted, or permit or order issued by the department pursuant thereto, for which a civil action has been commenced and brought under this subsection;
- (4) Recovery of compensatory damages for any loss or destruction of natural resources, including but not limited to, wildlife, fish, aquatic life, habitat, plants, or historic or archeological resources, and for any other actual damages caused by a violation of the provisions of P.L.1973, c.185 for which a civil action has been commenced and brought under this subsection. Assessments under this subsection shall be paid to the State Treasurer;
- (5) An order requiring the violator restore the site of the violation to the maximum extent practicable and feasible or, in the event that restoration of the site of the violation is not practicable or feasible, provide for off-site restoration alternatives as approved by the department.

d. The department is authorized to assess a civil administrative penalty of not more than \$25,000 for each violation of the provisions of P.L.1973, c.185, or any rule or regulation adopted, or permit or order issued pursuant thereto, and each day during which each violation continues shall constitute an additional, separate and distinct offense. Any amount as-

sessed under this subsection shall fall within a range established by regulation by the commissioner for violations of similar type, seriousness, duration, and conduct; provided, however, that prior to the adoption of the regulation, the commissioner may, on a case-by-case basis, assess civil administrative penalties up to a maximum of \$25,000 per day for each violation, utilizing the criteria set forth herein. In addition to any administrative penalty assessed under this subsection and notwithstanding the \$25,000 maximum penalty set forth above, the commissioner may assess any economic benefits from the violation gained by the violator. Prior to assessment of a penalty under this subsection, the property owner or person committing the violation shall be notified by certified mail or personal service that the penalty is being assessed. The notice shall include a reference to the section or provision of P.L.1973, c.185, the regulation, rule, permit, or order issued by the department pursuant to that act that has been violated, a concise statement of the facts alleged to constitute a violation, a statement of the basis for the amount of the civil administrative penalties to be assessed, including any interest that may accrue thereon if the penalty is not paid when due, and a statement of the party's right to a hearing. The ordered party shall have 35 calendar days from receipt of the notice within which to deliver to the department a written request for a hearing. After the hearing and upon finding that a violation has occurred, the department may issue a final order after assessing the amount of the fine specified in the notice. If no hearing is requested, the notice shall become a final order after the expiration of the 35-day period. Payment of the assessment is due when a final order is issued or the notice becomes a final order. The department may compromise any civil administrative penalty assessed under this section in an amount and with conditions the department determines appropriate. A civil administrative penalty assessed, including a portion thereof required to be paid pursuant to a payment schedule approved by the department, which is not paid within 90 days of the date that payment of the penalty is due, shall be subject to an interest charge on the amount of the penalty, or portion thereof, which shall accrue as of the date payment is due. If the penalty is contested, no additional interest charge shall accrue on the amount of the penalty until after the date on which a final order is issued.

Interest charges assessed and collectible pursuant to this subsection shall be based on the rate of interest on judgments provided in the New Jersey Rules of Court. For the purposes of this subsection, the date that a penalty is due is the date that written notice of the penalty is received by the person responsible for payment thereof, or a later date as may be specified in the notice.

e. Any person who violates the provisions of P.L.1973, c.185, or any rule or regulation adopted pursuant thereto, or any permit or order issued by the department pursuant to that act, or an administrative order issued pursuant to subsection b. of this section, or a court order issued pursuant to subsection c. of this section, or who fails to pay a civil administrative penalty in full pursuant to subsection d. of this section, or who fails to make a payment pursuant to a penalty payment schedule entered into with the department, or who knowingly makes any false or misleading statement on any application, record, report, or other document required to be submitted to the department, shall be subject, upon order of a court, to a civil penalty of not more than \$25,000 for each violation, and each day during which a violation continues shall constitute an additional, separate, and distinct offense.

Any penalty established pursuant to this subsection may be imposed and collected with costs in a summary proceeding pursuant to the "Penalty Enforcement Law of 1999," P.L.1999, c.274 (C.2A:58-10 et seq.). The Superior Court shall have jurisdiction to enforce the "Penalty Enforcement Law of 1999" in conjunction with this act. In addition to any penalties, costs or interest charges, the court may assess against the violator the amount of economic benefit accruing to the violator from the violation.

f. A person who purposely, knowingly or recklessly violates any provision of P.L.1973, c.185, or any rule or regulation adopted, or permit or order issued pursuant thereto, shall be guilty, upon conviction, of a crime of the third degree and shall, notwithstanding the provisions of subsection b. of N.J.S.2C:43-3, be subject to a fine of not less than \$5,000 nor more than \$50,000 per day of violation, or by imprisonment, or both. A person who purposely, knowingly, or recklessly makes a false statement, representation, or certification in any application, record, or other document filed or required to be maintained under any provision of P.L.1973, c.185, or any rule or regulation adopted pursuant thereto, or who falsifies, tampers with or purposely, knowingly, or recklessly renders inaccurate, any monitoring device or method required to be maintained pursuant to P.L.1973, c.185, or any rule or regulation adopted, or permit or order issued pursuant thereto, shall be guilty, upon conviction, of a crime of the third degree and shall, notwithstanding the provisions of subsection b. of N.J.S.2C:43-3, be subject to a fine of not more than \$50,000 per day of violation, or by imprisonment, or both.

g. Each applicant or permittee shall provide, upon the request of the department, any information the department requires to determine compliance with the provisions of P.L.1973, c.185, or any rule or regulation adopted, or permit or order issued pursuant thereto.

h. There is created in the department a special nonlapsing fund, to be known as the "Cooperative Coastal Monitoring, Restoration and Enforcement Fund." Except as otherwise provided in this section, all monies from penalties, fines, or recoveries of costs collected by the department pursuant to this section on and after the effective date of this section, shall be deposited in the fund. Interest earned on monies deposited in the fund shall be credited to the fund. Unless otherwise specifically provided by law, monies in the fund shall be utilized by the department for the cost of coastal restoration projects and providing aircraft overflights for coastal monitoring, surveillance and enforcement activities conducted by the department and for the cost of administering P.L.1973, c.185 (C.13:19-1 et seq.). The department shall submit annually to the Legislature a report which provides an accounting of all monies deposited in the fund and the purposes for which monies in the fund are disbursed.

7. Section 10 of P.L.1973, c.309 (C.23:2A-10) is amended to read as follows:

C.23:2A-10 Violations; penalties; enforcement.

10. a. Whenever, on the basis of available information, the commissioner finds that a person is in violation of the provisions of P.L.1973, c.309, or any rule or regulation adopted, or permit or order issued pursuant thereto, the commissioner may:

- (1) Issue an order in accordance with subsection b. of this section requiring the person to comply;
- (2) Bring a civil action in accordance with subsection c. of this section;
- (3) Levy a civil administrative penalty in accordance with subsection d. of this section;
- (4) Bring an action for a civil penalty in accordance with subsection e. of this section; or
- (5) Petition the Attorney General to bring a criminal action in accordance with subsection f. of this section.

The exercise of any of the remedies provided in this section shall not preclude recourse to any other remedy so provided.

b. Whenever, on the basis of available information, the commissioner finds that a person is in violation of any provision of P.L.1973, c.309, or any rule or regulation adopted, or permit or order issued pursuant thereto, the commissioner may issue an order: (1) specifying the provision or provisions of P.L.1973, c.309, or the rule or regulation, or order or permit issued pursuant thereto, of which the person is in violation; (2) citing the action that constituted the violation; (3) requiring compliance with the provision of

P.L.1973, c.309, the rule or regulation, or order or permit issued pursuant thereto, of which the person is in violation; (4) requiring the restoration to address any adverse effects resulting from the violation; and (5) giving notice to the person of a right to a hearing on the matters contained in the order.

c. The commissioner is hereby authorized and empowered to commence a civil action in Superior Court for appropriate relief from a violation of the provisions of P.L.1973, c.309, or any rule or regulation adopted, or any permit or order issued pursuant thereto. This relief may include, singly or in combination:

- (1) A temporary or permanent injunction;
- (2) Recovery of reasonable costs of any investigation, inspection, sampling or monitoring survey that led to the discovery of the violation, and for the reasonable costs of preparing and bringing a civil action commenced under this subsection;
- (3) Recovery of reasonable costs incurred by the State in removing, correcting, or terminating the adverse effects resulting from any violation of P.L.1973, c.309 for which a civil action has been commenced and brought under this subsection;
- (4) Recovery of compensatory damages for any loss or destruction of natural resources, including but not limited to, wildlife, fish, aquatic life, habitat, plants, or historic or archeological resources, and for any other actual damages caused by any violation for which a civil action has been commenced and brought under this subsection. Assessments under this subsection shall be paid to the "Endangered and Nongame Species of Wildlife Conservation Fund," established pursuant to section 1 of P.L.1981, c.170 (C.54A:9-25.2), except that compensatory damages to privately held resources shall be paid by specific order of the court to any persons who have been aggrieved by the unauthorized regulated activity;
- (5) An order requiring the violator restore the site of the violation to the maximum extent practicable and feasible or, in the event that restoration of the site of the violation is not practicable or feasible, provide for off-site restoration alternatives as approved by the department.

d. The commissioner is authorized to assess a civil administrative penalty of not more than \$25,000 for each violation of the provisions of P.L.1973, c.309, and each day during which each violation continues shall constitute an additional, separate, and distinct offense. Any amount assessed under this subsection shall fall within a range established by regulation by the commissioner for violations of similar type, seriousness, duration, and conduct; provided, however, that prior to the adoption of the regulation, the commissioner may, on a case-by-case basis, assess civil adminis-

trative penalties up to a maximum of \$25,000 per day for each violation, utilizing the criteria set forth herein. In addition to any administrative penalty to be assessed under this subsection, and notwithstanding the \$25,000 maximum penalty set forth above, the commissioner may assess any economic benefits from the violation gained by the violator. Prior to assessment of a penalty under this subsection, the property owner or person committing the violation shall be notified by certified mail or personal service that the penalty is being assessed. The notice shall include a reference to the section of the statute, regulation, or order or permit condition violated; recite the facts alleged to constitute a violation; state the basis for the amount of the civil penalties to be assessed; and affirm the rights of the alleged violator to a hearing. The ordered party shall have 35 calendar days from receipt of the notice within which to deliver to the commissioner a written request for a hearing. After the hearing and upon finding that a violation has occurred, the commissioner may issue a final order after assessing the amount of the fine specified in the notice. If no hearing is requested, the notice shall become a final order after the expiration of the 35-day period. Payment of the assessment is due when a final order is issued or the notice becomes a final order. The authority to levy an administrative order is in addition to all other enforcement provisions in P.L.1973, c.309, and the payment of any assessment shall not be deemed to affect the availability of any other enforcement provisions in connection with the violation for which the assessment is levied. The department may compromise any civil administrative penalty assessed under this section in an amount and with conditions the department determines appropriate. A civil administrative penalty assessed, including a portion thereof required to be paid pursuant to a payment schedule approved by the department, which is not paid within 90 days of the date that payment of the penalty is due, shall be subject to an interest charge on the amount of the penalty, or portion thereof, which shall accrue as of the date payment is due. If the penalty is contested, no additional interest charge shall accrue on the amount of the penalty until after the date on which a final order is issued. Interest charges assessed and collectible pursuant to this subsection shall be based on the rate of interest on judgments provided in the New Jersey Rules of Court.

e. Any person who violates any provision of P.L.1973, c.309, or any rule or regulation adopted, or permit or order issued pursuant thereto, or an order issued pursuant to subsection b. of this section, or a court order issued pursuant to subsection c. of this section, or who fails to pay in full a civil administrative penalty levied pursuant to subsection d. of this section, or who fails to make a payment pursuant to a penalty payment schedule en-

tered into with the department, or who knowingly makes any false or misleading statement on any application, record, report, or other document required to be submitted to the department, shall be subject, upon order of a court, to a civil penalty not to exceed \$25,000 for each day during which the violation continues. Any civil penalty imposed pursuant to this subsection may be collected with costs in a summary proceeding pursuant to the "Penalty Enforcement Law of 1999," P.L.1999, c.274 (C.2A:58-10 et seq.). In addition to any penalties, costs or interest charges, the court may assess against the violator the amount of economic benefit accruing to the violator from the violation. The Superior Court and municipal courts shall have jurisdiction to enforce the "Penalty Enforcement Law of 1999."

f. A person who purposely, knowingly or recklessly violates any provision of P.L.1973, c.309, or any rule or regulation adopted, or permit or order issued pursuant thereto, shall be guilty, upon conviction, of a crime of the third degree and shall, notwithstanding the provisions of subsection b. of N.J.S.2C:43-3, be subject to a fine of not less than \$5,000 nor more than \$50,000 per day of violation, or by imprisonment, or both. A person who purposely, knowingly, or recklessly makes a false statement, representation, or certification in any application, record, or other document filed or required to be maintained under any provision of P.L.1973, c.309, or any rule or regulation adopted, or permit or order issued pursuant thereto, or who falsifies, tampers with or purposely, knowingly, or recklessly renders inaccurate, any monitoring device or method required to be maintained pursuant to P.L.1973, c.309, or any rule or regulation adopted, or permit or order issued pursuant thereto, shall be guilty, upon conviction, of a crime of the third degree and shall, notwithstanding the provisions of subsection b. of N.J.S.2C:43-3, be subject to a fine of not more than \$50,000 per day of violation, or by imprisonment, or both.

g. All penalties collected pursuant to this section shall be deposited in the "Endangered and Nongame Species of Wildlife Conservation Fund," established pursuant to section 1 of P.L.1981, c.170 (C.54A:9-25.2), and kept separate from other receipts deposited therein, and appropriated to the department for the purposes outlined in that fund.

h. Each applicant or permittee, upon the request of the department, shall provide any information the department or the commissioner requires to determine compliance with any provision of P.L.1973, c.309, or of any rule or regulation adopted, or permit or order issued pursuant thereto.

8. Section 16 of P.L.1981, c.262 (C.58:1A-16) is amended to read as follows:

C.58:1A-16 Violations of act; remedies.

16. a. Whenever, on the basis of available information, the commissioner finds that a person is in violation of any of the provisions of P.L.1981, c.262, or any rule or regulation adopted, or permit or order issued pursuant thereto, the commissioner may:

- (1) Issue an order in accordance with subsection b. of this section requiring the person to comply;
- (2) Bring a civil action in accordance with subsection c. of this section;
- (3) Levy a civil administrative penalty in accordance with subsection d. of this section;
- (4) Bring an action for a civil penalty in accordance with subsection e. of this section; or
- (5) Petition the Attorney General to bring a criminal action in accordance with subsection f. of this section.

The exercise of any of the remedies provided in this section shall not preclude recourse to any other remedy so provided.

b. Whenever, on the basis of available information, the commissioner finds that a person is in violation of any of the provisions of P.L.1981, c.262, or any rule or regulation adopted, or permit or order issued pursuant thereto, the commissioner may issue an order: (1) specifying the provision or provisions of P.L.1981, c.262, or the rule or regulation adopted, or order or permit issued pursuant thereto, of which the person is in violation; (2) citing the action that constituted the violation; (3) requiring compliance with the provision of P.L.1981, c.262, or the rule or regulation adopted, or order or permit issued pursuant thereto, of which the person is in violation; (4) requiring the restoration to address any adverse effects resulting from the violation; and (5) giving notice to the person of a right to a hearing on the matters contained in the order.

c. The commissioner is authorized to commence a civil action in Superior Court for appropriate relief from a violation of the provisions of P.L.1981, c.262, or any rule or regulation adopted, or permit or order issued pursuant thereto. This relief may include, singly or in combination:

- (1) A temporary or permanent injunction;
- (2) Recovery of reasonable costs of any investigation, inspection, sampling or monitoring survey that led to the discovery of the violation, and for the reasonable costs of preparing and bringing a civil action commenced under this subsection;
- (3) Recovery of reasonable costs incurred by the State in removing, correcting, or terminating the adverse effects resulting from any violation

of P.L.1981, c.262 for which a civil action has been commenced and brought under this subsection;

(4) An order requiring the restoration of any adverse effects resulting from any unauthorized regulated activity for which a civil action is commenced under this subsection.

d. The commissioner is authorized to assess a civil administrative penalty of not more than \$25,000 for each violation of the provisions of P.L.1981, c.262, or any rule or regulation adopted, or permit or order issued pursuant thereto, and each day during which each violation continues shall constitute an additional, separate, and distinct offense. Any amount assessed under this subsection shall fall within a range established by regulation by the commissioner for violations of similar type, seriousness, duration, and conduct; provided, however, that prior to the adoption of the regulation, the commissioner may, on a case-by-case basis, assess civil administrative penalties up to a maximum of \$25,000 per day for each violation, utilizing the criteria set forth herein. In addition to any administrative penalty assessed under this subsection and notwithstanding the \$25,000 maximum penalty set forth above, the commissioner may assess any economic benefits from the violation gained by the violator. Prior to assessment of a penalty under this subsection, the property owner or person committing the violation shall be notified by certified mail or personal service that the penalty is being assessed. The notice shall include a reference to the section of the statute, regulation, or order or permit condition violated; recite the facts alleged to constitute a violation; state the basis for the amount of the civil penalties to be assessed; and affirm the rights of the alleged violator to a hearing. The ordered party shall have 35 calendar days from receipt of the notice within which to deliver to the commissioner a written request for a hearing. After the hearing and upon finding that a violation has occurred, the commissioner may issue a final order after assessing the amount of the fine specified in the notice. If no hearing is requested, the notice shall become a final order after the expiration of the 35-day period. Payment of the assessment is due when a final order is issued or the notice becomes a final order. The authority to levy an administrative order is in addition to all other enforcement provisions in P.L.1981, c.262, and the payment of any assessment shall not be deemed to affect the availability of any other enforcement provisions in connection with the violation for which the assessment is levied. The department may compromise any civil administrative penalty assessed under this section in an amount and with conditions the department determines appropriate. A civil administrative penalty assessed, including a portion thereof required to be paid pursuant to a pay-

ment schedule approved by the department, which is not paid within 90 days of the date that payment of the penalty is due, shall be subject to an interest charge on the amount of the penalty, or portion thereof, which shall accrue as of the date payment is due. If the penalty is contested, no additional interest charge shall accrue on the amount of the penalty until after the date on which a final order is issued. Interest charges assessed and collectible pursuant to this subsection shall be based on the rate of interest on judgments provided in the New Jersey Rules of Court.

e. Any person who violates any provision of P.L.1981, c.262, or any rule or regulation adopted, or permit or order issued pursuant thereto, or an order issued pursuant to subsection b. of this section, or a court order issued pursuant to subsection c. of this section, or who fails to pay in full a civil administrative penalty levied pursuant to subsection d. of this section, or who fails to make a payment pursuant to a penalty payment schedule entered into with the department, or who knowingly makes any false or misleading statement on any application, record, report, or other document required to be submitted to the department, shall be subject, upon order of a court, to a civil penalty not to exceed \$25,000 for each day during which the violation continues. Any civil penalty imposed pursuant to this subsection may be collected with costs in a summary proceeding pursuant to the "Penalty Enforcement Law of 1999," P.L.1999, c.274 (C.2A:58-10 et seq.). In addition to any penalties, costs or interest charges, the court may assess against the violator the amount of economic benefit accruing to the violator from the violation. The Superior Court shall have jurisdiction to enforce the provisions of the "Penalty Enforcement Law of 1999" in connection with this act.

f. A person who purposely, knowingly or recklessly violates any provision of P.L.1981, c.262, or any rule or regulation adopted, or permit or order issued pursuant thereto, shall be guilty, upon conviction, of a crime of the third degree and shall, notwithstanding the provisions of subsection b. of N.J.S.2C:43-3, be subject to a fine of not less than \$5,000 nor more than \$50,000 per day of violation, or by imprisonment, or both. A person who purposely, knowingly, or recklessly makes a false statement, representation, or certification in any application, record, or other document filed or required to be maintained under any provision of P.L.1981, c.262, or any rule or regulation adopted, or permit or order issued pursuant thereto, or who falsifies, tampers with or purposely, knowingly, or recklessly renders inaccurate, any monitoring device or method required to be maintained pursuant to the provisions of P.L.1981, c.262, or any rule or regulation adopted, or permit or order issued pursuant thereto, shall be guilty, upon conviction,

of a crime of the third degree and shall, notwithstanding the provisions of subsection b. of N.J.S.2C:43-3, be subject to a fine of not more than \$50,000 per day of violation, or by imprisonment, or both.

g. Each applicant or permittee shall provide, upon the request of the department, any information the department requires to determine compliance with the provisions of P.L.1981, c.262, or any rule or regulation adopted, or permit or order issued pursuant thereto.

9. R.S.58:4-6 is amended to read as follows:

Enforcement powers of department, civil, criminal; violations, penalties.

58:4-6. a. Whenever, on the basis of available information, the Commissioner of Environmental Protection finds that a person has violated any provision of the "Safe Dam Act," P.L.1981, c.249 (C.58:4-8.1 et al.), or any rule or regulation adopted, or permit or order issued pursuant thereto, the commissioner may:

(1) Issue an order requiring any such person to comply in accordance with subsection b. of this section; or

(2) Bring a civil action in accordance with subsection c. of this section; or

(3) Levy a civil administrative penalty in accordance with subsection d. of this section; or

(4) Bring an action for a civil penalty in accordance with subsection e. of this section; or

(5) Petition the Attorney General to bring a criminal action in accordance with subsection f. of this section.

Recourse to any of the remedies available under this section shall not preclude recourse to any of the other remedies prescribed in this section or by any other applicable law.

b. Whenever, on the basis of available information, the commissioner finds a person in violation of any provision of P.L.1981, c.249, or any rule or regulation adopted, or permit or order issued pursuant thereto, the commissioner may issue an administrative order: (1) specifying the provision or provisions of the law, rule, regulation, permit or order, of which the person is in violation; (2) citing the action which constituted the violation; (3) requiring compliance with the provision or provisions violated; (4) requiring the restoration of the area which is the site of the violation; and (5) providing notice to the person of the right to a hearing on the matters contained in the order.

c. The commissioner is authorized to institute a civil action in Superior Court for appropriate relief from any violation of any provision of

P.L.1981, c.249, or any rule or regulation adopted, or permit or order issued pursuant thereto. Such relief may include, singly or in combination:

(1) A temporary or permanent injunction, including an order or judgment as will effectually secure the persons interested from danger of loss from the breaking of a dam. The court may proceed in the action in a summary manner or otherwise;

(2) Recovery of the reasonable costs of any investigation, inspection, or monitoring survey which led to the discovery of the violation, and for the reasonable costs of preparing and bringing a civil action commenced under this subsection;

(3) Recovery of reasonable costs incurred by the State in removing, correcting, or terminating the adverse effects resulting from any violation for which a civil action has been commenced and brought under this subsection;

(4) Recovery of compensatory damages for any loss or destruction of natural resources, including but not limited to, wildlife, fish, aquatic life, habitat, plants, or historic or archeological resources, and for any other actual damages caused by a violation for which a civil action has been commenced and brought under this subsection. Assessments under this subsection shall be paid to the "Environmental Services Fund," established pursuant to section 5 of P.L.1975, c.232 (C.13:1D-33), and kept separate from other receipts deposited therein, and appropriated to the department for the removal of dams in the State, except that compensatory damages to privately held resources shall be paid by specific order of the court to any persons who have been aggrieved by the unauthorized regulated activity;

(5) An order requiring the violator restore the site of the violation to the maximum extent practicable and feasible or, in the event that restoration of the site of the violation is not practicable or feasible, provide for off-site restoration alternatives as approved by the department.

d. The commissioner is authorized to assess a civil administrative penalty of not more than \$25,000 for each violation of any provision of P.L.1981, c.249, or any rule or regulation adopted, or permit or order issued pursuant thereto, and each day during which each violation continues shall constitute an additional, separate, and distinct offense. Any amount assessed under this subsection shall fall within a range established by regulation by the commissioner for violations of similar type, seriousness, duration, and conduct; provided, however, that prior to adoption of the regulation, the commissioner may, on a case-by-case basis, assess civil administrative penalties up to a maximum of \$25,000 per day for each violation, utilizing the criteria set forth herein. In addition to any administrative penalty to be assessed under this subsection, and notwithstanding the \$25,000

maximum penalty set forth above, the commissioner may assess any economic benefits from the violation gained by the violator. Prior to assessment of a penalty under this subsection, the property owner or person committing the violation shall be notified by certified mail or personal service that the penalty is being assessed. The notice shall: (1) identify the section of the law, rule, regulation, permit or order violated; (2) recite the facts alleged to constitute a violation; (3) state the basis for the amount of the civil penalties to be assessed; and (4) affirm the rights of the alleged violator to a hearing. The ordered party shall have 35 days from receipt of the notice within which to deliver to the commissioner a written request for a hearing. After the hearing and upon finding that a violation has occurred, the commissioner may issue a final order specifying the amount of the fine imposed. If no hearing is requested, the notice shall become final after the expiration of the 35-day period. Payment of the assessment is due when a final order is issued or the notice becomes a final order. The authority to levy an administrative penalty is in addition to all other enforcement provisions in this act and in any other applicable law, rule, or regulation, and the payment of any assessment shall not be deemed to affect the availability of any other enforcement provisions in connection with the violation for which the assessment is levied. The department may compromise any civil administrative penalty assessed under this section in an amount and with conditions the department determines appropriate. A civil administrative penalty assessed, including a portion thereof required to be paid pursuant to a payment schedule approved by the department, which is not paid within 90 days of the date that payment of the penalty is due, shall be subject to an interest charge on the amount of the penalty, or portion thereof, which shall accrue as of the date payment is due. If the penalty is contested, no additional interest charge shall accrue on the amount of the penalty until after the date on which a final order is issued. Interest charges assessed and collectible pursuant to this subsection shall be based on the rate of interest on judgments provided in the New Jersey Rules of Court.

e. A person who violates any provision of P.L.1981, c.249 or any rule or regulation adopted, or permit or order issued pursuant thereto, or an administrative order issued pursuant to subsection b. of this section, or a court order issued pursuant to subsection c. of this section, or who fails to pay a civil administrative penalty in full pursuant to subsection d. of this section, or who fails to make a payment pursuant to a penalty payment schedule entered into with the department, or who knowingly makes any false or misleading statement on any application, record, report, or other document required to be submitted to the department, shall be subject, upon order of a

court, to a civil penalty not to exceed \$25,000 per day of the violation, and each day during which the violation continues shall constitute an additional, separate, and distinct offense. Any civil penalty imposed pursuant to this subsection may be collected with costs in a summary proceeding pursuant to the "Penalty Enforcement Law of 1999," P.L.1999, c.274 (C.2A:58-10 et seq.). In addition to any penalties, costs or interest charges, the court may assess against the violator the amount of economic benefit accruing to the violator from the violation. The Superior Court and the municipal court shall have jurisdiction to enforce the provisions of the "Penalty Enforcement Law of 1999" in connection with this section.

f. A person who purposely, knowingly or recklessly violates any provision of P.L.1981, c.249, or any rule or regulation adopted, or permit or order issued pursuant thereto, shall be guilty, upon conviction, of a crime of the third degree and, notwithstanding any provision of N.J.S.2C:43-3 to the contrary, shall be subject to a fine of not less than \$5,000 nor more than \$50,000 per day of violation, or by imprisonment, or both, in addition to any other applicable penalties and provisions under Title 2C of the New Jersey Statutes. A person who purposely, knowingly, or recklessly makes a false statement, representation, or certification in any application, record, or other document filed or required to be maintained under the provisions of P.L.1981, c.249, or any rule or regulation adopted, or permit or order issued pursuant thereto, or who falsifies, tampers with or purposely, knowingly, or recklessly renders inaccurate, any monitoring device or method required to be maintained pursuant to the provisions of P.L.1981, c.249, or of any rule or regulation adopted, or permit or order issued pursuant thereto, shall be guilty, upon conviction, of a crime of the third degree and, notwithstanding any provision of N.J.S.2C:43-3 to the contrary, shall be subject to a fine of not more than \$50,000, or by imprisonment, or both, in addition to any other applicable penalties and provisions under Title 2C of the New Jersey Statutes.

g. In addition to the penalties prescribed in this section, the commissioner may record a notice for a violation of any provision of P.L.1981, c.249, or any rule or regulation adopted, or permit or order issued pursuant thereto, which shall be recorded on the deed of the property wherein the violation occurred, on order of the commissioner, by the clerk or register of deeds and mortgages of the county wherein the affected property is located and shall remain attached thereto until such time as the violation has been remedied and the commissioner orders the notice of violation removed. Any fees or other charges that are assessed by either the clerk or register of deeds and mortgages of the county wherein the affected property is located or the department for the recording of the notice of violation on the deed

required pursuant to this subsection shall be paid by the owner of the affected property or the person committing the violation. The commissioner shall immediately order the notice removed once the violation is remedied or upon conditions set by the commissioner.

h. Each owner or person having control of a reservoir or dam shall provide, upon request of the department, any information the department requires to determine compliance with any provision of P.L.1981, c.249, or any rule or regulation adopted, or permit or order issued pursuant thereto.

i. (Deleted by amendment, P.L.2007, c.246).

j. All penalties collected pursuant to this section or sums collected pursuant to R.S.58:4-5 shall be deposited in the "Environmental Services Fund," established pursuant to section 5 of P.L.1975, c.232 (C.13:1D-33), and kept separate from other receipts deposited therein, and appropriated to the department for the removal of dams in the State.

k. The department shall have the authority to enter any property, facility, premises, or site for the purpose of conducting inspections to determine the condition of any dam, or to conduct inspections of ordered repairs or to otherwise determine compliance with the provisions of P.L.1981, c.249.

10. Section 12 of P.L.1972, c.185 (C.58:16A-63) is amended to read as follows:

C.58:16A-63 Violations of act; remedies.

12. a. Whenever, on the basis of available information, the commissioner finds that a person is in violation of any provision of the "Flood Hazard Area Control Act," P.L.1962, c.19 (C.58:16A-50 et seq.), P.L.1972, c.185, P.L.1977, c.385 or P.L.1979, c.359, or any rule or regulation adopted, or permit or order issued pursuant thereto, the commissioner may:

(1) Issue an administrative enforcement order requiring any such person to comply in accordance with subsection b. of this section;

(2) Bring a civil action in accordance with subsection c. of this section;

(3) Levy a civil administrative penalty in accordance with subsection d. of this section;

(4) Bring an action for a civil penalty in accordance with subsection e. of this section; or

(5) Petition the Attorney General to bring a criminal action in accordance with subsection f. of this section.

Recourse to any of the remedies available under this section shall not preclude recourse to any of the other remedies.

b. Whenever, on the basis of available information, the commissioner finds that a person is in violation of any provision of P.L.1962, c.19, P.L.1972, c.185, P.L.1977, c.385 or P.L.1979, c.359, or any rule or regulation adopted, or permit or order issued pursuant thereto, the commissioner may issue an administrative enforcement order: (1) specifying the provision or provisions of P.L.1962, c.19, P.L.1972, c.185, P.L.1977, c.385 or P.L.1979, c.359, or any rule or regulation adopted, or permit or order issued pursuant thereto, of which the person is in violation; (2) citing the action which constituted the violation; (3) requiring compliance with the provision or provisions violated; (4) requiring the restoration of the area which is the site of the violation; and (5) providing notice to the person of the right to a hearing on the matters contained in the administrative enforcement order.

c. The commissioner is authorized to institute a civil action in Superior Court for appropriate relief from any violation of the provisions of P.L.1962, c.19, P.L.1972, c.185, P.L.1977, c.385 or P.L.1979, c.359, or any rule or regulation adopted, or permit or order issued pursuant thereto. Such relief may include, singly or in combination:

- (1) A temporary or permanent injunction;
- (2) Recovery of reasonable costs of any investigation, inspection, or monitoring survey which led to the discovery of the violation, and for the reasonable costs of preparing and bringing a civil action commenced under this subsection;
- (3) Recovery of reasonable costs incurred by the State in removing, correcting, or terminating the adverse effects resulting from any violation of the provisions of P.L.1962, c.19, P.L.1972, c.185, P.L.1977, c.385 or P.L.1979, c.359, or any rule or regulation adopted, or permit or order issued pursuant thereto, for which a civil action has been commenced and brought under this subsection;
- (4) Recovery of compensatory damages for any loss or destruction of natural resources, including but not limited to, wildlife, fish, aquatic life, habitat, plants, or historic or archeological resources, and for any other actual damages caused by a violation of the provisions of P.L.1962, c.19, P.L.1972, c.185, P.L.1977, c.385 or P.L.1979, c.359, or any rule or regulation adopted, or permit or order issued pursuant thereto for which a civil action has been commenced and brought under this subsection. Assessments under this subsection shall be paid to the State Treasurer;
- (5) An order requiring the violator restore the site of the violation to the maximum extent practicable and feasible or, in the event that restoration of the site of the violation is not practicable or feasible, provide for off-site restoration alternatives as approved by the department.

d. The commissioner is authorized to assess a civil administrative penalty of not more than \$25,000 for each violation of the provisions of P.L.1962, c.19, P.L.1972, c.185, P.L.1977, c.385 or P.L.1979, c.359, or any rule or regulation adopted, or permit or order issued pursuant thereto, and each day during which each violation continues shall constitute an additional, separate and distinct offense. Any amount assessed under this subsection shall fall within a range established by regulation by the commissioner for violations of similar type, seriousness, duration, and conduct; provided, however, that prior to the adoption of the regulation, the commissioner may, on a case-by-case basis, assess civil administrative penalties up to a maximum of \$25,000 per day for each violation, utilizing the criteria set forth herein. In addition to any administrative penalty assessed under this subsection, and notwithstanding the \$25,000 maximum penalty set forth above, the commissioner may assess any economic benefits from the violation gained by the violator. Prior to assessment of a penalty under this subsection, the property owner or person committing the violation shall be notified by certified mail or personal service that the penalty is being assessed. The notice shall include a reference to the section of the statute, regulation, order or permit condition violated; recite the facts alleged to constitute a violation; state the basis for the amount of the civil penalties to be assessed; and affirm the rights of the alleged violator to a hearing. The ordered party shall have 35 calendar days from receipt of the notice within which to deliver to the commissioner a written request for a hearing. After the hearing and upon finding that a violation has occurred, the commissioner may issue a final administrative enforcement order after assessing the amount of the fine specified in the notice. If no hearing is requested, the notice shall become a final administrative enforcement order after the expiration of the 35-day period. Payment of the assessment is due when a final administrative enforcement order is issued or the notice becomes a final administrative enforcement order. The authority to levy a civil administrative order is in addition to all other enforcement provisions in P.L.1962, c.19, P.L.1972, c.185, P.L.1977, c.385 or P.L.1979, c.359, or any rule or regulation adopted, or permit or order issued pursuant thereto, and the payment of any assessment shall not be deemed to affect the availability of any other enforcement provisions in connection with the violation for which the assessment is levied. The department may compromise any civil administrative penalty assessed under this section in an amount and with conditions the department determines appropriate. A civil administrative penalty assessed, including a portion thereof required to be paid pursuant to a payment schedule approved by the department, which is not paid within

90 days of the date that payment of the penalty is due, shall be subject to an interest charge on the amount of the penalty, or portion thereof, which shall accrue as of the date payment is due. If the penalty is contested, no additional interest charge shall accrue on the amount of the penalty until after the date on which a final order is issued. Interest charges assessed and collectible pursuant to this subsection shall be based on the rate of interest on judgments provided in the New Jersey Rules of Court.

e. A person who violates any provision of P.L.1962, c.19, P.L.1972, c.185, P.L.1977, c.385 or P.L.1979, c.359, or any rule or regulation adopted, or permit or order issued pursuant thereto, or an administrative order issued pursuant to subsection b. of this section, or a court order issued pursuant to subsection c. of this section, or who fails to pay a civil administrative penalty in full pursuant to subsection d. of this section, or who fails to make a payment pursuant to a penalty payment schedule entered into with the department, or who knowingly makes any false or misleading statement on any application, record, report, or other document required to be submitted to the department, shall be subject, upon order of a court, to a civil penalty not to exceed \$25,000 per day of the violation, and each day during which the violation continues shall constitute an additional, separate, and distinct offense. Any civil penalty imposed pursuant to this subsection may be collected with costs in a summary proceeding pursuant to the "Penalty Enforcement Law of 1999," P.L.1999, c.274 (C.2A:58-10 et seq.). In addition to any penalties, costs or interest charges, the court may assess against the violator the amount of economic benefit accruing to the violator from the violation. The Superior Court shall have jurisdiction to enforce the provisions of the "Penalty Enforcement Law of 1999" in connection with this act.

f. A person who purposely, knowingly or recklessly violates any provision of P.L.1962, c.19, P.L.1972, c.185, P.L.1977, c.385 or P.L.1979, c.359, or any rule or regulation adopted, or permit or order issued pursuant thereto, shall be guilty, upon conviction, of a crime of the third degree and shall, notwithstanding the provisions of subsection b. of N.J.S.2C:43-3, be subject to a fine of not less than \$5,000 nor more than \$50,000 per day of violation, or by imprisonment, or both. A person who purposely, knowingly, or recklessly makes a false statement, representation, or certification in any application, record, or other document filed or required to be maintained under any provision of P.L.1962, c.19, P.L.1972, c.185, P.L.1977, c.385 or P.L.1979, c.359, or any rule or regulation adopted, or permit or order issued pursuant thereto, or who falsifies, tampers with or purposely, knowingly, or recklessly renders inaccurate, any monitoring device or method required to be maintained pursuant to P.L.1962, c.19, P.L.1972,

c.185, P.L.1977, c.385 or P.L.1979, c.359, or any rule or regulation adopted, or permit or order issued pursuant thereto, shall be guilty, upon conviction, of a crime of the third degree and shall, notwithstanding the provisions of subsection b. of N.J.S.2C:43-3, be subject to a fine of not more than \$50,000 per day of violation, or by imprisonment, or both.

g. In addition to the penalties prescribed in this section, the commissioner may record a notice for a violation of any provision of P.L.1962, c.19, P.L.1972, c.185, P.L.1977, c.385 or P.L.1979, c.359, or any rule or regulation adopted, or permit or order issued pursuant thereto, which shall be recorded on the deed of the property wherein the violation occurred, on order of the commissioner, by the clerk or register of deeds and mortgages of the county wherein the affected property is located and shall remain attached thereto until such time as the violation has been remedied and the commissioner orders the notice of violation removed. Any fees or other charges that are assessed by either the clerk or register of deeds and mortgages of the county wherein the affected property is located or the department for the recording of the notice of violation on the deed required pursuant to this subsection shall be paid by the owner of the affected property or person committing the violation. The commissioner shall immediately order the notice removed once the violation is remedied or upon conditions set forth by the commissioner.

h. Each applicant or permittee shall provide, upon the request of the department, any information the department requires to determine compliance with the provisions of P.L.1962, c.19, P.L.1972, c.185, P.L.1977, c.385 or P.L.1979, c.359, or any rule or regulation adopted, or permit or order issued pursuant thereto.

11. Section 10 of P.L.1977, c.224 (C.58:12A-10) is amended to read as follows:

C.58:12A-10 Violations; remedies.

10. a. Whenever, on the basis of available information, the commissioner finds that a person is in violation of any provision of the "Safe Drinking Water Act," P.L.1977, c.224 (C.58:12A-1 et al.), or any rule or regulation adopted, or permit or order issued pursuant thereto, the commissioner may:

- (1) Issue an administrative enforcement order requiring any such person to comply in accordance with subsection b. of this section;
- (2) Bring a civil action in accordance with subsection c. of this section;
- (3) Levy a civil administrative penalty in accordance with subsection d. of this section;

(4) Bring an action for a civil penalty in accordance with subsection e. of this section; or

(5) Petition the Attorney General to bring a criminal action in accordance with subsection f. of this section.

Recourse to any of the remedies available under this section shall not preclude recourse to any of the other remedies.

b. Whenever, on the basis of available information, the commissioner finds that a person is in violation of any provision of P.L.1977, c.224, or any rule or regulation adopted, or permit or order issued pursuant thereto, the commissioner may issue an administrative enforcement order: (1) specifying the provision or provisions of P.L.1977, c.224, or any rule or regulation adopted, or permit or order issued pursuant thereto, of which the person is in violation; (2) citing the action which constituted the violation; (3) requiring compliance with the provision or provisions violated; (4) requiring the restoration of the area which is the site of the violation; and (5) providing notice to the person of the right to a hearing on the matters contained in the administrative enforcement order.

c. The commissioner is authorized to institute a civil action in Superior Court for appropriate relief from any violation of the provisions of P.L.1977, c.224, or any rule or regulation adopted, or permit or order issued pursuant thereto. Such relief may include, singly or in combination:

(1) A temporary or permanent injunction;

(2) Recovery of reasonable costs of any investigation, inspection, or monitoring survey which led to the discovery of the violation, and for the reasonable costs of preparing and bringing a civil action commenced under this subsection;

(3) Recovery of reasonable costs incurred by the State in removing, correcting, or terminating the adverse effects resulting from any violation of the provisions of P.L.1977, c.224, or any rule or regulation adopted, or permit or order issued pursuant thereto, for which a civil action has been commenced and brought under this subsection;

(4) An order requiring the violator restore the site of the violation to the maximum extent practicable and feasible or, in the event that restoration of the site of the violation is not practicable or feasible, provide for off-site restoration alternatives as approved by the department.

d. The commissioner is authorized to assess a civil administrative penalty of not more than \$25,000 for each violation of the provisions of P.L.1977, c.224, or any rule or regulation adopted, or permit or order issued pursuant thereto, and each day during which each violation continues shall constitute an additional, separate and distinct offense. Any amount assessed

under this subsection shall fall within a range established by regulation by the commissioner for violations of similar type, seriousness, duration and conduct; provided, however, that prior to the adoption of the regulation, the commissioner may, on a case-by-case basis, assess civil administrative penalties up to a maximum of \$25,000 per day for each violation, utilizing the criteria set forth herein. In addition to any administrative penalty assessed under this subsection, and notwithstanding the \$25,000 maximum penalty set forth above, the commissioner may assess any economic benefits from the violation gained by the violator. Prior to assessment of a penalty under this subsection, the property owner or person committing the violation shall be notified by certified mail or personal service that the penalty is being assessed. The notice shall include a reference to the section of the statute, regulation, order or permit condition violated; recite the facts alleged to constitute a violation; state the basis for the amount of the civil penalties to be assessed; and affirm the rights of the alleged violator to a hearing. The ordered party shall have 35 calendar days from receipt of the notice within which to deliver to the commissioner a written request for a hearing. After the hearing and upon finding that a violation has occurred, the commissioner may issue a final administrative enforcement order after assessing the amount of the fine specified in the notice. If no hearing is requested, the notice shall become a final administrative enforcement order after the expiration of the 35-day period. Payment of the assessment is due when a final administrative enforcement order is issued or the notice becomes a final administrative enforcement order. The authority to levy a civil administrative order is in addition to all other enforcement provisions in P.L.1977, c.224, or any rule or regulation adopted, or permit or order issued pursuant thereto, and the payment of any assessment shall not be deemed to affect the availability of any other enforcement provisions in connection with the violation for which the assessment is levied. The department may compromise any civil administrative penalty assessed under this section in an amount and with conditions the department determines appropriate. A civil administrative penalty assessed, including a portion thereof required to be paid pursuant to a payment schedule approved by the department, which is not paid within 90 days of the date that payment of the penalty is due, shall be subject to an interest charge on the amount of the penalty, or portion thereof, which shall accrue as of the date payment is due. If the penalty is contested, no additional interest charge shall accrue on the amount of the penalty until after the date on which a final order is issued. Interest charges assessed and collectible pursuant to this subsection shall be based on the rate of interest on judgments provided in the New Jersey Rules of Court.

e. A person who violates any provision of P.L.1977, c.224, or any rule or regulation adopted, or permit or order issued pursuant thereto, or an administrative order issued pursuant to subsection b. of this section, or a court order issued pursuant to subsection c. of this section, or who fails to pay a civil administrative penalty in full pursuant to subsection d. of this section, or who fails to make a payment pursuant to a penalty payment schedule entered into with the department, or who knowingly makes any false or misleading statement on any application, record, report, or other document required to be submitted to the department, shall be subject, upon order of a court, to a civil penalty not to exceed \$25,000 per day of the violation, and each day during which the violation continues shall constitute an additional, separate, and distinct offense. Any civil penalty imposed pursuant to this subsection may be collected with costs in a summary proceeding pursuant to the "Penalty Enforcement Law of 1999," P.L.1999, c.274 (C.2A:58-10 et seq.). In addition to any penalties, costs or interest charges, the court may assess against the violator the amount of economic benefit accruing to the violator from the violation. The Superior Court shall have jurisdiction to enforce the provisions of the "Penalty Enforcement Law of 1999" in connection with this act.

f. A person who purposely, knowingly or recklessly violates any provision of P.L.1977, c.224, or any rule or regulation adopted, or permit or order issued pursuant thereto, shall be guilty, upon conviction, of a crime of the third degree and shall, notwithstanding the provisions of subsection b. of N.J.S.2C:43-3, be subject to a fine of not less than \$5,000 nor more than \$50,000 per day of violation, or by imprisonment, or both. A person who purposely, knowingly, or recklessly makes a false statement, representation, or certification in any application, record, or other document filed or required to be maintained under any provision of P.L.1977, c.224, or any rule or regulation adopted, or permit or order issued pursuant thereto, or who falsifies, tampers with or purposely, knowingly, or recklessly renders inaccurate, any monitoring device or method required to be maintained pursuant to P.L.1977, c.224, or any rule or regulation adopted, or permit or order issued pursuant thereto, shall be guilty, upon conviction, of a crime of the third degree and shall, notwithstanding the provisions of subsection b. of N.J.S.2C:43-3, be subject to a fine of not more than \$50,000 per day of violation, or by imprisonment, or both.

g. Each applicant or permittee shall provide, upon the request of the department, any information the department requires to determine compliance with the provisions of P.L.1977, c.224, or any rule or regulation adopted, or permit or order issued pursuant thereto.

12. This act shall take effect immediately.

Approved January 4, 2008.

CHAPTER 247

AN ACT concerning umbilical cord blood and placental tissue donation 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-12.46 Hospital to inform pregnant patients of option to donate umbilical cord blood, placental tissue.

1. a. A general hospital licensed pursuant to P.L.1971, c.136 (C.26:2H-1 et al.) shall, upon admission, advise every patient of the hospital who is known to be pregnant of the option to donate, to a public umbilical cord blood bank affiliated with the National Marrow Donor Program, or NMDP, blood extracted from the umbilical cord or the placental tissue of her newborn child.

b. If the patient elects to donate umbilical cord blood or placental tissue as provided in subsection a. of this section:

(1) The patient shall provide to the hospital the collection kit supplied by the NMDP-affiliated public umbilical cord blood bank to collect the blood or placental tissue and shall arrange for the kit to be transported to the umbilical cord blood bank at no cost to the hospital; and

(2) The donation shall be made without monetary expense to the woman or the hospital for the collection or storage of the blood or placental tissue.

c. If the patient elects to store her newborn child's umbilical cord blood or placental tissue for family use with a private umbilical cord blood bank:

(1) The patient shall provide to the hospital the collection kit supplied by the private umbilical cord blood bank to collect the blood or placental tissue and shall arrange for the kit to be transported to the blood bank at no cost to the hospital; and

(2) The hospital shall collect the blood or placental tissue in accordance with the patient's directions.

d. The provisions of subsections a., b., and c. of this section shall not be construed to:

(1) require a hospital to collect umbilical cord blood or placental tissue if, in the professional judgment of the patient's attending physician, the collection would threaten the health of the mother or newborn child; or

(2) apply to a physician, nurse, or other hospital employee or contractor who, or a hospital that, is directly affiliated with a religious denomination that adheres to the tenet that blood transfer is contrary to the moral principles which the denomination considers to be an essential part of its beliefs and practices. The physician, nurse, other hospital employee or contractor, or hospital, as applicable, shall record, in writing, its refusal to participate in the activity provided in subsections a., b., and c. of this section, and include a copy of the refusal in the patient's medical record.

C.26:2H-12.47 Information provided to patients.

2. When a hospital advises a patient of the option to donate or store umbilical cord blood or placental tissue as provided in section 1 of this act, it shall provide the patient with the following information:

a. a description of the health benefits to the community from donating umbilical cord blood or placental tissue to an NMDP-affiliated public umbilical cord blood bank;

b. a description of the potential benefits to the patient and her family from storing umbilical cord blood or placental tissue with a private umbilical cord blood bank;

c. notice to the patient of her option to decline to donate umbilical cord blood or placental tissue to an NMDP-affiliated public umbilical cord blood bank or to store it with a private umbilical cord blood bank; and

d. notice to the patient that a private umbilical cord blood bank may assess fees for the donation and storage of umbilical cord blood or placental tissue, and that she may donate umbilical cord blood or placental tissue to an NMDP-affiliated public umbilical cord blood bank at no charge to herself or her family.

C.26:2H-12.48 Provision of copy of brochure to pregnant patients.

3. A health care professional shall provide to each patient to whom that individual is providing prenatal care, as early as practicable in the health care professional's therapeutic relationship with the patient, preferably in the first trimester, a copy of the brochure prepared by the Division of Family Health Services in the Department of Health and Senior Services that may be downloaded from the website of the department, which is designed to answer common questions about umbilical cord and placental blood donation and storage, including the NMDP-affiliated public umbilical cord blood bank and private umbilical cord blood bank options and the differences between and benefits of these options. The health care professional shall offer to discuss the information contained in the brochure with the patient.

C.26:2H-12.49 Construction of act.

4. Nothing in this act shall be construed to preclude any NMDP-affiliated public umbilical cord blood bank or private umbilical cord blood bank from disseminating information to patients, health care professionals, and hospitals regarding the services provided by the blood bank.

5. This act shall take effect on the 90th day following enactment.

Approved January 4, 2008.

CHAPTER 248

AN ACT concerning public school district reporting of certain pupil absences to the Division of Youth and Family Services 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:36-25.2 Investigation, reporting of certain pupil absences, transfers.

1. a. If any child enrolled in a school district has an unexcused absence from school for five consecutive school days, the attendance officer of the district shall investigate the absence and notify the district superintendent of the absence. In the event the investigation leads the district superintendent to have reasonable cause to believe the child has been abused or neglected as defined in section 1 of P.L.1974, c.119 (C.9:6-8.21), the district superintendent shall then notify the Division of Youth and Family Services in the Department of Children and Families for its determination of whether the division is or has been involved with the child and whether action, as appropriate, is warranted.

b. When a child's parent, guardian or other person having charge and control of the child notifies a school district that the child will be withdrawing from the district and transferring to another school district, the principal of the school from which the child is withdrawing shall request that the parent, guardian or other person having charge and control of the child provide the principal with the name and location of the school district in which the child will subsequently be enrolled and the expected date of enrollment. The principal shall provide the information supplied by the parent, guardian or other person having charge and control of the child to the district super-

intendent. Five school days following the expected date of enrollment, the superintendent of the district of last attendance shall contact the school district in which the child is to be subsequently enrolled to determine if the child has enrolled in the district. If the child has not been so enrolled, the attendance officer of the transfer district shall investigate the failure to enroll and notify the superintendent of the transfer district of the failure to enroll. In the event the investigation leads the superintendent of the transfer district to have reasonable cause to believe the child has been abused or neglected as defined in section 1 of P.L.1974, c.119 (C.9:6-8.21), the superintendent of the transfer district shall then notify the Division of Youth and Family Services in the Department of Children and Families for its determination of whether the division is or has been involved with the child and whether action, as appropriate, is warranted. If the child has been so enrolled, the district of last attendance and the transfer district shall arrange for the transfer of the child's records in accordance with the provisions of section 1 of P.L.1986, c.160 (C.18A:36-19a) and subsection b. of section 4 of P.L.1995, c.395 (C.18A:36-25.1).

c. School district policies for the early detection of missing and abused children required pursuant to section 2 of P.L.1984, c.228 (C.18A:36-25) shall include provisions to implement the requirements of this section.

C.18A:36-25.3 Rules, regulations.

2. The Commissioner of Education, pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), and in consultation with the Commissioner of Children and Families shall adopt rules and regulations necessary to effectuate the purposes of this act.

3. This act shall take effect immediately.

Approved January 4, 2008.

CHAPTER 249

AN ACT concerning recreation vehicles and amending R.S.39:3-84.

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

1. R.S.39:3-84 is amended to read as follows:

Vehicles, dimensional weight limitations; routes, certain; prohibited.

39:3-84. a. The following constitute the maximum dimensional limits for width, height and length for any vehicle or combination of vehicles, including load or contents or any part or portion thereof, found or operated on any public road, street or highway or any public or quasi-public property in this State. Violations shall be enforced pursuant to subsection i. of section 5 of P.L.1950, c.142 (C.39:3-84.3).

The dimensional limitations set forth in this subsection are exclusive of safety and energy conservation devices necessary for safe and efficient operation of a vehicle or combination of vehicles, including load or contents, except that no device excluded herein shall have by its design or use the capability to carry, transport or otherwise be utilized for cargo.

Any rules and regulations authorized to be promulgated pursuant to this subsection shall be consistent with any rules and regulations promulgated by the Secretary of Transportation of the United States of America, and shall be in accordance with the provisions of the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.). In addition to the other requirements of this subsection and notwithstanding any other provision of this Title, no vehicle or combination of vehicles, including load or contents or any part or portion thereof, except as otherwise provided by this subsection shall be operated in this State, unless by special permit authorized by subsection d. of this section with a dimension, the allowance of which would disqualify the State of New Jersey or any department, agency or governmental subdivision thereof for the purpose of receiving federal highway funds.

As used herein and pursuant to R.S.39:1-1, the term "vehicle" includes, but is not limited to, commercial motor vehicles, trucks, truck tractors, tractors, road tractors, recreation vehicles, or omnibuses. As used herein and pursuant to R.S.39:1-1, the term "combination of vehicles" includes, but is not limited to, vehicles as heretofore designated, when those vehicles are the drawing or power unit of a combination of vehicles and motor-drawn vehicles, such as, but not limited to, trailers, semi-trailers, or other vehicles. As used herein, the term "recycling vehicle" means a commercial motor vehicle used for the collection or transportation of recyclable material; or any truck, trailer or other vehicle approved by the New Jersey Office of Recycling for use by persons engaging in the business of recycling or otherwise providing recycling services in this State; and "recyclable material" means those materials which would otherwise become solid waste, and which may be collected, separated or processed and returned to the economic mainstream in the form of raw materials or products.

(1) The maximum outside width of any vehicle or combination of ve-

hicles, including load or contents of any part or portion thereof, except as otherwise provided by this subsection, shall be no more than 102 inches; except that the Commissioner of Transportation, after consultation with the Chief Administrator of the New Jersey Motor Vehicle Commission and the Superintendent of State Police, may promulgate rules and regulations for those public roads, streets or highways or public or quasi-public property in this State, where it is determined that the interests of public safety and welfare require the maximum outside width be no more than 96 inches.

(2) The maximum height of any vehicle or combination of vehicles, including load or contents of any part or portion thereof, except as otherwise provided by this subsection, shall not exceed 13 feet, 6 inches.

(3) The maximum overall length of any vehicle, as set forth in this subsection, including load or contents or any part or portion thereof, except as otherwise provided by this subsection, shall not exceed 40 feet, except that the overall length of a vehicle, including load or contents or any part or portion thereof, otherwise subject to the provisions of this paragraph shall not exceed 50 feet when transporting poles, pilings, structural units or other articles which cannot be dismembered, dismantled or divided. When a vehicle, subject to this paragraph, is the drawing or power unit of a combination of vehicles, as set forth in this subsection, the overall length of the combination of vehicles, including load or contents or any part or portion thereof, shall not exceed 62 feet. The provisions of this paragraph shall not apply to omnibuses, recreation vehicles, or to vehicles which are not designed, built or otherwise capable of carrying cargo or loads.

(4) The maximum overall length of a motor-drawn vehicle, as set forth in this subsection, including load or contents or any part or portion thereof, except as otherwise provided by this subsection, shall not exceed 53 feet when operated as part of a combination of vehicles consisting of one motor-drawn vehicle and a drawing or power unit vehicle not designed, built or otherwise capable of carrying cargo or loads, except that a motor-drawn vehicle, the overall length of which is greater than 48 feet and not more than 53 feet, shall be constructed so that the distance between the kingpin of the motor-drawn vehicle and the centerline of its rear axle or rear axle group does not exceed 41 feet; the motor-drawn vehicle shall be equipped with a rear-end protection device of substantial construction consisting of a continuous lateral beam extending to within four inches of the lateral extremities of the motor-drawn vehicle and located not more than 22 inches from the surface as measured with the vehicle empty and on a level surface; the kingpin of the trailer shall not be set back further than 3.5 feet from the front of the semitrailer; the rear overhang, measured from the center of the

rear tandem axles to the rear of the semitrailer shall not exceed 35% of the semitrailer's wheelbase; the width of the semitrailer and the distance between the outside edges of the trailer tires shall be 102 inches; and the vehicle shall be equipped with such reflectorization, including but not limited to side-marker reflectorization strips located between the rear axle and the rear of the motor-drawn vehicle, as shall be prescribed by the Motor Vehicle Commission, and as is consistent with any applicable federal standards concerning reflectorization. The overall length of a motor-drawn vehicle otherwise subject to the provisions of this paragraph shall not exceed 63 feet when transporting poles, pilings, structural units or other articles that cannot be dismembered, dismantled or divided. The provisions of this paragraph shall not apply to any vehicle or combination of vehicles designed, built and utilized solely to transport other motor vehicles. The Commissioner of Transportation, after consultation with the Chief Administrator of the New Jersey Motor Vehicle Commission and the Superintendent of State Police, shall promulgate rules and regulations specifying those portions or parts of the National System of Interstate and Defense Highways, Federal-aid Primary System Highways and public roads, streets, highways, toll roads, freeways or parkways in this State where the combination of vehicles as described in this paragraph may lawfully operate. The commissioner shall promulgate rules and regulations within 120 days after the effective date of this amendatory act to identify a network of roads with reasonable access for motor-drawn vehicles greater than 48 feet in length but not more than 53 feet in length. The commissioner shall, in establishing this network, consider all portions of the network for 48 foot long and 102 inch wide motor-drawn vehicles and specify those routes or portions thereof where motor-drawn vehicles greater than 48 feet in length but not more than 53 feet in length shall be excluded from lawful operation for reasons of safety.

(5) No combination of vehicles, including load or contents, consisting of more than two motor-drawn vehicles, as set forth in this subsection, and any other vehicle, shall be found or operated on any public road, street or highway or any public or quasi-public property in this State.

(6) The maximum overall length of a motor-drawn vehicle, as set forth in this section, including load or contents or any part or portion thereof, except as otherwise provided by this subsection, when operated as part of a combination of vehicles consisting of two motor-drawn vehicles and a drawing or power unit vehicle which is not designed, built or otherwise capable of carrying cargo or loads, shall not exceed 28 feet for each motor-drawn vehicle in the combination of vehicles. The provision of this paragraph shall not apply to any vehicle or combination of vehicles designed,

built and utilized solely to transport other motor vehicles. The Commissioner of Transportation, after consultation with the Chief Administrator of the New Jersey Motor Vehicle Commission and the Superintendent of State Police, shall promulgate rules and regulations specifying those portions or parts of the National System of Interstate and Defense Highways, Federal-aid Primary System Highways and public roads, streets, highways, toll roads, freeways or parkways in this State where combinations of vehicles as described in this paragraph may lawfully operate.

(7) The maximum length and outside width of an omnibus found or operated in this State shall be established by rules and regulations promulgated by the Commissioner of Transportation, after consultation with the Chief Administrator of the New Jersey Motor Vehicle Commission and the Superintendent of State Police. Unless otherwise specified in the aforesaid rules and regulations, the maximum outside width shall be 102 inches; any other dimension established for width in the aforesaid rules and regulations shall be based upon a determination that operation of an omnibus with a width of less than 102 inches, but no less than 96 inches is required in the interest of public safety on those public roads, streets, highways, toll roads, freeways, parkways or the National System of Interstate and Defense Highways in this State specified in the aforesaid rules and regulations, or that operation of an omnibus with a width greater than 102 inches is not unsafe on those public roads, streets, highways, toll roads, freeways, parkways or the National System of Interstate and Defense Highways in this State specified in the aforesaid rules and regulations.

(8) The maximum width and length of farm tractors and traction equipment and farm machinery and implements shall be established by rules and regulations promulgated by the Chief Administrator of the New Jersey Motor Vehicle Commission. The operation of the aforesaid vehicles shall be subject to the provisions of R.S.39:3-24 and they shall not be operated on any highway which is part of the National System of Interstate and Defense Highways or on any highway which has been designated a freeway or parkway as provided by law.

(9) The maximum outside width of the cargo or load of a vehicle or combination of vehicles, including farm trucks, loaded with hay or straw shall not exceed 105 1/2 inches, but the maximum outside width of the vehicle or combination of vehicles, including farm trucks, shall otherwise comply with the provisions of paragraph (1) of this subsection. The Commissioner of Transportation, after consultation with the Chief Administrator of the New Jersey Motor Vehicle Commission and the Superintendent of State Police, may promulgate rules and regulations establishing a maximum

outside width of 102 inches for the aforesaid cargo or load when operating on those highways where a greater width is prohibited by operation of law.

(10) Notwithstanding the provisions of paragraphs (4) and (6) of this subsection pertaining to length, the Chief Administrator of the New Jersey Motor Vehicle Commission may adopt rules and regulations specifying maximum length dimensions for any vehicle or combination of vehicles designed, built and utilized solely to transport other motor vehicles.

(11) The provisions of this subsection pertaining to length shall not apply to a vehicle or combination of vehicles or special mobile equipment operated by a public utility, as defined in R.S.48:2-13, when that vehicle or combination of vehicles or special mobile equipment is used by the public utility in the construction, reconstruction, repair or maintenance of its property or facilities.

(12) The provisions of this subsection pertaining to width shall not apply to a recycling vehicle when that vehicle is used for the collection of recyclable material on a street or highway other than a highway which is designated part of the National System of Interstate and Defense Highways in this State or as a freeway or parkway as provided by law. The maximum outside width of any recycling vehicle so used, including load or contents of any part or portion thereof, shall be no more than 96 inches, except that the width may be up to 105 inches whenever that vehicle is operating at 15 miles per hour or less, and access steps are deployed and recyclable materials are actually being collected.

(13) The maximum overall length of a recreation vehicle including any load or truck camper thereon found or operated in this State shall not exceed 45 feet and no combination of a recreation vehicle with any vehicle, including the load thereon, nor any combination of any motor vehicle with any camping trailer, fifth wheel trailer or park trailer attached thereto, as these terms are defined in section 1 of P.L.1991, c.483 (C.46:8C-10), shall exceed 65 feet in length. Further, the outside width of a recreation vehicle found or operated in this State shall not exceed 102 inches, excluding safety appurtenances such as awnings and lights which are integral to the construction of the vehicle, installed by the vehicle's manufacturer or dealer, and do not extend more than three inches wide on each side of the vehicle, provided however, that such vehicles permissibly exceeding the 102 inch width with their attached equipment or appurtenances shall only be operated:

(a) On roadways having travel lanes at least 11 feet in width, unless prohibited by the Department of Transportation or by a municipality based on safety reasons and marked with signs prohibiting such vehicles; or

(b) On any roadway of the State when such a vehicle is being operated between roadways permitted under subparagraph (a) of this paragraph; and

(i) The location where the recreation vehicle, fifth wheel trailer, park trailer, camping trailer or truck camper is garaged; or

(ii) The destination of the recreation vehicle, fifth wheel trailer, park trailer, camping trailer or truck camper; or

(iii) A facility for food, fuel, repair, services or rest.

b. No vehicle or combination of vehicles, including load or contents, found or operated on any public road, street or highway or any public or quasi-public property in this State shall exceed the weight limitations set forth in this Title. Violations shall be enforced pursuant to subsection j. of section 5 of P.L.1950, c.142 (C.39:3-84.3).

Where enforcement of a weight limit provision of this Title requires a measurement of length between axle centers, the distance between axle centers shall be measured to the nearest whole foot or whole inch, whichever is applicable, and when the measurement includes a fractional part of a foot equaling six inches or more or a fractional part of an inch equaling one-half inch or more, the next larger whole foot or whole inch, whichever is applicable, shall be utilized. The term "tandem axle" as used in this act is defined as a combination of consecutive axles, consisting of only two axles, where the distance between axle centers is 40 inches or more but no more than 96 inches.

In addition to the other requirements of this section and notwithstanding any other provision of this Title, no vehicle or combination of vehicles, including load or contents, shall be operated in this State, unless by special permit authorized by this Title, with a gross weight, single or multiple axle weight, or gross weight of two or more consecutive axles, the allowance of which would disqualify the State of New Jersey or any department, agency or governmental subdivision thereof for the purpose of receiving federal highway funds.

(1) The gross weight imposed on the highway or other surface by the wheels of any one axle of a vehicle or combination of vehicles, including load or contents, shall not exceed 22,400 pounds.

For the purpose of this Title the combined gross weight imposed on the highway or other surface by all the wheels of any one axle of a vehicle or combination of vehicles, including load or contents, shall be deemed to mean the total gross weight of all wheels whose axle centers are spaced less than 40 inches apart.

(2) The gross weight imposed on the highway or other surface by all the wheels of all consecutive axles of a vehicle or combination of vehicles, including load or contents, shall not exceed 34,000 pounds where the distance between consecutive axle centers is 40 inches or more, but no more than 96 inches apart.

(3) The combined gross weight imposed on the highway or other surface by all the wheels of consecutive axles of a vehicle or combination of vehicles, including load or contents, shall not exceed 22,400 pounds for each single axle where the distance between consecutive axle centers is more than 96 inches; except that on any highway in this State which is part of, or designated as part of, the National Interstate System, as provided at 23 U.S.C. s.103(c), this single axle limitation shall not apply and in those instances the provisions of this Title as set forth at R.S.39:3-84b.(5) shall apply.

(4) The maximum total gross weight imposed on the highway or other surface by a vehicle or combination of vehicles, including load or contents, shall not exceed 80,000 pounds.

(5) On any highway in this State which is part of, or designated as part of, the National Interstate System, as provided at 23 U.S.C. s.103(c), the total gross weight, in pounds, imposed on the highway or other surface by any group of two or more consecutive axles of a vehicle or combination of vehicles, including load or contents, shall not exceed that listed in the following Table of Maximum Gross Weights, for the respective distance, in feet, between the axle centers of the first and last axles of the group of two or more consecutive axles under consideration; except that in addition to the weights specified in that Table, two consecutive sets of tandem axles may carry a gross weight of 34,000 pounds each if the overall distance between the first and last axles of the consecutive sets of tandem axles is 36 feet or more. The gross weight of each set of tandem axles shall not exceed 34,000 pounds and the combined gross weight of the two consecutive sets of tandem axles shall not exceed 68,000 pounds.

In all cases the combined gross weight for a vehicle or combination of vehicles, including load or contents, or the maximum gross weight for any axle or combination of axles of the vehicle or combination of vehicles, including load or contents, shall not exceed that which is permitted pursuant to this paragraph or R.S.39:3-84b.(2); R.S.39:3-84b.(3); or R.S.39:3-84b.(4) of this act, whichever is the lesser allowable gross weight.

TABLE OF MAXIMUM GROSS WEIGHTS

Distance in feet between axle centers of first and last axles
of any group of two or more consecutive axles

	2	3	4	5	6	7
	axles	axles	axles	axles	axles	axles
3	22400	22400	22400	22400	22400	22400
4	34000	34000	34000	34000	34000	34000

5	34000	34000	34000	34000	34000	34000
6	34000	34000	34000	34000	34000	34000
7	34000	34000	34000	34000	34000	34000
8	34000	34000	34000	34000	34000	34000
9	39000	42500	42500	42500	42500	42500
10	40000	43500	43500	43500	43500	43500
11	41000	44000	44000	44000	44000	44000
12	42000	45000	50000	50000	50000	50000
13	43000	45500	50500	50500	50500	50500
14	44000	46500	51500	51500	51500	51500
15	44800	47000	52000	52000	52000	52000
16	44800	48000	52500	58000	58000	58000
17	44800	48500	53500	58500	58500	58500
18	44800	49500	54000	59000	59000	59000
19	44800	50000	54500	60000	60000	60000
20	44800	51000	55500	60500	66000	66000
21	44800	51500	56000	61000	66500	66500
22	44800	52500	56500	61500	67000	67000
23	44800	53000	57500	62500	68000	68000
24	44800	54000	58000	63000	68500	74000
25	44800	54500	58500	63500	69000	74500
26	44800	55500	59500	64000	69500	75000
27	44800	56000	60000	65000	70000	75500
28	44800	57000	60500	65500	71000	76500
29	44800	57500	61500	66000	71500	77000
30	44800	58500	62000	66500	72000	77500
31	44800	59000	62500	67500	72500	78000
32	44800	60000	63500	68000	73000	78500
33	44800	60500	64000	68500	74000	79000
34	44800	61500	64500	69000	74500	80000
35	44800	62000	65500	70000	75000	80000
36	44800	63000	66000	70500	75500	80000
37	44800	63500	66500	71000	76000	80000
38	44800	64500	67500	71500	77000	80000
39	44800	65000	68000	72500	77500	80000
40	44800	66000	68500	73000	78000	80000
41	44800	66500	69500	73500	78500	80000
42	44800	67200	70000	74000	79000	80000
43	44800	67200	70500	75000	80000	80000
44	44800	67200	71500	75500	80000	80000
45	44800	67200	72000	76000	80000	80000
46	44800	67200	72500	76500	80000	80000
47	44800	67200	73500	77500	80000	80000
48	44800	67200	74000	78000	80000	80000

49	44800	67200	74500	78500	80000	80000
50	44800	67200	75500	79000	80000	80000
51	44800	67200	76000	80000	80000	80000
52	44800	67200	76500	80000	80000	80000
53	44800	67200	77500	80000	80000	80000
54	44800	67200	78000	80000	80000	80000
55	44800	67200	78500	80000	80000	80000
56	44800	67200	79500	80000	80000	80000
57	44800	67200	80000	80000	80000	80000
58	44800	67200	80000	80000	80000	80000
59	44800	67200	80000	80000	80000	80000
60	44800	67200	80000	80000	80000	80000
61	44800	67200	80000	80000	80000	80000
62	44800	67200	80000	80000	80000	80000
63	44800	67200	80000	80000	80000	80000
64	44800	67200	80000	80000	80000	80000
65	44800	67200	80000	80000	80000	80000
66	44800	67200	80000	80000	80000	80000
67	44800	67200	80000	80000	80000	80000
68	44800	67200	80000	80000	80000	80000
69	44800	67200	80000	80000	80000	80000
70	44800	67200	80000	80000	80000	80000

c. The dimensional and weight restrictions set forth herein shall not apply to a combination of vehicles which includes a disabled vehicle or a combination of vehicles being removed from a highway in this State, provided that such oversize or overweight vehicle combination may not travel on the public highways more than 75 miles from the point where such disablement occurred. If the disablement occurred on a limited access highway, the distance to the nearest exit of such highway shall be added to the 75-mile limitation. A heavy-duty tow truck, as defined in section 1 of P.L.1999, c.396 (C.39:3-84.6), shall be permitted, in combination with the towed unit or units, to exceed the axle, dimensional and maximum gross weight limits for tow trucks and towed unit combinations; except that the limit shall not exceed 150,000 pounds gross combined weight. This provision shall not affect the application of section 6 of P.L.1950, c.142 (C.39:3-84.4) concerning driver liability for damages and does not provide an exemption to exceed the height and weight restrictions marked or posted on a bridge or overpass in the State. A heavy-duty tow truck in combination with the towed unit or units shall not be operated at a speed greater than 45 miles per hour when the heavy-duty tow truck in combination with the towed unit or units weighs more than 80,000 pounds, or one or more of its

axles exceeds the limitations prescribed herein in the Table of Maximum Gross Weights, or the tow truck in combination with the towed unit exceeds maximum length and width standards as prescribed by law.

d. The Chief Administrator of the New Jersey Motor Vehicle Commission may promulgate rules and regulations, including the establishment of fees, for the issuance, at his discretion and if good cause appears, of a special written permit authorizing the applicant:

(1) To operate or move a vehicle or combination of vehicles or special mobile equipment, transporting one piece loads that cannot be dismembered, dismantled or divided in order to comply with the weight limitations set forth in this act. The special written permit issued by the director shall be in the possession of the driver or operator of the vehicle or combination of vehicles or special mobile equipment for which said permit was issued; and

(2) To operate or move a vehicle or combination of vehicles or specialized mobile equipment, transporting a load or cargo that cannot be dismembered, dismantled or divided in order to comply with the dimensional limitations set forth in this act. The special written permit shall be in the possession of the driver or operator of the vehicle or combination of vehicles or special mobile equipment for which the permit was issued; and

(3) Under emergency conditions, to operate or move a type of vehicle or combination of vehicles or special mobile equipment of a size or weight, including load or contents, which exceeds the maximum size or weight limitations specified in this act.

e. If the Commissioner of Transportation has, by regulations adopted pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), designated certain routes within the State for use by a combination of vehicles with a prescribed maximum width or length or consisting of a drawing vehicle and two motor drawn vehicles with a prescribed maximum length, no such combination of vehicles shall be found or operated on any other public road, street or highway or any other public or quasi-public property in this State, unless otherwise permitted by such regulations.

2. This act shall take effect immediately.

Approved January 4, 2008.

CHAPTER 250

AN ACT concerning the investment by the State of pension and annuity funds and supplementing P.L.1950, c.270.

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

1. The Legislature finds and declares that:

The State of New Jersey is deeply concerned about the situation in the Islamic Republic of Iran. President Mahmoud Ahmadinejad, the President of Iran, has added greatly to the instability of the Middle East by making statements that Israel should be “wiped off the map” and asserting that the Holocaust was a “myth.” Iran has done little to promote international cooperation and everything to fan the flames of divisiveness and crisis. Thus, global tension concerning the Middle East is fuelled to dangerous heights by the rhetoric and actions of Iran.

Iran has been committed to the destruction of Israel since the installation of theocratic rule by Ayatollah Ruhollah Khomeini in 1979 and has been cited repeatedly as one of the world’s most dangerous sponsors of international terrorism. President Ahmadinejad has also sparked international concern and controversy by refusing to stop Iran’s enrichment of nuclear materials—possibly for use in atomic weapons—and refusing to allow the United Nations to check Iran’s claim that it seeks to use nuclear power only to generate electricity.

President Ahmadinejad’s comments regarding Israel together with his determination to promote Iran’s nuclear program leads observers to conclude that the country’s resources are directed towards the destruction of Israel by atomic weapons. This State must take action to respond to these calls for the destruction of Israel and threats to world peace and stability. Therefore, it is in the best interest of this State that a statutory prohibition be enacted to prohibit the investment of public employee retirements funds in foreign companies doing business in Iran.

C.52:18A-89.12 Pension or annuity, investment in foreign companies having equity ties to Iran; prohibited.

2. a. Notwithstanding any provision of law to the contrary, no assets of any pension or annuity fund under the jurisdiction of the Division of Investment in the Department of the Treasury, or its successor, shall be invested in any foreign company that has an equity tie to the government of Iran or its instrumentalities and is engaged in business operations with entities in the defense sector or nuclear sector of Iran, or engaged in business operations with entities involved in the natural gas or petroleum sectors of Iran, in or with that government and its instrumentalities. This prohibition shall not apply to the activities of any foreign company providing humanitarian aid to the Iranian people through either a governmental or non-governmental organization.

As used in this section, "equity tie" means manufacturing or mining plants, employees or advisors, facilities, or an investment, fiduciary, monetary or physical presence of any kind, including an ownership stake in one or more subsidiary or joint venture with one or more companies in the country; "humanitarian aid" means the provision of goods and services intended to relieve human suffering or to promote general welfare and health; "defense sector" means every industry or company, be it private or owned in whole or in part by the government of Iran or its instrumentalities, that is involved in the purchase, sale, manufacturing, testing or deployment of military supplies and weapons, including every company that provides military advisors and non-military personnel or that sells strategic information or services to companies that purchase, sell, manufacture, test or deploy military supplies and weapons, or the government of Iran or its instrumentalities; "nuclear sector" means every industry or company, be it private or owned in whole or in part by the government of Iran or its instrumentalities, that is involved in the purchase, sale, development, testing or deployment of nuclear technology of any kind or that provides advisors, researchers, scientists or technicians who are involved in the purchase, sale, development, testing or deployment of nuclear technology of any kind; and "natural gas or petroleum sectors" means those industries and companies that have as their business the owning rights to oil blocks, exporting, extracting, producing, refining, processing, exploring for, transporting, selling or trading of oil or natural gas, constructing, maintaining or operating a pipeline, refinery or other infrastructure and facilitating such activities, including supplies or services in support of such activities.

b. The State Investment Council and the Director of the Division of Investment, after reviewing the recommendations of and consulting with an independent research firm that specializes in global security risk for portfolio determinations selected by the State Treasurer, shall take appropriate action to sell, redeem, divest or withdraw any investment held in violation of subsection a. of this section. This section shall not be construed to require the premature or otherwise imprudent sale, redemption, divestment or withdrawal of an investment, but such sale, redemption, divestment or withdrawal shall be completed not later than three years following the effective date of P.L.2007, c.250 (C.52:18A-89.12).

c. Within 60 days after the effective date of P.L.2007, c.250 (C.52:18A-89.12), the Director of the Division of Investment shall file with the Legislature, pursuant to section 2 of P.L.1991, c.164 (C.52:14-19.1), a report of all investments held as of the effective date that are in violation of subsection a. of this section. Every year thereafter, the director shall report

on all investments sold, redeemed, divested or withdrawn in compliance with subsection b. of this section.

Each report after the initial report shall provide a description of the progress that the division has made since the previous report and since the enactment of P.L.2007, c.250 (C.52:18A-89.12) in implementing subsection b. of this section.

d. Notwithstanding the other provisions of this section to the contrary, this act shall be of no effect if:

(1) the Congress or the President of the United States, affirmatively and unambiguously, declares by means including, but not limited to, legislation, executive order, or written certification from the President to Congress that the government of Iran has ceased to acquire or develop weapons of mass destruction and, to support international terrorism; or

(2) the United States revokes all sanctions imposed against the government of Iran.

e. State Investment Council members, jointly and individually, and State officers and employees involved therewith, shall be indemnified and held harmless by the State of New Jersey from all claims, demands, suits, actions, damages, judgments, costs, charges and expenses, including court costs and attorney's fees, and against all liability, losses and damages of any nature whatsoever that these State Investment Council members, and State officers and employees, shall or may at any time sustain by reason of any decision to restrict, reduce or eliminate investments pursuant to this act.

3. This act shall take effect immediately.

Approved January 4, 2008.

CHAPTER 251

AN ACT expanding lead paint inspection requirements to single-family and two-family dwellings, supplementing and amending P.L.1967, c.76 and amending P.L.2003, c.311.

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

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;
- (3) is a seasonal rental unit which is rented for less than six months’ duration each year; or
- (4) has been certified as having a lead-free interior by a certified inspector.

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.).

C.46:8-28.5 Certificate of registration, fee; exceptions.

2. a. Except as otherwise provided in subsection b. of this section, every owner of a tenant-occupied single-family or two-family residential property, including, without limitation, a two-family property in which one unit is owner-occupied, shall file a certificate of registration on forms prescribed by the Commissioner of Community Affairs, in accordance with section 2 of P.L.1974, c.50 (C.46:8-28), with the Bureau of Housing Inspection in the Department of Community Affairs. Any such filing shall be accompanied by a filing fee not exceeding the filing for hotels and multiple dwellings established by section 12 of P.L.1967, c.76 (C.55:13A-12).

b. Subsection a. of this section shall not apply to any owner-occupied two-family residential property that:

- (1) has been certified to be free of lead-based paint;
- (2) was constructed during or after 1978;
- (3) is a seasonal rental unit which is rented for less than six months’ duration each year; or
- (4) has been certified as having a lead-free interior by a certified inspector.

c. Any owner who fails to comply with an order of the commissioner to register any property subject to this section shall be liable for a penalty of \$200 for each registration ordered by the commissioner. The commissioner may issue a certificate to the clerk of the Superior Court that an owner is indebted to the department for the payment of such penalty and thereupon the clerk shall enter upon the record of docketed judgments the name of the owner, and of the State, a designation of the statute under which the penalty is imposed, the amount of the penalty so certified, and the date of such certification. The making of the entry shall have the same force and effect as the entry of a docketed judgment in the office of such clerk.

3. Section 6 of P.L.2003, c.311 (C.52:27D-437.6) is amended to read as follows:

C.52:27D-437.6 Rules, regulations.

6. The Commissioner of Community Affairs shall 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 provisions of P.L.2003, c.311 (C.52:27D-437.1 et al.), including, but not limited to: the issuance of loans and grants, lead-based paint hazard inspections and evaluations, lead hazard control work, and training courses for persons engaged in lead-safe maintenance work or lead hazard control work. These regulations shall allow for certified third party risk assessors to provide assurance that rental properties meet the standards established for subsection (w) of section 7 of P.L.1967, c.76 (C.55:13A-7) as added by P.L.2003, c.311. Property owners using such third party risk assessors shall provide evidence of compliance 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.) or under section 1 of P.L.2007, c.251 (C.55:13A-12.2). Notwithstanding this intent the department shall maintain existing authority to respond to tenant complaints related to subsection (w) of section 7 of P.L.1967, c.76 (C.55:13A-7) as added by P.L.2003, c.311.

4. Section 10 of P.L.2003, c.311 (C.52:27D-437.10) is amended to read as follows:

C.52:27D-437.10 Additional fee per unit inspected.

10. In addition to the fees permitted to be charged for inspection of multiple dwellings pursuant to section 13 of P.L.1967, c.76 (C.55:13A-13) and the fees that the commissioner shall establish for the inspection of single-family and two-family rental housing pursuant to P.L.2007, c.251 (C.55:13A-12.2 et al.), the department shall assess an additional fee of \$20

per unit inspected for the purposes of P.L.2003, c.311 (C.52:27D-437.1 et al.) concerning lead hazard control work. In a common interest community, any inspection fee charged pursuant to this section 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 section 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).

5. Section 7 of P.L.1967, c.76 (C.55:13A-7) is amended to read as follows:

C.55:13A-7 Rules, regulations.

7. The commissioner shall issue and promulgate, in the manner specified in section 8 of P.L.1967, c.76 (C.55:13A-8), such regulations as the commissioner may deem necessary to assure that any hotel or multiple dwelling will be maintained in such manner as is consistent with, and will protect, the health, safety and welfare of the occupants or intended occupants thereof, or of the public generally.

Any such regulations issued and promulgated by the commissioner pursuant to this section shall provide standards and specifications for such maintenance materials, methods and techniques, fire warning and extinguisher systems, elevator systems, emergency egresses, and such other protective equipment as the commissioner shall deem reasonably necessary to the health, safety and welfare of the occupants or intended occupants of any units of dwelling space in any hotel or multiple dwelling, including but not limited to:

- (a) Structural adequacy ratings;
- (b) Methods of egress, including fire escapes, outside fireproof stairways, independent stairways, and handrails, railings, brackets, braces and landing platforms thereon, additional stairways, and treads, winders, and risers thereof, entrances and ramps;
- (c) Bulkheads and scuttles, partitions, walls, ceilings and floors;
- (d) Garbage and refuse collection and disposal, cleaning and janitorial services, repairs, and extermination services;
- (e) Electrical wiring and outlets, and paints and the composition thereof;
- (f) Doors, and the manner of opening thereof;
- (g) Transoms, windows, shafts and beams;
- (h) Chimneys, flues and central heating units;
- (i) Roofing and siding materials;
- (j) Lots, yards, courts and garages, including the size and location thereof;
- (k) Intakes, open ducts, offsets and recesses;

- (l) Windows, including the size and height thereof;
- (m) Rooms, including the area and height thereof, and the permissible number of occupants thereof;
- (n) Stairwells, skylights and alcoves;
- (o) Public halls, including the lighting and ventilation thereof;
- (p) Accessory passages to rooms;
- (q) Cellars, drainage and air space;
- (r) Water-closets, bathrooms and sinks;
- (s) Water connections, including the provision of drinking and hot and cold running water;
- (t) Sewer connections, privies, cesspools, and private sewers;
- (u) Rain water and drainage conductors;
- (v) Entrances and ramps; and
- (w) Presence of lead-based paint hazards in multiple dwellings and in single-family and two-family dwellings, exclusive of owner-occupied dwelling units, subject to P.L.2003, c.311 (C.52:27D-437.1 et al.). In a common interest community, any inspection fee for and violation found within a unit which is solely related 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.

6. This act shall take effect immediately.

Approved January 4, 2008.

CHAPTER 252

AN ACT concerning investments by certain domestic insurance companies, amending R.S.17:24-1 and supplementing chapter 24 of Title 17 of the Revised Statutes.

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

1. R.S.17:24-1 is amended to read as follows:

Investments by insurance companies generally.

17:24-1. Any insurance company of this State for the purpose of investing its capital, surplus and other funds, or any part thereof, may:

a. Purchase or hold as collateral security or otherwise and sell and transfer any bonds or public stock issued, created or guaranteed by the United States, or any territory or insular possession thereof, or the Commonwealth of Puerto Rico, or by this State, or by any of the other states of the United States or the District of Columbia, or by Canada or any of the provinces thereof, or by any of the incorporated cities, counties, parishes, townships or other municipal corporations situated in any of the places hereinabove mentioned; or bonds authorized to be issued by any commission appointed by the Supreme Court of this State as the said court was constituted prior to September 15, 1948.

b. Purchase or hold real estate for business or residential purposes, other than as provided for in R.S.17:19-8 to 17:19-12, inclusive, as an investment for the production of income, and improve or otherwise develop such real estate; provided, that if the commissioner shall determine, after due hearing upon notice to any such insurance company, that the interests of such insurance company's policyholders require that any specified real estate so purchased or held be disposed of, then such insurance company shall dispose of such real estate within such reasonable time as the commissioner shall direct; and provided further, the aggregate amount of such investments for the production of income, but excluding real estate held as provided for in R.S.17:19-8 to 17:19-12, inclusive, shall not exceed 5% of the total admitted assets of such insurance company as of December 31 next preceding. The term "real estate for business or residential purposes" as used in this subsection b. shall include any real property used or operated as a part of or in connection with a business or a residential development, and shall also include a leasehold of such real estate having an unexpired term of not less than 20 years, inclusive of the term or terms which may be provided by any enforceable option or options of extension or of renewal. Income produced by investment in any such leasehold shall be applied by such insurance company in a manner calculated to amortize the amount invested for acquisition and improvement thereof within a period not exceeding 8/10 of such unexpired term of the leasehold following such acquisition or improvement, or within a period of 40 years thereafter, whichever is less.

c. Invest in bonds or notes secured by mortgages or trust deeds on unencumbered fee simple or leasehold real estate, which shall include areas above the surface of the ground but not contiguous thereto, or any interest therein, located within the United States, any territory or insular possession thereof, the Commonwealth of Puerto Rico, or Canada, worth at least 1/3 more than the sum so invested. No loan may be made on leasehold real estate unless the terms of such loan provide for amortization payments to be

made by the borrower on the principal thereof in amounts sufficient to completely amortize the loan within a period not exceeding 9/10 of the term of the leasehold, inclusive of the term or terms which may be provided by any enforceable option or options of extension or of renewal, which is unexpired at the time the loan is made. For the purpose of this subsection c., fee simple or leasehold real estate or any interest therein shall not be deemed to be encumbered within the meaning of this subsection c. by reason of the existence of taxes or assessments that are not delinquent, easements, profits or licenses, nor by reason of building restrictions or other restrictive covenants, nor when such real estate or interest therein is subject to lease in whole or in part whereby rents or profits are reserved to the owner; provided, that the security created by the mortgage or trust deed on such real estate or interest therein securing such bond or note is a first lien upon such real estate or interest therein. No insurance company shall, pursuant to this subsection c., invest in or loan upon the security of any one property more than \$30,000 or more than 2% of its total admitted assets, whichever is the greater. The total investments of any insurance company made pursuant to this subsection c. shall not exceed 40% of its total admitted assets.

d. Invest in bonds or notes evidencing loans to veterans if the full amount of any such loan is guaranteed by the government of the United States or by the Administrator of Veterans' Affairs pursuant to the "Service-men's Readjustment Act of 1944," Pub.L.78-346 (38 U.S.C. s.3701 et seq.), as heretofore or hereafter amended; and in the case of loans so guaranteed for less than the full amount thereof, the maximum amount which may be loaned or invested by any such insurance company pursuant to the provisions of any law of this State shall be increased by the amount so guaranteed.

e. Lend on or purchase mortgage or collateral trust bonds of railroad companies organized under the laws of said states, or the District of Columbia, or the Commonwealth of Puerto Rico, or Canada or any province thereof, or operated wholly or partly therein; or equipment trust certificates or obligations which are adequately secured or other adequately secured instruments evidencing an interest in transportation or municipal sanitation equipment wholly or in part within the United States or any territory or insular possession thereof, the Commonwealth of Puerto Rico or Canada and a right to receive determined portions of rental, purchase or other fixed obligatory payments for the use or purchase of such equipment; or certificates of receivers of any corporation where such purchase is necessary to protect an investment in the securities of such corporation theretofore made under authority of chapters 17 to 33, inclusive, of this Title; or the bonds or other evidences of indebtedness of public utility companies organized un-

der the laws of Canada or any province thereof; or the capital stock, bonds, securities or evidences of indebtedness created by any corporation of the United States or of any state, or of the District of Columbia, or of the Commonwealth of Puerto Rico or of Canada or of any province thereof; provided, that no purchase of any bond or evidence of indebtedness which is in default as to interest shall be made by such company unless such purchase is necessary to protect an investment theretofore made under authority of chapters 17 to 33, inclusive, of this Title, in the securities of the corporation which issued, assumed or guaranteed such bond or evidence of indebtedness in default; provided further, that no purchase of the stock of any corporation of a class on which dividends have not been paid during each of the past five years preceding the time of purchase shall be made unless the stock so purchased shall represent a majority in control of all the stock then outstanding, or the corporation shall have earned during the period of such five years an aggregate sum available for dividends upon such stock which would have been sufficient, after all fixed charges and obligations, to pay dividends upon all shares of such class of stock outstanding during such period averaging 4% per annum computed upon the par value of such stock, or in the case of stock having no par value, upon the stated capital in respect thereof; and provided further, that in the case of the stock of a corporation resulting from or formed by merger, consolidation, acquisition or otherwise, less than five years preceding the time of purchase, each consecutive year next preceding the effective date of such merger, consolidation, acquisition or other action during which dividends or other distributions of profits shall have been paid by any one or more of its constituent or predecessor institutions shall be deemed a year during which dividends have been paid on such class of stock and the earnings of such constituent or predecessor institutions available for dividends during each of such years may be included as earnings of the existing corporation whose stock is to be purchased for each such years, and in the case of the stock of a corporation resulting from or formed by merger or consolidation less than five years preceding such purchase, each consecutive year next preceding the effective date of such merger or consolidation during which dividends shall have been paid by any one or more of its constituent corporations on any or all classes of its or their stock in an aggregate amount sufficient to have paid dividends on that class of stock of the existing corporation whose stock is to be purchased, had such corporation then been in existence, shall be deemed a year during which dividends have been paid on such class of stock; provided, however, that nothing herein contained shall prohibit the purchase of stock of any class which is preferred, as to dividends, over any

class the purchase of which is not prohibited by this section; and provided further, that no purchase of its own stock shall be made by any insurance company except for the purpose of the retirement of such stock or except as specifically permitted by any law of this State applicable by its terms only to insurance companies. Unless the stock so purchased shall represent a majority in control of all the stock then outstanding, the cost of stock investment pursuant to this section may not exceed more than 25% of the total admitted assets of such insurance company as of December 31 next preceding with no more than 5% in any one stock. Notwithstanding any other provision of R.S.17:24-1 et seq., the cost basis of all stock investment shall be used for the purpose of determining the asset value against which such percentage limitations are to be applied.

The aggregate amount invested at cost, including but not limited to common stock, preferred stock and debt obligations, in one or more subsidiaries shall not exceed the lesser of 10% of such insurance company's assets or 50% of such insurance company's surplus as regards policyholders as of December 31 next preceding. In calculating the amount of such investments, investments in domestic or foreign insurance subsidiaries shall be excluded.

f. Invest in bonds or notes evidencing loans if the full amount of any such loan is insured by the government of the United States, or by the Administrator of the Farmers' Home Administration pursuant to the "Bankhead-Jones Farm Tenant Act," Pub.L.75-210 (7 U.S.C. s.1000 et seq.), as heretofore or hereafter amended.

g. Except as provided in section 3 of P.L.2007, c.252 (C.17:24-1.2), make loans or investments not qualifying or permitted under any subsection of this section to an amount, not including the amount of investments otherwise expressly authorized by law, not exceeding in the aggregate at any one time the greater of 5% of the total admitted assets or 50% of the excess of total admitted assets over the sum of liabilities plus capital and surplus required to transact business, but in any event not to exceed 10% of the total admitted assets of such insurance company as of December 31 next preceding.

C.17:24-1.1 Written plan for acquiring, holding investments, investment practices.

2. a. An insurer's board of directors shall adopt a written plan for acquiring and holding investments and for engaging in investment practices that specifies guidelines as to the quality, maturity, and diversification of investments and other specifications including investment strategies intended to assure that the investments and investment practices are appropriate for the business conducted by the insurer, its liquidity needs, and its capital and surplus. The board shall review and assess the insurer's techni-

cal investment and administrative capabilities and expertise before adopting a written plan concerning an investment strategy or investment practice.

b. Investments acquired and held under R.S.17:24-1 et seq. shall be acquired and held under the supervision and direction of the board of directors of the insurer. The board of directors shall evidence by formal resolution, at least annually, that it has determined whether all investments have been made in accordance with delegations, standards, limitations and investment objectives prescribed by the board or a committee of the board charged with the responsibility to direct its investments.

c. On no less than a quarterly basis, and more often if deemed appropriate, an insurer's board of directors or committee of the board of directors shall:

(1) Receive and review a summary report on the insurer's investment portfolio, its investment activities and investment practices engaged in under delegated authority, in order to determine whether the investment activity of the insurer is consistent with its written plan; and

(2) Review and revise, as appropriate, the written plan.

d. In discharging its duties under this section, the board of directors shall require that records of any authorizations or approvals, other documentation as the board may require and reports of any action taken under authority delegated under the plan referred to in subsection a. of this section shall be made available on a regular basis to the board of directors.

e. If an insurer does not have a board of directors, all references to the board of directors in R.S.17:24-1 et seq. shall be deemed to be references to the governing body of the insurer having authority equivalent to that of a board of directors.

C.17:24-1.2 Actions prohibited by insurer without prior approval; exceptions.

3. a. (1) Except as provided in subsection b. of this section, an insurer shall not, without the prior written approval of the commissioner, directly or indirectly:

(a) make a loan to, or other investment in, an officer or director of the insurer or a person in which the officer or director has any direct or indirect financial interest;

(b) make a guarantee for the benefit of, or in favor of, an officer or director of the insurer or a person in which the officer or director has any direct or indirect financial interest; or

(c) enter into an agreement for the purchase or sale of property from or to an officer or director of the insurer or a person in which the officer or director has any direct or indirect financial interest.

(2) For purposes of this section, an officer or director shall not be

deemed to have a financial interest by reason of an interest that is held directly or indirectly through the ownership of equity interests representing less than 5% of all outstanding equity interests issued by a person that is a party to the transaction, or solely by reason of that individual's position as a director or officer of a person that is a party to the transaction.

(3) Nothing in this subsection shall permit an investment that is otherwise prohibited by law.

(4) This subsection shall not apply to a transaction between an insurer and any of its subsidiaries or affiliates entered into in compliance with section 4 of P.L.1970, c.22 (C.17:27A-4) other than a transaction between an insurer and its officer or director.

b. An insurer may make, without the prior written approval of the commissioner:

(1) Advances to officers or directors for expenses reasonably expected to be incurred in the ordinary course of the insurer's business or guarantees associated with credit or debit cards issued or credit extended for the purpose of financing these expenses;

(2) Loans secured by the principal residence of an existing or new officer of the insurer made in connection with the officer's relocation at the insurer's request, so long as the terms and conditions otherwise are the same as those generally available from unaffiliated third parties;

(3) Secured loans to an existing or new officer of the insurer made in connection with the officer's relocation at the insurer's request, if the loans:

(a) do not have a term exceeding two years;

(b) are required to finance mortgage loans outstanding at the same time on the prior and new residences of the officer;

(c) do not exceed an amount equal to the equity of the officer in the prior residence; and

(d) are required to be fully repaid within two years, or upon the sale of the prior residence whichever first occurs; and

(4) Loans and advances to officers or directors made in compliance with State or federal law specifically related to the loans and advances by a regulated non-insurance subsidiary or affiliate of the insurer in the ordinary course of business and on terms no more favorable than those available to other customers of the entity.

4. This act shall take effect immediately.

Approved January 4, 2008.

CHAPTER 253

AN ACT reorganizing certain economic development activities performed by certain State agencies, amending various parts of the statutory law, supplementing P.L.1977, c.225 (C.34:1A-45 et seq.) and P.L.1998, c.44 (C.52:27C-61 et seq.), and repealing section 12 of P.L.1998, c.44 (52:27C-72).

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

1. Section 2 of P.L.1977, c.225 (C.34:1A-46) is amended to read as follows:

C.34:1A-46 Legislative findings and declarations.

2. The Legislature hereby finds and declares that:

a. Increased revenues for this State and more employment opportunities for its citizens will result from the proper promotion throughout the United States and the world of the many tourist attractions which New Jersey has to offer to vacationers and travelers.

b. Such proper promotion--and the desired expansion of tourism in New Jersey--will be enhanced by the formulation of a master plan for the development of the tourist industry throughout New Jersey.

c. It is an objective of State programs, agencies, and resources to provide an optimum of satisfaction and high-quality service to visitors, to protect the natural beauty of New Jersey, and to sustain, promote, and expand the economic health of the tourist industry in a manner and to the extent compatible with such goals.

d. Because of the crucial importance tourism plays in New Jersey's economy, the Department of State is therefore charged with the mandate to increase tourism through promotional, informational, educational, and developmental programs. These initiatives are to be designed to support a State policy of maintaining and increasing New Jersey's standing as a premier national and international travel destination. To implement this policy, the Department of State shall create advertisements for use on television, radio, the Internet and in print, to promote the State's diverse appeal to prospective national and international vacationers and travelers as part of its advertising, public relations, and marketing campaign. In addition, as required pursuant to section 9 of P.L.1977, c.225 (C.34:1A-53), the Division of Travel and Tourism shall annually review the 10-year master plan devel-

oped pursuant to section 8 of P.L.1977, c.225 (C.34:1A-52) by the director of the division with the assistance of the New Jersey Tourism Policy Council, and submit a report to the Governor and Legislature containing an evaluation of the preceding year's activities and developments in tourism and the revisions recommended in the master plan.

e. In the advancement and promotion of New Jersey's tourism industry, it is necessary to require that the division report semiannually to the Governor and the Legislature on the efforts of the division to promote tourism in New Jersey and on the expenditure of funds allocated to tourism advertising and promotion from hotel and motel occupancy fees pursuant to section 2 of P.L.2003, c.114 (C.54:32D-2). As tourism may be particularly sensitive to changing economic conditions, a frequent review of the State's tourism planning and activities may necessitate revisions in the State's tourism policy to further encourage tourism promotion and to otherwise meet the challenges of implementing this policy.

2. Section 3 of P.L.1977, c.225 (C.34:1A-47) is amended to read as follows:

C.34:1A-47 Definitions.

3. As used in this act, unless a different meaning appears from the context:

"Council" means the New Jersey Tourism Policy Council.

"Department" means the Department of State.

"Director" means the Director of the Division of Travel and Tourism.

"Division" means the Division of Travel and Tourism in the Department of State.

"Elected local official" means the county executive of any county wherein that office is established, a member of the governing body of a county, or a mayor or member of the governing body of a municipality.

"Tourism" means activities involved in providing and marketing services and products, including accommodations, for nonresidents and residents who travel to and in New Jersey for recreation and pleasure.

"Tourist industry" means the industry consisting of private and public organizations which directly or indirectly provide services and products to nonresidents and residents who travel to and in New Jersey for recreation and pleasure.

3. Section 4 of P.L.1977, c.225 (C.34:1A-48) is amended to read as follows:

C.34:1A-48 Division of Travel and Tourism; establishment; director; appointment.

4. There is hereby established in the Department of State the Division of Travel and Tourism. The division shall be under the supervision of a director, who shall be a person qualified by training and experience to direct the work of such division. The director shall be appointed by the Governor after consultation with the council and with the advice and consent of the Senate. The director shall serve during the term of office of the Governor appointing the director and until the director's successor is appointed and qualified. The director shall receive such salary as shall be provided by law and shall devote the director's entire time and attention to the duties of the director's office and shall not, while in office, engage in any other gainful pursuit. The Governor may remove the director from office for cause, upon notice and opportunity to be heard.

C.34:1A-48.1 Division of Travel and Tourism transferred to the Department of State.

4. a. All the functions, powers, and duties of the Division of Travel and Tourism in the New Jersey Commerce, Economic Growth and Tourism Commission are transferred to the Department of State.

b. All appropriations and other moneys available and to become available to the division are hereby continued in the Department of State and shall be available for the objects and purposes for which such moneys are appropriated subject to any terms, restrictions, limitations, or other requirements imposed by State or federal law.

c. Whenever, in any law, rule, regulation, order, contract, document, judicial or administrative proceeding or otherwise, reference is made to the Division of Travel and Tourism in the New Jersey Commerce, Economic Growth and Tourism Commission, the same shall mean and refer to the Division of Travel and Tourism in the Department of State.

5. Section 7 of P.L.1977, c.225 (C.34:1A-51) is amended to read as follows:

C.34:1A-51 New Jersey Tourism Policy Council.

7. a. There is created in the division the New Jersey Tourism Policy Council which shall consist of 23 members:

(1) Two members of the Senate, who shall serve as ex officio, non-voting members to be appointed by the President thereof, not more than one of whom shall be of the same political party, and two members of the General Assembly, who shall serve as ex officio, non-voting members to be appointed by the Speaker thereof, not more than one of whom shall be of the same political party;

(2) Nine public members, who shall be residents of this State, not more than five of whom shall be of the same political party, who shall be appointed by the Governor with the advice and consent of the Senate, who shall include persons who by experience or training represent the areas of the tourist industry as follows:

- One representative of the lodging sector;
- One representative of the food service sector;
- One representative of the eco-tourism sector;
- One representative of the cultural arts sector;
- One representative of the convention and visitor bureaus or tour/receptive services sectors;
- One representative of the entertainment or amusement sector;
- One representative of the outdoor recreation sector;
- One representative of the historical community; and
- One representative of a Statewide travel and tourism association representing the various sectors of the tourism industry;

(3) The Secretary of State, who shall serve ex officio as a voting member and chair of the council;

(4) Six elected local officials, not more than three of whom shall be of the same political party, who shall be appointed by the Governor with the advice and consent of the Senate, and of whom one shall be a resident of Cape May or Cumberland County, one shall be a resident of Atlantic County, one shall be a resident of Burlington, Camden, Gloucester, Mercer or Salem County, one shall be a resident of Monmouth or Ocean County, one shall be a resident of Bergen, Essex, Hudson, Middlesex, Passaic or Union County, and one shall be a resident of Hunterdon, Morris, Somerset, Sussex or Warren County; and

(5) The executive directors of the New Jersey Sports and Exposition Authority, the Casino Reinvestment Development Authority, and the Atlantic City Convention Center Authority, or their designees, all of whom shall serve ex officio and as voting members.

b. (1) The public members of the council shall be appointed to three-year terms, except that public members initially appointed on or after the effective date of P.L.2005, c.378, representing the lodging, food service, and eco-tourism sectors shall be appointed to a two-year term, and public members representing the cultural arts and outdoor recreation sectors and the historical community shall be appointed to a one-year term. Public members shall serve until their successors are appointed and qualified. Vacancies occurring other than by expiration of term shall be filled for the unexpired term only.

(2) The term of appointment, as a member of the council, of an elected local official appointed pursuant to paragraph 4 of subsection a. of this section shall be the same as the term of office, as an elected local official, that the person is serving at the time of such appointment. In the event that a member of the council appointed pursuant to that paragraph no longer serves as an elected local official, the term of appointment for that member shall cease and the Governor may, with the advice and consent of the Senate, appoint a replacement to serve for the remainder of the unexpired term. In the case of a person who, at the time of such appointment, serves as an elected local official in two different offices, the term of the person's appointment to the council shall be measured by the longer of the terms as an elected local official. Nothing in this paragraph shall preclude the reappointment as an elected local official member of the council of a person whose term of office as such elected local official has expired, but who has been reelected to succeed himself in the same local office.

c. (Deleted by amendment, P.L.1991, c.280).

d. (Deleted by amendment, P.L.1991, c.280).

e. The members of the council shall serve without compensation but shall be entitled to reimbursement for actual and necessary expenses incurred in the performance of their duties as members.

f. (Deleted by amendment, P.L.1991, c.280).

g. The council shall meet at the call of the chair and not less than once every month.

h. Whenever, in any law, rule, regulation, order, contract, document, judicial or administrative proceeding or otherwise, reference is made to the New Jersey Tourism Advisory Council, the same shall mean and refer to the New Jersey Tourism Policy Council in the Division of Travel and Tourism.

6. Section 9 of P.L.1977, c.225 (C.34:1A-53) is amended to read as follows:

C.34:1A-53 Powers and duties of division.

9. In the pursuance and promotion of a State policy on tourism, the division, at the direction of the Secretary of State, shall:

a. Provide and promote adequate opportunities for county and municipal participation, federal agency participation, and private citizens' involvement in the decision-making process of tourism planning and policy formulation;

b. Encourage all State, county, and municipal governmental and private agencies to do their utmost to assure the personal safety of residents and tourists both within and without tourist destination areas;

- c. Take whatever administrative, litigable, and legislative steps as are necessary to minimize the problems of tourists in not receiving contracted services, including transportation, tours, hotels;
- d. Attempt to reconcile and balance the activities and accommodations of the tourist with the daily pursuits and lifestyles of the residents;
- e. Develop an understanding among all citizens of the role of tourism in New Jersey, both in terms of its economic and social importance and the problems it presents, through appropriate formal and informal learning experiences;
- f. Cooperate with the Department of Education to promote throughout the educational system of New Jersey an awareness of New Jersey history and culture;
- g. Ensure that the growth of the tourist industry is consistent with the attainment of economic, social, physical, and environmental objectives in any State plan and county plans that are adopted;
- h. Continuously monitor and evaluate the social costs of growth of the tourist industry against the social benefits;
- i. Emphasize in the State's tourism promotional efforts the high quality of the State's natural and cultural features;
- j. Promote the tourist industry through such activities as Visitors Bureaus and similar county and municipal agencies, and assure that the tourist industry contributes its fair share of the cost of such promotion;
- k. Request and receive from any department, division, board, bureau, commission, or other agency of the State, or any political subdivision or public authority thereof, such assistance and data as may be necessary to enable the division to carry out its responsibilities under this act;
- l. In consultation with the council, review annually and, if necessary, revise or update the 10-year master plan developed pursuant to section 8 of P.L.1977, c.225 (C.34:1A-52), and submit a report to the Governor and the Legislature containing an evaluation of the preceding year's activities and developments in tourism and the revisions recommended in the master plan;
- m. At the direction of the council, operate the division's Travel and Tourism Cooperative Marketing Campaign Program; and
- n. Establish and operate the division's Travel and Tourism Advertising and Promotion Program.

7. Section 8 of P.L.2005, c.378 (C.34:1A-53.1) is amended to read as follows:

C.34:1A-53.1 Reports required from division.

8. 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 shall submit a report no later than January 31 and July 31 of every year on the tourism marketing campaigns of the division and the expenditure of funds appropriated to the division for tourism promotion to the Governor, the President of the Senate, the Speaker of the General Assembly, the Senate Wagering, Tourism and Historic Preservation Committee and the Assembly Tourism and Gaming Committee, or their successors. The report shall include, but not be limited to, the following information:

a. A description of the efforts of the division to promote New Jersey tourism in the six-month period ending on December 31 and June 30 preceding the respective dates on which the report is due. The report shall list: (1) the type of each promotion made, including but not limited to, promotions in the form of print, radio, Internet or television advertisements, tourism information or reference guides, tourism event calendars or the attendance by employees of the division at conferences relevant to tourism promotion, (2) the content of each such advertisement, guide, calendar or other promotional aid made, or conference attended, (3) the dates and locations where tourism advertisements were shown, when such guides, calendars or other promotional aids were made available, or when such conferences took place, and (4) the aggregate amount of money expended on each advertisement, guide, calendar, promotional aid or conference listed;

b. A list of entities that received, in the six-month period ending on December 31 and June 30 preceding the respective dates on which the report is due, State matching funds under the division's Travel and Tourism Cooperative Marketing Campaign Program and the division's Advertising and Promotion Program, the amount of funds each entity received from either program, and the amount of each of the recipient entity's expenditures made from the funds of either program; and

c. A general description of the potential tourism promotion efforts the division is considering for the six-month period beginning on January 1 and July 1 preceding the respective dates on which the report is due. Such description shall be distributed to the members of the council. A member of the public may receive a copy of such description upon request.

The report shall identify whether or not each of the efforts to promote tourism listed in the report is consistent with the provisions of the 10-year master plan developed pursuant to section 8 of P.L.1977, c.225 (C.34:1A-52), identify the relevant provisions of the master plan with which the effort

to promote tourism is consistent or inconsistent, and provide an explanation of the consistency or inconsistency.

8. Section 10 of P.L.1977, c.225 (C.34:1A-54) is amended to read as follows:

C.34:1A-54 Duties of council.

10. The council shall:

- a. Aid the division in the formulation and updating of the 10-year master plan developed pursuant to section 8 of P.L.1977, c.225 (C.34:1A-52) and the annual review thereof;
- b. Consider all matters referred to it by the Secretary of State;
- c. Make recommendations to the division on any matter relating to tourism and the tourist industry in New Jersey and to those objectives and responsibilities specified in sections 8 and 9 of P.L.1977, c.225 (C.34:1A-52 and C.34:1A-53);
- d. Direct the division to review the spending of funds by the regional tourism councils and provide comments and recommendations to such councils on the spending of funds when appropriate;
- e. Direct the division to encourage the development of local marketing organizations, including but not limited to destination marketing organizations and convention and visitor bureaus;
- f. Direct the division to ensure that a recipient of funding by the Department of State for tourism promotion is in compliance with all terms of the funding agreement, and that the recipient's promotional message is consistent with the promotional message for the State established by the Secretary of State;
- g. Direct the division on the operation of the division's Travel and Tourism Cooperative Marketing Campaign Program;
- h. Commission the New Jersey Center for Hospitality and Tourism at Richard Stockton College of New Jersey to conduct an annual survey and analysis of New Jersey's tourism industry for the purpose of providing data to improve the effectiveness of tourism promotion. The council shall direct the division to make the survey and analysis results available to tourism groups throughout the State. In a year during which the New Jersey Center for Hospitality and Tourism is unable or unavailable to conduct the survey and analysis, the council shall choose another entity to conduct the survey and analysis for that year; and
- i. Perform other duties as assigned by the Secretary of State.

9. Section 1 of P.L.1997, c.64 (C.13:1B-15.159) is amended to read as follows:

C.13:1B-15.159 Establishment of natural resources inventory.

1. The Department of Environmental Protection, in cooperation with the Division of Travel and Tourism in the Department of State, in consultation with the Pinelands Commission as it affects the pinelands area designated pursuant to section 10 of P.L.1979, c.111 (C.13:18A-11), and in consultation with the Highlands Water Protection and Planning Council as it affects the Highlands Region designated pursuant to section 7 of P.L.2004, c.120 (C.13:20-7), shall establish a natural resources inventory, using the Geographic Information System, for the purpose of encouraging ecologically based tourism and recreation in New Jersey. This inventory shall contain information on New Jersey's natural, historic, and recreational resources, and shall include, to the greatest extent possible, but need not be limited to, federal, State, county and local parks, wildlife management areas, hatcheries, natural areas, historic sites, State forests, recreational areas, ecological and biological study sites, reservoirs, marinas, boat launches, campgrounds, waterfront access points, winter sports recreation areas, and national wildlife refuges.

10. Section 3 of P.L.1993, c.57 (C.32:34-3) is amended to read as follows:

C.32:34-3 Clean Ocean and Shore Trust (COAST) Committee.

3. a. There is created the Clean Ocean and Shore Trust (COAST) Committee, which shall comprise 18 members, nine of whom shall be residents of the State of New Jersey and nine of whom shall be residents of the State of New York. The New Jersey members shall be as follows: two members of the Senate, from different political parties, to be appointed by the President thereof; two members of the General Assembly, from different political parties, to be appointed by the Speaker thereof; the Director of the Division of Science and Research of the New Jersey Department of Environmental Protection; the Director of the Division of Travel and Tourism in the Department of State; the Director of the Institute of Marine and Coastal Sciences at Rutgers, The State University of New Jersey; the Director of the Center for Environmental Engineering at the Stevens Institute of Technology; and one private citizen with expertise in marine pollution, coastal resource preservation, marine fisheries, or coastal tourism, to be appointed by the Governor, with the advice and consent of the Senate.

b. The New Jersey legislative and administrative agency members of the committee, and the members from Rutgers University and the Stevens

Institute of Technology, or their designees, shall serve ex officio. The private citizen member of the committee appointed by the Governor of New Jersey shall serve at the pleasure of the Governor. Vacancies in the appointed positions on the committee shall be filled in the same manner as the original appointments were made.

c. New Jersey members of the committee shall serve without compensation, but may, within the limits of funds appropriated or otherwise made available to it, be reimbursed for actual expenses necessarily incurred in the discharge of their official duties.

d. The committee shall organize as soon as may be practicable after the appointment of its members, and shall select two co-chairpersons from its members, one from each state, and a secretary who need not be a member. Meetings of the committee shall be at such times and places as the co-chairpersons of the committee deem appropriate.

e. The committee may call to its assistance, and avail itself of the services of, such employees of the two states, or any political instrumentalities thereof, as it may require and as may be made available to it for the purpose of carrying out its duties under this act. If requested by the committee, the New Jersey Department of Environmental Protection and the New York Department of Environmental Conservation, or their successors, shall provide primary staff support.

f. The committee may, within the limits of funds appropriated or otherwise made available to it for those purposes, employ such professional, stenographic, and clerical staff and incur such traveling and other miscellaneous expenses as it may deem necessary in order to perform its duties.

g. The committee may, within the limits of funds appropriated or otherwise made available to it for those purposes, establish an advisory panel comprised of scientists and technical experts from the profit and nonprofit sectors. This panel would identify and define problems and priority issues of the Hudson - Raritan estuary and the New York - New Jersey Bight area, and provide the committee with scientific and technical advice.

11. Section 2 of P.L.2005, c.47 (C.52:16A-91) is amended to read as follows:

C.52:16A-91 Board of Trustees; terms, vacancies.

2. The New Jersey Black Cultural and Heritage Initiative Foundation shall be governed by a board of trustees consisting of the following 25 members:

a. the Secretary of State or designee;
b. five State employees or special State officers, who shall be selected from, and appointed by the Secretary of State to represent any or all, of the following State partner organizations:

- (1) New Jersey State Council on the Arts;
- (2) New Jersey Historical Commission;
- (3) New Jersey Council of the Humanities;
- (4) New Jersey Public Broadcasting Commission;
- (5) Martin Luther King Commemorative Commission;
- (6) Amistad Commission;
- (7) Department of Education;
- (8) Division of Travel and Tourism, Department of State;
- (9) Department of Community Affairs;
- (10) Department of Transportation;
- (11) Department of State, Office of Faith-based Initiatives; and
- (12) any other State agency or instrumentality partnering, assisting or supporting the purposes of the foundation.

The State partner members of the board of trustees appointed pursuant to this subsection shall serve at the pleasure of the Secretary of State.

c. Nineteen public members shall be selected from a broad cross-section of the views and interests of the community and the member organizations of the foundation, including educators, clergy, civic and business leaders; philanthropists; visual, creative and performing artists; representatives of Black arts, history and cultural organizations; and persons having knowledge of, expertise in, or commitment to preserving New Jersey's Black cultural heritage.

Five of the public members shall be appointed by the Secretary of State upon formation and incorporation of the foundation. Thereafter, at least four more public members shall be elected by the nonprofit cultural organizations which become members of the foundation, and the remaining public members shall be nominated by a nominating committee of the board of trustees and appointed by the board of trustees.

The term of office of each public member shall be three years, with each member continuing to serve upon expiration of the term until replaced. Three of the initial public members appointed by the Secretary of State and two of the public members initially elected by member organizations shall serve initial terms of two years.

Vacancies shall be filled and replacements made as provided in the by-laws of the foundation.

12. Section 28 of P.L.2005, c.354 (C.34:1A-87) is amended to read as follows:

C.34:1A-87 Steering committee to manage center.

28. The center shall be managed by a Steering Committee comprised of the Commissioners of Community Affairs, Education, Health and Senior Services, Human Services, and Labor and Workforce Development; the Executive Directors of the Commission on Higher Education, the State Employment and Training Commission; the Executive Director of the New Jersey Commerce Commission; the Director of the Division of Vocational Rehabilitation Services; a director or member of a Workforce Investment Board as designated by the Executive Director of the State Employment and Training Commission; and a One-Stop Career Center operator as designated by the Commissioner of Labor and Workforce Development. The committee shall set policy for the operation of the center and shall have the authority to increase membership of the committee, as it deems necessary, to carry out the purposes of sections 27 through 29 of P.L.2005, c.354 (C.34:1A-86 through C.34:1A-88).

13. Section 4 of P.L.1974, c.80 (C.34:1B-4) is amended to read as follows:

C.34:1B-4 "New Jersey Economic Development Authority."

4. a. There is hereby established in, but not of, the Department of the Treasury a public body corporate and politic, with corporate succession, to be known as the "New Jersey Economic Development Authority." The authority is hereby constituted as an instrumentality of the State exercising public and essential governmental functions, and the exercise by the authority of the powers conferred by the provisions of P.L.1974, c.80 (C.34:1B-1 et seq.) or section 6 of P.L.2001, c.401 (C.34:1B-4.1) shall be deemed and held to be an essential governmental function of the State.

b. The authority shall consist of the Commissioner of Banking and Insurance, the Executive Director of the New Jersey Commerce Commission, the Commissioner of Labor and Workforce Development, the Commissioner of Education, and the State Treasurer, who shall be members ex officio, and eight public members appointed by the Governor as follows: two public members (who shall not be legislators) shall be appointed by the Governor upon recommendation of the Senate President; two public members (who shall not be legislators) shall be appointed by the Governor upon recommendation of the Speaker of the General Assembly; and four public

members shall be appointed by the Governor, all for terms of three years. In addition, a public member of the State Economic Recovery Board established pursuant to section 36 of P.L.2002, c.43 (C.52:27BBB-36) appointed by the board, shall serve as a non-voting, ex officio member of the authority. Each member shall hold office for the term of the member's appointment and until the member's successor shall have been appointed and qualified. A member shall be eligible for reappointment. Any vacancy in the membership occurring other than by expiration of term shall be filled in the same manner as the original appointment but for the unexpired term only. In the event the authority shall by resolution determine to accept the declaration of an urban growth zone by any municipality, the mayor or other chief executive officer of such municipality shall ex officio be a member of the authority for the purpose of participating and voting on all matters pertaining to such urban growth zone.

The Governor shall appoint three alternate members of the authority, of which one alternate member (who shall not be a legislator) shall be appointed by the Governor upon the recommendation of the Senate President, and one alternate member (who shall not be a legislator) shall be appointed by the Governor upon the recommendation of the Speaker of the General Assembly; and one alternate member shall be appointed by the Governor, all for terms of three years. The chairperson may authorize an alternate member, in order of appointment, to exercise all of the powers, duties and responsibilities of such member, including, but not limited to, the right to vote on matters before the authority.

Each alternate member shall hold office for the term of the member's appointment and until the member's successor shall have been appointed and qualified. An alternate member shall be eligible for reappointment. Any vacancy in the alternate membership occurring other than by the expiration of a term shall be filled in the same manner as the original appointment but for the unexpired term only. Any reference to a member of the authority in this act shall be deemed to include alternate members unless the context indicates otherwise.

The terms of office of the members and alternate members of the authority appointed by the Governor who are serving on July 18, 2000 shall expire upon the appointment by the Governor of eight public members and three alternate members. The initial appointments of the eight public members shall be as follows: the two members appointed upon the recommendation of the President of the Senate and the two members appointed upon the recommendation of the Speaker of the General Assembly shall serve terms of three years; two members shall serve terms of two years; and two mem-

bers shall serve terms of one year. The initial appointments of the alternate members shall be as follows: the alternate member appointed upon the recommendation of the President of the Senate shall serve a term of three years; the alternate member appointed upon the recommendation of the Speaker of the General Assembly shall serve a term of two years; and one alternate member shall serve a term of one year. No member shall be appointed who is holding elective office.

c. Each member appointed by the Governor may be removed from office by the Governor, for cause, after a public hearing, and may be suspended by the Governor pending the completion of such hearing. Each member before entering upon his duties shall take and subscribe an oath to perform the duties of the office faithfully, impartially and justly to the best of his ability. A record of such oaths shall be filed in the office of the Secretary of State.

d. A chairperson shall be appointed by the Governor from the public members. The members of the authority shall elect from their remaining number a vice chairperson and a treasurer thereof. The authority shall employ an executive director who shall be its secretary and chief executive officer. The powers of the authority shall be vested in the members thereof in office from time to time and seven members of the authority shall constitute a quorum at any meeting thereof; provided, however, that the public member designated by the State Economic Recovery Board pursuant to the "Municipal Rehabilitation and Economic Recovery Act," P.L.2002, c.43 (C.52:27BBB-1 et al.) shall not count toward the quorum. Action may be taken and motions and resolutions adopted by the authority at any meeting thereof by the affirmative vote of at least seven members of the authority. No vacancy in the membership of the authority shall impair the right of a quorum of the members to exercise all the powers and perform all the duties of the authority.

e. Each member of the authority shall execute a bond to be conditioned upon the faithful performance of the duties of such member in such form and amount as may be prescribed by the Director of the Division of Budget and Accounting in the Department of the Treasury. Such bonds shall be filed in the office of the Secretary of State. At all times thereafter the members and treasurer of the authority shall maintain such bonds in full force and effect. All costs of such bonds shall be borne by the authority.

f. The members of the authority shall serve without compensation, but the authority shall reimburse its members for actual expenses necessarily incurred in the discharge of their duties. Notwithstanding the provisions of any other law, no officer or employee of the State shall be deemed to have forfeited or shall forfeit any office or employment or any benefits or

emoluments thereof by reason of the acceptance of the office of ex officio member of the authority or any services therein.

g. Each ex officio member of the authority may designate an officer or employee of the member's department to represent the member at meetings of the authority, and each such designee may lawfully vote and otherwise act on behalf of the member for whom the person constitutes the designee. Any such designation shall be in writing delivered to the authority and shall continue in effect until revoked or amended by writing delivered to the authority.

h. The authority may be dissolved by act of the Legislature on condition that the authority has no debts or obligations outstanding or that provision has been made for the payment or retirement of such debts or obligations. Upon any such dissolution of the authority, all property, funds and assets thereof shall be vested in the State.

i. 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. The powers conferred in this subsection i. upon the Governor shall be exercised with due regard for the rights of the holders of bonds and notes of the authority at any time outstanding, and nothing in, or done pursuant to, this subsection i. shall in any way limit, restrict or alter the obligation or powers of the authority or any representative or officer of the authority to carry out and perform in every detail each and every covenant, agreement or contract at any time made or entered into by or on behalf of the authority with respect to its bonds or notes or for the benefit, protection or security of the holders thereof.

j. On or before March 31 in each year, the authority shall make an annual report of its activities for the preceding calendar year to the Governor and the Legislature. Each such report shall set forth a complete operating and financial statement covering the authority's operations during the year. The authority shall cause an audit of its books and accounts to be made at least once in each year by certified public accountants and cause a copy thereof to be filed with the Secretary of State and the Director of the Division of Budget and Accounting in the Department of the Treasury.

k. The Director of the Division of Budget and Accounting in the Department of the Treasury and the director's legally authorized representatives are hereby authorized and empowered from time to time to examine the accounts, books and records of the authority including its receipts, disbursements, contracts, sinking funds, investments and any other matters relating thereto and to its financial standing.

l. No member, officer, employee or agent of the authority shall be interested, either directly or indirectly, in any project or school facilities project, or in any contract, sale, purchase, lease or transfer of real or personal property to which the authority is a party.

14. 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:

"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 with headquarters or base of operations located in New Jersey and 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 with headquarters or base of operations located in New Jersey and 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;

"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 with headquarters or base of operations located in New Jersey and 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 with headquarters or base of operations located in New Jersey and engaged in providing services or products necessary for such research, development, production, or provision;

"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 seq.), 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.);

"Commissioner" means the Executive Director of the New Jersey Commerce Commission;

"Department" means the New Jersey Commerce Commission;

"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;

"Commitment duration" means five years from the date specified in the project agreement entered into pursuant to section 5 of P.L.1996, c.25 (C.34:1B-116);

"Designated industry" means a business engaged in the field of biotechnology, pharmaceuticals, manufacturing, financial services or transportation and logistics, advanced computing, advanced materials, electronic device technology, environmental technology or medical device technology;

"Designated urban center" means an urban center designated in the State Development and Redevelopment Plan adopted by the State Planning Commission;

"Electronic device technology" means a technology involving microelectronics, semiconductors, electronic equipment, and instrumentation, radio frequency, microwave, and millimeter electronics, and optical and optic-related electrical devices, or data and digital communications and imaging devices;

"Electronic device technology company" means a person with headquarters or base of operations located in New Jersey and 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 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 Title 17B of the New Jersey Statutes;

"Full-time employee" means a person who is employed for consideration for at least thirty-five 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 commissioner to be employed in a permanent position according to criteria as the Board of Directors of the New Jersey Commerce Commission may prescribe. "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 not include a child, grandchild, parent, or spouse of an individual who has direct or indirect ownership of at least 5% of the profits, capital, or value of the business;

"Headquarters" of a business means the single location that serves as the national administrative center of the business, at which the primary office of the chief executive officer or chief operating officer of the business, as well as the offices of the management officials responsible for key businesswide functions such as finance, legal, marketing, and human resources, are located;

"High-technology business" means an advanced computing company, advanced materials company, electronic device technology company, environmental technology company or medical device technology company;

"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 with headquarters or base of operations located in New Jersey and 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;

"New business location" means the premises 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 eight years from the date of relocation;

"Manufacturing facility" means a business location at which more than 50% of the business personal property that is housed in the facility is eligible for the sales tax exemption pursuant to subsection a. of section 25 of P.L.1980, c.105 (C.54:32B-8.13) for machinery, apparatus or equipment used in the production of tangible personal property;

"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 department that sets the forecasted schedule for completion and occupancy of the project, the date the commitment duration shall commence, the amount 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.);

"Research and development facility" means a business location at which more than 50% of the business personal property that is purchased for the facility is eligible for the sales tax exemption pursuant to section 26 of P.L.1980, c.105 (C.54:32B-8.14) for property used in research and development;

"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 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 the members of a "controlled group of corporations" as defined pursuant to section 1563 of the federal Internal Revenue Code of 1986, 26 U.S.C. s.1563, shall be considered the eligible positions of a single employer; and

"Total allowable relocation costs" means \$1,500 times the number of retained full-time jobs. "Total allowable relocation costs" 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).

15. Section 3 of P.L.1996, c.25 (C.34:1B-114) is amended to read as follows:

C.34:1B-114 Business Retention and Relocation Assistance Grant Program.

3. The Business Retention and Relocation Assistance Grant Program is hereby established as a program under the jurisdiction of the New Jersey Commerce Commission and shall be administered by the New Jersey Commerce Commission. The purpose of the program is to encourage economic development and job creation and to preserve jobs that currently exist in New Jersey but which are in danger of being relocated to premises outside of the State. To implement that purpose, and to the extent that funding for the program is available, the program may provide grants of tax credits but in no case shall the amount of an individual grant of tax credits exceed 80% of the projected State tax revenues from the retained full-time jobs covered by the project agreement of an applicant for a grant of tax credits.

16. Section 19 of P.L.2004, c.65 (C.34:1B-185) is amended to read as follows:

C.34:1B-185 Definitions relative to sales tax exemption program.

19. As used in sections 19 through 22 of P.L.2004, c.65 (C.34:1B-185 through C.34:1B-188) the following terms shall have the following meanings:

"Eligible property" means machinery, equipment, furniture and furnishings, fixtures, and building materials, but "eligible property" shall not include "motor vehicles" as defined pursuant to section 2 of P.L.1966, c.30 (C.54:32B-2), parts with a useful life of one year or less, or tools or supplies used in connection with the eligible property;

"Headquarters" means the single location that serves as the national administrative center of a business, at which the primary office of the chief executive officer or chief operating officer of the business, as well as the offices of the management officials responsible for key businesswide functions such as finance, legal, marketing, and human resources, are located;

"Life sciences business" means a business engaged principally in the production of medical equipment, ophthalmic goods, medical or dental instruments, diagnostic substances, biopharmaceutical products; or physical and biological research; or biotechnology;

"Manufacturing facility" means a business location at which more than 50% of the business personal property that is housed in the facility is eligible for the sales tax exemption pursuant to subsection a. of section 25 of

P.L.1980, c.105 (C.54:32B-8.13) for machinery, apparatus or equipment used in the production of tangible personal property; and

"Research and development facility" means a business location at which more than 50% of the business personal property that is purchased for the facility is eligible for the sales tax exemption pursuant to section 26 of P.L.1980, c.105 (C.54:32B-8.14) for property used in research and development.

17. Section 20 of P.L.2004, c.65 (C.34:1B-186) is amended to read as follows:

C.34:1B-186 Program to approve issuance of certificates to qualifying businesses.

20. The New Jersey Commerce Commission shall establish and administer a program to approve the issuance of sales and use tax exemption certificates to qualifying businesses as specified in sections 19 through 22 of P.L.2004, c.65 (C.34:1B-185 through C.34:1B-188). The receipts from the certificate holder's purchase of eligible property located or placed at the business location covered by the project approval within the period established pursuant to the terms and conditions of the project approval for the approved business location 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.).

18. Section 21 of P.L.2004, c.65 (C.34:1B-187) is amended to read as follows:

C.34:1B-187 Submission of project application; eligibility.

21. a. A business seeking to participate in the sales and use tax exemption certificate program established pursuant to sections 19 through 22 of P.L.2004, c.65 (C.34:1B-185 through C.34:1B-188) shall submit a project application to the New Jersey Commerce Commission in such form as required by the New Jersey Commerce Commission.

b. The location for the project shall be situated in designated Planning Area 1 or 2, as defined in the State Development and Redevelopment Plan adopted by the State Planning Commission; provided however, that a business project involving the renovation or expansion of an existing facility that is not located in designated Planning Area 1 or 2 may be eligible to participate in the program, at the determination of the New Jersey Commerce Commission, if all other applicable criteria are satisfied.

A business located in an urban enterprise zone designated pursuant to the "New Jersey Urban Enterprise Zones Act," P.L.1983, c.303 (C.52:27H-

60 et al.) as of the effective date of this section shall not be eligible to participate in this program if the relocation project is from a facility within the urban enterprise zone to a facility outside an urban enterprise zone; provided however, that if the relocation is to a facility already owned or leased by the same business and that business already employs at least the same number of persons as those being relocated from the urban enterprise zone, it may be eligible to apply.

c. To be eligible to apply for the sales and use tax exemption certificate program, a business shall have operated continuously in this 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 and shall satisfy at least one of the following criteria:

(1) the business has 1,000 or more full-time employees in the State and the project involves relocating 500 or more full-time employees into a new business location or locations;

(2) the business is a life sciences business or a manufacturing facility and the project is: constructing one or more new research and development facilities, constructing one or more new manufacturing facilities in this State, or relocating to a new headquarters in this State that will employ 250 or more full-time employees;

(3) the business is a life sciences business or a manufacturing business and the project is constructing a new, or substantially rehabilitating a vacant, property that will separately or collectively:

(a) be predominately a new research and development facility;

(b) be predominately a new manufacturing facility;

(c) house the headquarters of the business; or

(d) separately or collectively be a combination of subparagraphs (a), (b) and (c);

provided, that the new or substantially rehabilitated facility will house a minimum of 250 full-time employees. For the purposes of this subparagraph, "predominantly" means a majority of the employees housed in the new facility are engaged in that activity, or a majority of the square footage of the new facility is used in that activity; or a majority of the total value of the investment made will be employed in that activity; or other measures of activity as may be determined by the New Jersey Commerce Commission that demonstrate that a critical concentration of research and development, manufacturing, or both, will occur at the new facility; or

(4) the business is, at the time of enactment of this section, currently receiving a structured finance special guarantee pursuant to N.J.A.C.19:31-2.1(c)3.ii(5) for the project.

d. For the purposes of determining a number of full-time employees pursuant to subsection c. of this section, the full-time employees of the members of a "controlled group of corporations" as defined pursuant to section 1563 of the federal Internal Revenue Code of 1986, 26 U.S.C. s.1563, shall be considered the employees of a single employer.

e. A project may be completed in up to two phases provided that it will be the national headquarters of a life sciences or manufacturing company, and will include a significant research and development facility, a significant manufacturing facility, or combination thereof if: (1) the first completed phase will house at least 200 full-time employees and the second phase will house at least 100 additional employees; and (2) the project is pre-approved for phases and that all phases are completed within 30 months of project approval.

f. Upon approval of a project, the Executive Director of the New Jersey Commerce Commission shall notify the Director of the Division of Taxation in the Department of the Treasury of the terms and conditions of the project approval and the director shall issue a certificate of exemption pursuant to the terms and conditions of the project approval. In general, the sales and use tax exemption certificate provided by sections 19 through 22 of P.L.2004, c.65 (C.34:1B-185 through C.34:1B-188) should not apply to purchases initiated by the business after the date that the temporary certificate of occupancy is issued, or in cases where no temporary certificate of occupancy is issued should not apply to purchases initiated by the business more than one year from the project commencement date; however, the duration of the certificate of exemption shall be pursuant to the terms and conditions of the project approval.

19. Section 22 of P.L.2004, c.65 (C.34:1B-188) is amended to read as follows:

C.34:1B-188 Rules, regulations.

22. The New Jersey Commerce Commission shall, after consultation with the Director of the Division of Taxation in the Department of the Treasury, adopt rules and regulations pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.) necessary to govern the proper conduct and operation of the program consistent with the provisions of sections 19 through 22 of P.L.2004, c.65 (C.34:1B-185 through C.34:1B-188).

20. Section 9 of P.L.1989, c.293 (C.34:15C-6) is amended to read as follows:

C.34:15C-6 Duties of commission.

9. The commission shall:

a. Issue the New Jersey Unified Workforce Investment Plan pursuant to the provisions of the Workforce Investment Act of 1998, Pub.L.105-220 (29 U.S.C. s.2801 et seq.) and section 10 of P.L.1989, c.293 (C.34:15C-7);

b. Establish performance standards for workforce investment programs pursuant to the Workforce Investment Act of 1998, Pub.L.105-220 (29 U.S.C. s.2801 et seq.) and section 11 of P.L.1989, c.293 (C.34:15C-8);

c. Act to ensure the full participation of Workforce Investment Boards in the planning and supervision of local workforce investment systems. The commission shall be responsible to oversee and develop appropriate standards to ensure Workforce Investment Board compliance with State and federal law, the State plan, and other relevant requirements regarding membership, staffing, meetings, and functions;

d. Foster and coordinate initiatives of the Department of Education and Commission on Higher Education to enhance the contributions of public schools and institutions of higher education to the implementation of the State workforce investment policy;

e. Examine federal and State laws and regulations to assess whether those laws and regulations present barriers to achieving any of the goals of this act. The commission shall, from time to time as it deems appropriate, issue to the Governor and the Legislature reports on its findings, including recommendations for changes in State or federal laws or regulations concerning workforce investment programs or services, including, when appropriate, recommendations to merge other State advisory structures and functions into the commission;

f. Perform the duties assigned to a State Workforce Investment Board pursuant to subsection (d) of section 111 of the Workforce Investment Act of 1998, Pub.L.105-220 (29 U.S.C. s.2821);

g. Have the authority to enter into agreements with the head of each State department or commission which administers or funds education, employment or training programs, including, but not limited to, the Departments of Labor and Workforce Development, Community Affairs, Education, and Human Services and the Commission on Higher Education, the New Jersey Commerce Commission, and the Juvenile Justice Commission, which agreements are for the purpose of assigning planning, policy guidance and oversight functions to each Workforce Investment Board with respect to any workforce investment program funded or administered by the State department or commission within the Workforce Investment Board's respective labor market area or local area, as the case may be; and

h. Establish guidelines to be used by the Workforce Investment Boards in performing the planning, policy guidance, and oversight functions assigned to the boards under any agreement reached by the commission with a department or commission pursuant to subsection g. of this section. The commission shall approve all local Workforce Investment Board plans that meet the criteria established by the commission for the establishment of One-Stop systems. The Department of Labor and Workforce Development shall approve the operational portion of the plans for programs administered by the department.

The commission shall have access to all files and records of other State agencies and may require any officer or employee therein to provide such information as it may deem necessary in the performance of its functions.

Nothing in P.L.2005, c.354 (C.34:15C-7.1 et al.) shall be construed as affecting the authority of the Commissioner of Personnel to review and approve training programs for State employees pursuant to N.J.S.11A:6-25.

21. Section 2 of P.L.1999, c.107 (C.34:15C-18) is amended to read as follows:

C.34:15C-18 State Council for Adult Literacy Education Services.

2. a. There is created within the State Employment and Training Commission, established pursuant to section 5 of P.L.1989, c.293 (C.34:15C-2) in the Department of Labor and Workforce Development, a State Council for Adult Literacy Education Services.

b. The 27-member council shall consist of the following ex officio members: the Commissioners of Labor and Workforce Development, Human Services, Education, Community Affairs and Corrections, the Executive Director of the New Jersey Commerce Commission, the Executive Director of the Commission on Higher Education, and the Executive Director of the State Employment and Training Commission. The council shall also include one member of the Senate appointed by the President thereof and one member of the General Assembly appointed by the Speaker thereof, who shall serve during the two-year legislative session in which the appointment is made and who shall not be of the same political party; and 17 public members as follows: five public members appointed by the Governor including a member of a Workforce Investment Board literacy committee, a State or national adult education expert and three representatives of the business community, at least one of whom shall represent a small business; six public members appointed by the President of the Senate including a student or former student who received adult literacy services and a

representative from each of the following: a county college, a four-year institution of higher education, the State Library or a local library, a Department of Education-funded adult education provider of adult basic education programs, general educational development programs or English as a second language programs and a community-based organization which is an adult education provider; and six public members appointed by the Speaker of the General Assembly including a representative from each of the following: a vocational school providing adult academic education programs, a trade union, the New Jersey Network, the New Jersey Association of Lifelong Learning, the Literacy Volunteers of America and the New Jersey Education Association.

c. The public members shall serve for terms of three years, but of the public members first appointed, six shall serve a term of three years, six shall serve a term of two years and five shall serve a term of one year. Each member shall hold office for the term of appointment and until his successor is appointed and qualified. A member appointed to fill a vacancy occurring in the membership of the board for any reason other than the expiration of the term shall have a term of appointment for the unexpired term only. All vacancies shall be filled in the same manner as the original appointment. A member may be appointed for any number of successive terms. A member may be removed from office by the Governor, for cause, after a hearing and may be suspended by the Governor pending the completion of the hearing.

d. The members shall select annually a chairperson and a vice-chairperson, who shall be nongovernmental members of the council, and shall appoint an executive director. The executive director shall report to the chairperson of the council and be responsible for administering the daily operations of the council. The executive director shall serve in the State unclassified service. The council may 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. Members of the council shall serve without compensation, but may be reimbursed for necessary expenses incurred in the performance of their duties as members, within the limits of funds appropriated or otherwise made available to the council for its purposes. Actions may be taken and motions and resolutions may be adopted by the council by an affirmative vote of a majority of the members.

22. Section 2 of P.L.1992, c.86 (C.38A:3-16) is amended to read as follows:

C.38A:3-16 Transfer of Council on Armed Forces and Veterans' Affairs to Department of Military and Veterans' Affairs; membership.

2. The Council on Armed Forces and Veterans' Affairs established in the Department of Commerce and Economic Development pursuant to P.L.1983, c.61 (C.52:27H-45 et seq.) is hereby transferred to and established in the Department of Military and Veterans' Affairs. The council shall consist of 22 members: two to be appointed by the President of the Senate from the members thereof, no more than one of whom shall be from the same political party; two to be appointed by the Speaker of the General Assembly from the members thereof, no more than one of whom shall be from the same political party; the Adjutant General of the Department of Military and Veterans' Affairs, the Executive Director of the New Jersey Commerce Commission, the Commissioner of Education, the Commissioner of Environmental Protection, the Commissioner of Transportation, the State Treasurer, the Commissioner of Community Affairs, the Commissioner of Labor and Workforce Development, and the Chair of the New Jersey Commission on Higher Education, or their designees; and nine public members to be appointed by the Governor, with the advice and consent of the Senate. Eight of the public members shall be representatives of the community and business support groups for New Jersey's military installations and the United States Coast Guard training center. Each public member shall serve for a term of three years from the date of the member's appointment and until the member's successor is appointed and qualified. Vacancies resulting from causes other than by expiration of term shall be filled for the unexpired term only and shall be filled in the same manner as the original appointments were made.

23. Section 1 of P.L.1974, c.55 (C.52:14-15.107) is amended to read as follows:

C.52:14-15.107 Department officers; annual salaries.

1. Notwithstanding the provisions of the annual appropriations act and section 7 of P.L.1974, c.55 (C.52:14-15.110), the Governor shall fix and establish the annual salary, not to exceed \$133,330 in calendar year 2000, \$137,165 in calendar year 2001 and \$141,000 in calendar year 2002 and thereafter, for each of the following officers:

Title
Agriculture Department
Secretary of Agriculture
Children and Families Department

Commissioner of Children and Families
Community Affairs Department
Commissioner of Community Affairs
Corrections Department
Commissioner of Corrections
Education Department
Commissioner of Education
Environmental Protection Department
Commissioner of Environmental Protection
Health and Senior Services Department
Commissioner of Health and Senior
Services
Human Services Department
Commissioner of Human Services
Banking and Insurance Department
Commissioner of Banking and Insurance
Labor and Workforce Development Department
Commissioner of Labor and Workforce Development
Law and Public Safety Department
Attorney General
Military and Veterans' Affairs Department
Adjutant General
Personnel Department
Commissioner of Personnel
State Department
Secretary of State
Transportation Department
Commissioner of Transportation
Treasury Department
State Treasurer
Members, Board of Public Utilities
Public Advocate Department
Public Advocate

24. Section 1 of P.L.1998, c.44 (C.52:27C-61) is amended to read as follows:

C.52:27C-61 Short title.

1. This act shall be known and may be cited as the "New Jersey Commerce Commission Act."

25. Section 2 of P.L.1998, c.44 (C.52:27C-62) is amended to read as follows:

C.52:27C-62 Findings, declarations relative to the New Jersey Commerce Commission.

2. The Legislature finds and declares that:
 - a. New Jersey is in a fierce competition for jobs and businesses, not only with other states, but throughout the world; and
 - b. The State must do all it can to increase opportunities for New Jersey citizens to enjoy economic success and prosperity; and
 - c. To attract business, New Jersey must think and act like a business, by utilizing the best available personnel, without consideration of political affiliation, selected on the basis of the skills, ability and experience, needed to provide enhanced customer service, and by responding to the needs of the business community with flexibility and agility; and
 - d. Commerce and economic development are priorities for New Jersey because success in these endeavors means the creation of jobs for our citizens. As such, commerce and economic development deserve a unique and dynamic role in our State government; and
 - e. Because we soon will be entering the 21st century, New Jersey must now boldly transform its economic development mission to be market driven, mobile and responsive enough to the future's challenges to empower New Jersey to undertake new commercial and economic ventures as the economic engine of the Northeast; and
 - f. The State and its citizens will benefit from a more sharply focused economic development vision, in which the State's efforts are coordinated under one organization, the New Jersey Commerce Commission, that coordinates economic development activities for the State with all related entities, including, but not limited to, the New Jersey Economic Development Authority, the New Jersey Commission on Science and Technology, the New Jersey Urban Enterprise Zone Authority, the Motion Picture and Television Development Commission, and the New Jersey Development Authority for Small Businesses, Minorities and Women's Enterprises; and
 - g. Just as the Legislature 25 years ago could not have predicted the technological and business changes that have taken place since then, this Legislature recognizes that it, too, cannot predict the future and must, therefore, ensure that the New Jersey Commerce Commission has the agility and ability to retool its focus and priorities to ensure the State's capability to respond to the technological and business changes yet to come; and

h. Economic growth and prosperity are still the number one priorities for our citizens, and by creating an innovative and independent economic development entity, the New Jersey Commerce Commission, the Legislature reaffirms that it is also a priority of government; and

i. The board of directors of the commission appointed pursuant to P.L.1998, c.44 (C.52:27C-61 et al.) should assist the executive director of the commission appointed pursuant to P.L.2007, c.253 (C.34:1A-48.1 et al.) in assuring that persons appointed to the staff of the commission, because they will no longer be in the classified civil service pursuant to Title 11A of the New Jersey Statutes, will be selected on the basis of qualification and professional and technical competence, avoiding political considerations to the maximum extent possible; and

j. The New Jersey Commerce Commission promotes economic vitality and builds a foundation for world economic leadership in the 21st century and stimulates dynamic economic growth by providing resources and services to citizens, businesses and institutions, in partnership with other government agencies and the private sector, to create jobs.

26. Section 3 of P.L.1998, c.44 (C.52:27C-63) is amended to read as follows:

C.52:27C-63 "New Jersey Commerce Commission."

3. There is established a body corporate and politic, with corporate succession, to be known as the "New Jersey Commerce Commission" (hereinafter "the commission").

The commission shall be established in the Executive Branch of the State Government and for the purposes of complying with the provisions of Article V, Section IV, paragraph 1 of the New Jersey Constitution, the commission is allocated, in but not of, the Department of the Treasury, but notwithstanding this allocation, the commission shall be independent of any supervision and control by the department or by any board or officer thereof.

27. Section 4 of P.L.1998, c.44 (C.52:27C-64) is amended to read as follows:

C.52:27C-64 Department of Commerce and Economic Development abolished.

4. The Department of Commerce and Economic Development created pursuant to P.L.1981, c.122 (C.52:27H-1 et al.) is abolished as a principal department in the Executive Branch of State government, and all of its powers, functions, and duties including, but not limited to, the Division of

International Trade, except as herein otherwise provided, are continued in the commission.

28. Section 5 of P.L.1998, c.44 (C.52:27C-65) is amended to read as follows:

C.52:27C-65 Appropriations, moneys continued.

5. All appropriations and other moneys available and to become available to any department, division, bureau, board, commission, or other entity or agency, the functions, powers and duties of which have been assigned or transferred to the Department of Commerce and Economic Development, are hereby continued in the commission, except as herein otherwise provided, and shall be available for the objects and purposes for which such moneys are appropriated subject to any terms, restrictions, limitations, or other requirements imposed by State or federal law. Nothing herein shall alter the provisions of section 4 of P.L.1983, c.190 (C.34:1B-39). Whenever, in any law, rule, regulation, order, contract, document, judicial or administrative proceeding or otherwise, reference is made to the Department of Commerce and Economic Development, the New Jersey Commerce and Economic Growth Commission or the New Jersey Commerce, Economic Growth and Tourism Commission, the same shall mean and refer to the "New Jersey Commerce Commission" in but not of the Department of the Treasury.

29. Section 7 of P.L.1998, c.44 (C.52:27C-67) is amended to read as follows:

C.52:27C-67 Powers of commission.

7. The commission shall have the power to employ consultants and employees as may be required in the judgment of the commission to carry out the purposes of this act and to establish job titles and descriptions, and to fix and pay employees compensation from funds available to the commission therefor, notwithstanding the provisions of Title 11A of the New Jersey Statutes. The commission shall establish the terms and conditions of employment. Employees of the commission shall, as appropriate, be covered under the State of New Jersey's collective negotiations agreements, provided however that only the contractual provisions of such agreements which apply to non-career service employees shall apply to the commission employees. For contractual purposes, previous State service in the career service shall be counted toward any contractual provision that requires unclassified

seniority. Employees of the Department of Commerce and Economic Development who are employed by the department on the date of enactment of this act, and who are hired by the commission shall retain their salary and leave time. Employees of the commission shall be enrolled in the Public Employees' Retirement System and shall be eligible to participate in the State Health Benefits Program established pursuant to the "New Jersey State Health Benefits Program Act," P.L.1961, c.49 (C.52:14-17.25 et seq.).

The commission shall advertise all available positions within the commission, except under circumstances where there is an emergent need as specified in the commission's personnel handbook.

30. Section 8 of P.L.1998, c.44 (C.52:27C-68) is amended to read as follows:

C.52:27C-68 Board of Directors.

8. The Board of Directors of the commission shall consist of the following 11 voting members and two non-voting members:

a. The Governor, who shall be the Chair of the commission. The Governor may be represented by an official designee, whose name shall be filed with the commission.

b. The State Treasurer who shall serve ex-officio and may be represented by an official designee, whose name shall be filed with the commission.

c. One commissioner from each of the following departments who shall serve ex-officio: the Department of Environmental Protection; the Department of Labor and Workforce Development and the Department of Transportation. These commissioners may be represented by an official designee, whose name shall be filed with the commission.

d. The chairman of the New Jersey Commission on Higher Education, who shall serve ex officio. This chairman may be represented by an official designee, whose name shall be filed with the commission.

e. Three public members who shall be appointed by the Governor with the advice and consent of the Senate, not more than two of whom shall be of the same political party. The three public members shall serve for a term of five years and shall serve until their successors are appointed and qualified. Of the three public members first appointed pursuant to this subsection, two shall serve for a term of five years and one shall serve for a term of three years. These members shall be New Jersey residents who shall provide appropriate geographical representation from throughout the State and who shall be employed by, owners of, or members of the board of directors of, a business whose principal operation is located in New Jersey.

Public members shall receive no compensation for their services but shall be entitled to reimbursement for expenses incurred in the performance of their official duties.

f. Two additional members who shall be appointed by, and serve at the pleasure of, the Governor. The Governor is authorized to appoint one member upon the recommendation of the President of the Senate and one member upon the recommendation of the Speaker of the General Assembly.

g. One member of the Senate, to be appointed by the President of the Senate, and one member of the General Assembly, to be appointed by the Speaker of the General Assembly. These members are non-voting, advisory members, appointed solely for the purpose of developing and facilitating legislation to assist the commission in fulfilling its statutory mission, and may not exercise any of the executive powers delegated to the commission by law.

h. Any vacancies in the appointed membership of the commission occurring other than by expiration of term shall be filled in the same manner as the original appointment, but for the unexpired term only.

C.52:27C-71.1 Executive Director.

31. The commission shall be under the supervision of an Executive Director, who shall receive such salary as shall be fixed by the commission and who shall be a person qualified by training and experience to direct the work of the commission.

Whenever, in any law, rule, regulation, order, contract, document, judicial or administrative proceeding or otherwise, reference is made to the Commissioner of the Department of Commerce and Economic Development or the Chief Executive Officer and Secretary of the commission, the same shall mean and refer to the "New Jersey Commerce Commission."

32. Section 11 of P.L.1998, c.44 (C.52:27C-71) is amended to read as follows:

C.52:27C-71 Duties of Executive Director.

11. The Executive Director of the commission shall devote full time to the performance of the duties assigned thereto, and shall:

- a. Administer the work of the commission;
- b. Appoint and remove officers and other personnel employed within the commission, except as herein otherwise specifically provided;
- c. Have authority to organize and maintain an administrative office and to assign to employment therein such secretarial, clerical and other assistants in the commission as the Executive Director and the internal operations of the commission may require;

- d. Perform, exercise and discharge the functions, powers and duties of the commission through such offices as may be established by this act or otherwise by law;
- e. Organize the work of the commission in such organizational units, not inconsistent with the provisions of this act, as the Executive Director may determine to be necessary for the efficient and effective operation of the commission;
- f. (Deleted by amendment, P.L.2007, c.253).
- g. (Deleted by amendment, P.L.2007, c.253).
- h. Make reports of the commission's operations, and such other reports, as the Governor shall from time to time request or as may be required by law;
- i. Coordinate the activities of the commission and the several organizational units therein, in a manner designed to eliminate overlapping and duplicative functions;
- j. Integrate within the commission, so far as practicable, all staff services of the commission and of the several organizational units therein; and
- k. Have access to all relevant files and records of other State agencies and require any officer or employee therein to provide such information as the Executive Director may deem necessary to the performance of the functions of the commission.
- l. (Deleted by amendment, P.L.2007, c.253).
- m. (Deleted by amendment, P.L.2007, c.253).
- n. (Deleted by amendment, P.L.2007, c.253).
- o. (Deleted by amendment, P.L.2007, c.253).
- p. (Deleted by amendment, P.L.2007, c.253).
- q. (Deleted by amendment, P.L.2007, c.253).

33. Section 13 of P.L.1998, c.44 (C.52:27C-73) is amended to read as follows:

C.52:27C-73 Powers of commission.

13. The commission shall have perpetual succession and shall have the following powers:

- a. To make, amend and repeal rules and bylaws for its own governance and guidance not inconsistent with State and federal law;
- b. To adopt an official seal and alter the same at its pleasure;
- c. To maintain an office at such place or places within the State as it may designate;

d. To contract for, accept, solicit or collect any grants, loans, funds, property, or other aid in any form from the United States of America or any agency or instrumentality thereof, from the State or any agency, instrumentality or political subdivision thereof, or from any other public source;

e. To set an amount and to charge reasonable fees for special projects or services that were not customarily provided by the department prior to the effective date of this act to be paid to the commission for services rendered to persons, businesses, or other entities which fees shall reflect the cost of providing such projects or services; notwithstanding the provisions of this subsection, the commission is authorized to set an amount and to charge reasonable fees for services for which fees were charged by the department prior to the effective date of this act;

f. To exercise all of the powers, functions, and duties previously exercised by the Department of Commerce and Economic Development, except as herein provided pursuant to this act;

g. To act as the State's representative abroad and within the United States concerning trade and commerce issues;

h. To adopt rules and regulations, pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), necessary for the proper functioning of the commission and necessary to carry out the provisions of this act;

i. To do any and all things necessary or convenient to carry out the purposes of the commission and to exercise the powers given and granted to the commission under this act;

j. To coordinate the State's economic development activities among the commission's organizational units and the New Jersey Economic Development Authority, the New Jersey Commission on Science and Technology, the New Jersey Urban Enterprise Zone Authority, the New Jersey Development Authority for Small Businesses, Minorities and Women's Enterprises, and the Motion Picture and Television Development Commission, and to recommend economic development policies to the Governor;

k. To enter into memoranda of understanding or other cooperative agreements with the New Jersey Economic Development Authority, the New Jersey Commission on Science and Technology, the New Jersey Urban Enterprise Zone Authority, the New Jersey Development Authority for Small Businesses, Minorities and Women's Enterprises, the Atlantic City Convention Center Authority, the Dredging Project Task Force, the Economic Development Site Task Force, and the Motion Picture and Television Development Commission, or any other State agency for the provision of services or other cooperative efforts to effectuate the purposes of this act

and to ensure the coordination of the State's economic development activities;

1. To make and enter into contracts, leases, agreements, and purchases necessary for the use, or incidental to the performance of, the commission's duties and the exercise of its powers under the act;

m. 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 person;

n. To insure against any losses in connection with the commission's properties, operations or assets;

o. To appoint the Executive Director of the commission and to formulate and adopt rules and regulations for the efficient conduct of the work and general administration of the commission, its officers, and employees;

p. To institute or cause to be instituted such legal proceedings or processes as may be necessary to properly enforce and give effect to any of the powers or duties of the Executive Director or the commission; and

q. To develop once every five years an economic development master plan identifying the commission's objectives, policies and programs which will encourage business attraction, expansion, and retention.

34. Section 19 of P.L.1998, c.44 (C.52:27C-79) is amended to read as follows:

C.52:27C-79 Annual report.

19. a. No later than three months after the end of its fiscal year, the commission shall make an annual report of its activities for the preceding fiscal year to the Governor and the Legislature, pursuant to section 2 of P.L.1991, c.164 (C.52:14-19.1). Each report shall include, but not be limited to, a description of the short-term and long-term goals of the commission and an assessment of the effectiveness of the commission in meeting such goals, and any recommendations for legislation to improve the effectiveness of the commission.

b. The commission shall include, in the report required by subsection a. of this section, a description setting forth information concerning the imposition, collection and expenditure of the fees imposed by the commission. Each such report shall also set forth a complete operating and financial statement covering the operations of the commission, and any of its related entities, during the year. The commission shall cause an independent audit of its books and accounts to be made at least once in each year by certified public accountants and cause a copy thereof to be filed with the

Secretary of State, the Director of the Division of Budget and Accounting, in the Department of the Treasury and the State Auditor.

35. Section 22 of P.L.1998, c.44 (C.52:27C-82) is amended to read as follows:

C.52:27C-82 Status of New Jersey Economic Development Authority.

22. a. The New Jersey Economic Development Authority, established pursuant to P.L.1974, c.80 (C.34:1B-1 et seq.), is transferred in but not of the Department of the Treasury, but, notwithstanding this transfer, the New Jersey Economic Development Authority shall be independent of any supervision and control by the department or by any board or officer thereof.

b. Whenever, in any law, rule, regulation, order, contract, document, judicial or administrative proceeding or otherwise, reference is made to the New Jersey Economic Development Authority, the same shall mean and refer to the New Jersey Economic Development Authority in but not of the Department of the Treasury. Notwithstanding the provisions of any law, rule, regulation or order to the contrary, the Board of Directors of the commission shall appoint the executive director of the New Jersey Economic Development Authority.

c. This transfer shall be subject to the provisions of the "State Agency Transfer Act," P.L.1971, c.375 (C.52:14D-1 et seq.).

d. The New Jersey Economic Development Authority may develop and promulgate such 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 implement the provisions of this act and to effectuate the purposes of the New Jersey Economic Development Authority as provided by law. Nothing herein shall alter the provisions of section 1 of P.L.1979, c.303 (C.34:1B-5.1).

e. Regulations adopted by the New Jersey Economic Development Authority shall continue with full force and effect until amended or repealed pursuant to law.

36. Section 25 of P.L.1998, c.44 (C.52:27C-85) is amended to read as follows:

C.52:27C-85 Status of New Jersey Commission on Science and Technology.

25. a. The New Jersey Commission on Science and Technology, established pursuant to P.L.1985, c.102 (C.52:9X-1 et seq.), is transferred in but not of the Department of the Treasury, but notwithstanding this transfer, the New Jersey Commission on Science and Technology shall be independent

of any supervision and control by the department or by any board or officer thereof. Notwithstanding the provisions of any law, rule, regulation or order to the contrary, the Board of Directors of the New Jersey Commerce Commission shall appoint the Executive Director of the New Jersey Commission on Science and Technology.

b. Whenever, in any law, rule, regulation, order, contract, document, judicial or administrative proceeding or otherwise, reference is made to the New Jersey Commission on Science and Technology, the same shall mean and refer to the New Jersey Commission on Science and Technology in but not of the Department of the Treasury.

c. This transfer shall be subject to the provisions of the "State Agency Transfer Act," P.L.1971, c.375 (C.52:14D-1 et seq.).

d. The New Jersey Commission on Science and Technology may, subject to the commission's approval, develop and promulgate such 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 implement the provisions of this act and to effectuate the purposes of the New Jersey Commission on Science and Technology as provided by law.

e. Regulations adopted by the New Jersey Commission on Science and Technology shall continue with full force and effect until amended or repealed pursuant to law.

37. Section 26 of P.L.1998, c.44 (C.52:27C-86) is amended to read as follows:

C.52:27C-86 Status of Motion Picture and Television Development Commission.

26. a. The Motion Picture and Television Development Commission, established pursuant to P.L.1977, c.44 (C.34:1B-22 et seq.), is transferred in but not of the Department of the Treasury, but notwithstanding this transfer, the Motion Picture and Television Development Commission shall be independent of any supervision and control by the department or by any board or officer thereof. Notwithstanding the provisions of any law, rule, regulation or order to the contrary, the Board of Directors of the New Jersey Commerce Commission shall appoint the Executive Director of the Motion Picture and Television Development Commission.

b. Whenever, in any law, rule, regulation, order, contract, document, judicial or administrative proceeding or otherwise, reference is made to the Motion Picture and Television Development Commission, the same shall mean and refer to the Motion Picture and Television Development Commission in but not of the Department of the Treasury.

c. This transfer shall be subject to the provisions of the "State Agency Transfer Act," P.L.1971, c.375 (C.52:14D-1 et seq.).

d. The Motion Picture and Television Development Commission may, subject to the commission's approval, develop and promulgate such 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 implement the provisions of this act and to effectuate the purposes of the Motion Picture and Television Development Commission as provided by law.

38. Section 2 of P.L.2005, c.373 (C.52:27C-97) is amended to read as follows:

C.52:27C-97 Foundation's board of trustees.

2. The Foundation for Technology Advancement shall be governed by a 23-member board of trustees who are appointed as follows:

a. The Executive Director of the New Jersey Commerce Commission; the Executive Director of the New Jersey Economic Development Authority; the Executive Director of the New Jersey Commission on Science and Technology; and the Chief Technology Officer in the Office of Information Technology; or their designees, all of whom shall serve ex officio;

b. A faculty member appointed by the president of each of the following academic institutions: The New Jersey Institute of Technology; Rutgers, the State University; The University of Medicine and Dentistry of New Jersey; and Princeton University, all of whom shall serve ex officio; and

c. Fifteen public members appointed by the Governor as follows: a representative of each of the following organizations: the New Jersey Technology Council, the Biotechnology Council of New Jersey, the Forum for Academicians, Scientists and Technologists of New Jersey, the Strengthening the Mid-Atlantic Region for Tomorrow States Organization, the New Jersey Business and Industry Association, the Commerce and Industry Association of New Jersey, the New Jersey State Chamber of Commerce, the New Jersey Tooling and Manufacturing Association, the Research and Development Council of New Jersey, the American Electronics Association - New Jersey/Pennsylvania Council, and a representative employed by a corporation from each of the following industry sectors: pharmaceuticals, financial services, advanced technology, information technology, and nanotechnology.

Of the public members first appointed, four shall serve for a term of two years, four for a term of three years, four for a term of four years, and three for a term of five years.

Members appointed thereafter shall serve five-year terms, and any vacancy shall be filled by appointment for the unexpired term only. A member is eligible for reappointment. Vacancies in the membership of the foundation shall be filled in the same manner as the original appointments were made.

The members shall elect a chair and vice chair from the membership of the board of trustees.

39. Section 5 of P.L.2001, c.238 (C.52:27D-456) is amended to read as follows:

C.52:27D-456 Main Street New Jersey Advisory Board.

5. The Main Street New Jersey Advisory Board is established for the purposes of providing guidance and advocacy in formulating policy and assisting with the long-term planning and administration of the "Main Street New Jersey" program. The Main Street New Jersey Advisory Board shall consist of 23 members. Sixteen members shall serve in a voluntary capacity, to be appointed through a process to be determined by the commissioner and shall include a representative of the New Jersey State League of Municipalities. Each voluntary member shall have a demonstrated commitment to the goals of the "Main Street New Jersey" program. The voluntary members shall represent all geographic regions of the State.

The remaining seven advisory board members shall serve *ex officio* and shall be a representative of the Historic Preservation Program in the Department of Environmental Protection, to be appointed by the Commissioner of Environmental Protection, a representative of the New Jersey Economic Development Authority to be designated by the executive director, a representative of the Neighborhood Preservation Program in the Department of Community Affairs, to be appointed by the Commissioner of Community Affairs, a representative of the Housing and Mortgage Finance Agency, to be appointed by the executive director of that agency, a representative of the New Jersey Commerce Commission, to be appointed by the Executive Director of that commission, a representative of the Department of Transportation, to be appointed by the Commissioner of Transportation, and a representative of the Office of State Planning, to be appointed by the Director of the Office of State Planning.

The terms of the voluntary members so appointed, after the initial appointments, shall be three years, and each member may be reappointed. The terms of initial appointments of the voluntary members shall be staggered so that the terms of 1/3 of the advisory board's voluntary members

shall expire annually. The advisory board members who are not State employees shall be entitled to reimbursement of their expenses incurred in connection with their duties on the advisory board.

40. 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) A person appointed by the Board of Directors of the New Jersey Commerce Commission, who shall be the chair of the authority;

(2) The Commissioner of the Department of Community Affairs;

(3) The Commissioner of the Department of Labor and Workforce Development;

(4) The State Treasurer; and

(5) Five 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 three 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. The public members of the authority shall serve for terms of five years, except that of the members first appointed, one shall serve for a term of one year, 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.

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.

41. Section 23 of P.L.2004, c.65 (C.52:27H-87.1) is amended to read as follows:

C.52:27H-87.1 Exemption for some retail sales of energy and utility service.

23. a. Retail sales of energy and utility service to:

(1) a qualified business that employs at least 250 people within an enterprise zone, at least 50% of whom are directly employed in a manufacturing process, for the exclusive use or consumption of such business within an enterprise zone, and

(2) a group of two or more persons: (a) each of which is a qualified business that are all located within a single redevelopment area adopted pursuant to the "Local Redevelopment and Housing Law," P.L.1992, c.79 (C.40A:12A-1 et al.); (b) that collectively employ at least 250 people within an enterprise zone, at least 50% of whom are directly employed in a manufacturing process; (c) are each engaged in a vertically integrated business, evidenced by the manufacture and distribution of a product or family of products that, when taken together, are primarily used, packaged and sold as a single product; and (d) collectively use the energy and utility service for the exclusive use or consumption of each of the persons that comprise a group 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.).

A qualified business will continue to be subject to applicable Board of Public Utilities tariff regulations except that its bills from utility companies and third party suppliers for energy and utility service shall not include charges for sales and use tax.

b. A business that meets the requirements of subsection a. of this section shall not be allowed the exemption granted pursuant to this section until it has complied with such requirements for obtaining the exemption as may be provided pursuant to P.L.1983, c.303 (C.52:27H-60 et al.) and P.L.1966, c.30 (C.54:32B-1 et seq.). The Executive Director of the New Jersey Commerce Commission shall provide prompt notice to the President of the Board of Public Utilities and to the Director of the Division of Taxation in the Department of the Treasury, of a qualified business that has qualified for the exemption under this subsection, and shall provide the president and the director an annual list of all businesses that qualify.

c. (1) Retail sales of energy and utility service to a business facility located within a county that is designated for the 50% tax exemption under section 1 of P.L.1993, c.373 (C.54:32B-8.45) 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 that the business certifies that it employs at least 50 people

at that facility, at least 50% of whom are directly employed in a manufacturing process, and provided that the energy and utility services are consumed exclusively at that facility.

(2) A business facility that meets the requirements of paragraph (1) of this subsection may file an application for the energy and utility service sales tax exemption with the New Jersey Commerce Commission, and the commission shall promulgate regulations and forms for that purpose. The New Jersey Commerce Commission shall process an application submitted under this paragraph within 20 business days of receipt thereof. An exemption shall commence for a business upon notice of approval of its application and shall expire for any year in which the business fails to meet the requirements of paragraph (1) of this subsection. Upon approval, the Executive Director of the New Jersey Commerce Commission shall provide prompt notice to the applicant and also shall provide prompt notice to the President of the Board of Public Utilities and to the Director of the Division of Taxation in the Department of the Treasury. The Executive Director of the New Jersey Commerce Commission also shall provide the president and the director with an annual list of all businesses that have been approved under this subsection.

42. Section 6 of P.L.2006, c.16 (C.52:27I-6) is amended to read as follows:

C.52:27I-6 Members; appointment, qualification.

6. a. The authority shall consist of ten members to be appointed and qualified as follows:

(1) Four members appointed by the Governor with the advice and consent of the Senate, for terms of four years, two of whom shall be representatives of the private sector with relevant business experience or background; one of whom shall be an individual who is knowledgeable in environmental protection, conservation and land use issues and one of whom shall be a labor representative with appropriate experience in workforce development and job training. Preference shall be given to professionals with a background in technology, finance, or real estate. At least two of the members shall be residents of Monmouth County. Not more than two of the members appointed by the Governor shall be members of the same political party;

(2) A person appointed by the Board of Directors of the New Jersey Commerce Commission, ex officio and voting;

(3) One member, who shall be a resident of Monmouth County, to be appointed by the Monmouth County Board of Chosen Freeholders for a term of four years, who shall be either:

(a) a member of the board, or

(b) a qualified person, who shall be nominated by the board, with relevant business experience or background;

(4) The mayors of Eatontown, Oceanport, and Tinton Falls, ex officio and voting; and

(5) A representative of Fort Monmouth, to be appointed by the Secretary of the United States Department of Defense, who shall be a non-voting member.

Each member appointed by the Governor and the member appointed by the Board of Chosen Freeholders shall hold office for the term of that member's appointment and until a successor shall have been appointed and qualified. A member shall be eligible for reappointment. Any vacancy in the membership occurring other than by expiration of term shall be filled in the same manner as the original appointment but for the unexpired term only.

b. Except for those members designated pursuant to paragraph (4) of subsection a. of this section and the person appointed by the Board of Directors of the New Jersey Commerce Commission, each ex officio member of the authority may designate an employee of the member's department or office to represent the member at meetings of the authority. The designee of an ex officio member may act on behalf of the member. The designation shall be in writing and shall be delivered to the authority and shall be effective until revoked or amended in writing to the authority.

c. Each member appointed by the Governor may be removed from office by the Governor for cause, after a public hearing, and may be suspended by the Governor pending the completion of that hearing. Each such member, before entering the duties of membership, shall take and subscribe an oath to perform those duties faithfully, impartially, and justly to the best of the person's ability. A record of those oaths shall be filed in the office of the Secretary of State.

d. The members of the authority shall elect a chairperson and vice-chairperson from among their members. The chairperson shall appoint a secretary and treasurer. The powers of the authority shall be vested in the voting members thereof in office from time to time; five voting members of the authority shall constitute a quorum, and the affirmative vote of five members shall be necessary for any action taken by the authority, except as provided under sections 7 and 14 of P.L.2006, c.16 (C.52:27I-7 and 52:27I-14), or unless the bylaws of the authority shall require a larger number. No

vacancy in the membership of the authority shall impair the right of a quorum to exercise all the rights and perform all the duties of the authority.

e. The members of the authority shall serve without compensation, but the authority may, within the limits of funds appropriated or otherwise made available for such purposes, reimburse its members for necessary expenses incurred in the discharge of their official duties.

f. No member, officer, employee or agent of the Fort Monmouth Economic Revitalization Planning Authority shall have an interest, either directly or indirectly, in any project, employment agreement or any contract, sale, purchase, lease, or transfer of real or personal property to which the Fort Monmouth Economic Revitalization Planning Authority is a party.

g. The authority may be dissolved by act of the Legislature on condition that the authority has no debts or obligations outstanding or provision has been made for the payment, retirement, termination, or assumption of its debts and obligations. Upon dissolution of the authority, all property, funds, and assets thereof shall be vested in the State.

h. 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 void.

i. Any and all proceedings, hearings or meetings of the authority or any advisory committees established by the authority shall be conducted in conformance with the "Senator Byron M. Baer Open Public Meetings Act," P.L.1975, c.231 (C. 10:4-6 et seq.).

j. Records of minutes, accounts, bills, vouchers, contracts or other papers connected with or used or filed with the authority or with any officer or employee acting for or in its behalf are declared to be public records, and shall be open to public inspection in accordance with P.L.1963, c.73 (C.47:1A-1 et seq.).

Repealer.

43. Section 12 of P.L.1998, c.44 (C.52:27C-72) is repealed.

44. This act shall take effect immediately.

Approved January 4, 2008.

CHAPTER 254

AN ACT transferring the Division of Elections from the Department of Law and Public Safety to the Department of State, amending P.L.1994, c.182 and supplementing P.L.1948, c.445 (C.52:16A-1 et seq.).

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

C.52:16A-98 Division of Elections transferred to Department of State.

1. a. The Division of Elections in the Department of Law and Public Safety, transferred to the Department of Law and Public Safety pursuant to Governor Whitman's Reorganization Plan No. 004-1998 effective May 29, 1998, together with all of the division's functions, powers and duties, is transferred to and constituted as the Division of Elections in the Department of State.

b. Effective with the enactment of P.L.2007, c.254 (C.52:16A-98 et al.), the Secretary of State shall be the chief election official of this State and any references to the Attorney General relative to any elections matter appearing in the statutory law shall be a reference to the Secretary of State, unless the context or language of the statute provides otherwise.

c. All responsibility for the budget, fiscal and personnel matters of the Division of Elections is transferred to the Department of State.

d. Whenever in any rule, regulation, order, contract, document, judicial or administrative proceeding or otherwise, reference is made to the Division of Elections in the Department of Law and Public Safety, the same shall mean the Division of Elections in the Department of State.

e. All transfers directed by this act shall be made in accordance with the "State Agency Transfer Act," P.L.1971, c.375 (C.52:14D-1 et seq.).

2. Section 25 of P.L.1994, c.182 (C.19:31-6a) is amended to read as follows:

C.19:31-6a Chief State election official designated, Secretary of State.

25. The Secretary of State is designated the chief State election official and shall be responsible for the coordination of this State's responsibilities pursuant to the provisions of the "National Voter Registration Act of 1993," Pub.L.103-31 (42 U.S.C. s.1973gg et seq.) and the "Help America Vote Act of 2002," Pub.L.107-252 (42 U.S.C. ss.15301 et seq.).

3. This act shall take effect on April 1, 2008, but the Secretary of State and the Attorney General may take such anticipatory administrative action in advance thereof as shall be necessary for the implementation of this act.

Approved January 7, 2008.

CHAPTER 255

AN ACT establishing a reflex sympathetic dystrophy syndrome education and research program 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-1 Short title.

1. This act shall be known and may be cited as the "Reflex Sympathetic Dystrophy Syndrome Education and Research Program Act."

C.26:2AA-2 Findings, declarations relative to reflex sympathetic dystrophy syndrome (RSDS) education and research program.

2. The Legislature finds and declares that:

a. Reflex sympathetic dystrophy syndrome (RSDS), also known as complex regional pain syndrome, is a debilitating and progressively chronic condition characterized by severe burning pain, pathological changes in bone and skin, excessive sweating, tissue swelling and extreme sensitivity to touch;

b. More specifically, RSDS is thought to be a nerve disorder that generally occurs at the site of a minor or major trauma injury, but may also occur without an apparent injury to the afflicted person;

c. While the causes of RSDS are unknown, the syndrome is thought to be the result of damaged nerves of the sympathetic nervous system;

d. The disorder is unique in that it simultaneously affects the nerves, skin, muscles, blood vessels and bones, and if untreated, can result in permanent deformity and chronic pain;

e. RSDS is often misdiagnosed because this condition is either unknown or is poorly understood; the prognosis for patients suffering from RSDS is generally much better when the condition is identified and treated as early as possible, ideally within three months of identifying the first symptoms;

f. If treatment is delayed, the disorder can quickly spread to the entire limb, and changes in bone and muscle may become irreversible, resulting in limited mobility, atrophy of the muscles and eventual permanent disability of patients; and

g. Since a delay in diagnosis or treatment for this syndrome can result in severe physical and physiological problems, and early recognition and prompt treatment of RSDS provides the greatest opportunity for recovery, it is in the best interest of the public to establish a program to educate both individuals and medical professionals regarding this debilitating condition and to promote research to accurately identify, diagnose and treat RSDS.

C.26:2AA-3 Definitions relative to RSDS.

3. As used in this act:

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

"Reflex sympathetic dystrophy syndrome" or "RSDS" means a debilitating and progressively chronic condition characterized by severe burning pain, pathological changes in bone and skin, excessive sweating, tissue swelling and extreme sensitivity to touch.

C.26:2AA-4 Establishment of education and research program.

4. The commissioner shall establish a reflex sympathetic dystrophy syndrome education and research program in the Department of Health and Senior Services. The purpose of the program is to promote public awareness of the causes of RSDS, the value of early detection and the diagnosis of and possible treatments for the syndrome, and to promote research, through public and private sources, to accurately identify, diagnose and treat RSDS.

C.26:2AA-5 Responsibilities of DHSS.

5. The Department of Health and Senior Services shall:

a. establish a public education program through the department's website, to promote RSDS education, which will enable individuals to make informed decisions about their health, including, but not limited to the following elements:

- (1) the cause and nature of RSDS;
- (2) the risk factors that contribute to the manifestation of RSDS;
- (3) available treatment options, including risks and benefits of those options;
- (4) environmental safety and injury prevention;

- (5) rest and use of appropriate body mechanics;
- (6) the availability of RSDS diagnostic, treatment and outreach services in the community; and
- (7) any other factors or elements that might mitigate the effects of RSDS;
- b. notify local health departments, hospitals, clinics and other health care providers about the availability of information concerning RSDS on the department's website;
- c. within the limits of funds available to the department for this purpose, coordinate, promote and offer professional education programs, through institutions of higher education, for health care providers and health-related community-based organizations, which may include, but are not limited to the following elements:
 - (1) research findings;
 - (2) the cause and nature of RSDS;
 - (3) the risk factors, including, but not limited to, lifestyle, heredity and drug interactions;
 - (4) the diagnostic procedures and appropriate indications for their use;
 - (5) medical and surgical treatment options, including experimental and established drug therapies and the risks and benefits of each option;
 - (6) environmental safety and injury prevention; and
 - (7) the availability of RSDS diagnosis and treatment and support services in the community; and
- d. promote research, through both private and public funding sources, to accurately identify, diagnose and treat RSDS.

C.26:2AA-6 Powers of commissioner concerning funding.

6. The commissioner may accept and expend any grants, awards or other funds or appropriations as may be made available for the purposes of this act.

7. This act shall take effect on the 180th day after enactment.

Approved January 7, 2008.

CHAPTER 256

AN ACT concerning filing deadlines for real property assessment appeals and amending R.S.54:3-21.

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

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

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

54:3-21. a. Except as provided in subsection b. of this section a taxpayer feeling aggrieved by the assessed valuation of the taxpayer's property, or feeling discriminated against by the assessed valuation of other property in the county, or a taxing district which may feel discriminated against by the assessed valuation of property in the taxing district, or by the assessed valuation of property in another taxing district in the county, may on or before April 1, or 45 days from the date the bulk mailing of notification of assessment is completed in the taxing district, whichever is later, appeal to the county board of taxation by filing with it a petition of appeal; provided, however, that any such taxpayer or taxing district may on or before April 1, or 45 days from the date the bulk mailing of notification of assessment is completed in the taxing district, whichever is later, file a complaint directly with the Tax Court, if the assessed valuation of the property subject to the appeal exceeds \$750,000.00. 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 \$750,000, 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.

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.

2. This act shall take effect immediately.

Approved January 11, 2008.

CHAPTER 257

AN ACT providing a corporation business tax credit for certain digital media content expenses and concerning the film production expenses credit, amending P.L.2005, c.345.

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

1. Section 1 of P.L.2005, c.345 (C.54:10A-5.39) is amended to read as follows:

C.54:10A-5.39 Corporation business tax credit for certain film production, digital media content expenses; definitions.

1. a. A taxpayer, upon application to the Director of the Division of Taxation in the Department of the Treasury and the New Jersey Economic Development 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 an amount equal to 20 percent of the qualified film production expenses of the taxpayer during a privilege period commencing after the effective date of P.L.2005, c.345, provided that (1) at least 60 percent of the total film production expenses, exclusive of post-production costs, of the taxpayer will be incurred for services performed and goods used or consumed in New Jersey, and (2) principal photography of the film commences within 150 days after the approval of the application for the credit.

b. A taxpayer, upon application to the Director of the Division of Taxation in the Department of the Treasury and the New Jersey Economic

Development 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 an amount up to 20 percent, as determined by the authority of the qualified digital media content production expenses of the taxpayer during a privilege period commencing after the effective date of P.L.2007, c.257, provided that at least \$2,000,000 of the total digital media content production expenses of the taxpayer will be incurred for services performed and goods used or consumed in New Jersey and at least a significant percentage, as determined by the authority, of the qualified digital media content production expenses of the taxpayer will include wages and salaries paid to one or more new full-time employees in New Jersey. For purposes of this subsection, "new full-time employee" means a person 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 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 that is 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., and who is determined by the authority to work in a newly created permanent position according to criteria it develops. "New full-time employee" shall not include any person who works as an independent contractor or on a consulting basis for the taxpayer. In determining the amount of any grant of tax credits made pursuant to this subsection, the authority shall consider the number of new full-time positions created by the taxpayer as well as the quality of the full-time positions created, including but not limited to the salaries and benefits provided to new full-time employees. The authority, in consultation with the Division of Taxation, shall establish rules for the recapture of all, or a portion of, the grant of tax credits pursuant to this subsection in the event the taxpayer fails to maintain the new full-time positions that were included in calculating the qualified digital media content production expenses of the taxpayer.

c. The amount of the credit applied under this section against the tax imposed pursuant to section 5 of P.L.1945, c.162, for a privilege period, when taken together with any other credits allowed against the tax imposed pursuant to section 5 of P.L.1945, c.162, shall not exceed 50 percent of the tax liability otherwise due and 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. The priority in which credits allowed pursuant to this section and any other credits shall be taken shall be as determined by the Director of the Division of Taxation. The amount of the 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 may be carried over, if necessary, to the seven privilege periods following the privilege period for which the credit was allowed.

d. A taxpayer may, with an application for a credit provided for in subsection a. or subsection b. of this section, apply to the director and the executive director of the authority for a tax credit transfer certificate in lieu of the taxpayer being allowed any amount of the credit against the tax liability of the taxpayer. The director and the executive director of the authority may consult with the New Jersey Motion Picture and Television Development Commission in consideration of any application for approval of a tax credit or tax credit transfer certificate under this section. The tax credit transfer certificate, upon receipt thereof by the taxpayer from the director and the authority, may be sold or assigned, in full or in part, to any other taxpayer that may have a tax liability under P.L.1945, c.162 or 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 credit. The certificate provided to the taxpayer shall include a statement waiving the taxpayer's right to claim that amount of the 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% of the transferred 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 shall be subject to the same limitations and conditions that apply to the use of a 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. 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 section 2 of P.L.2005, c.345 (C.54A:4-12).

e. As used in this section:

“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" does 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 15 minutes or more in length, intended for a national audience. "Film" shall not include a production featuring news, current events, weather and market reports or public programming, talk show, game show, sports event, award show or other gala 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.

"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 shall 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; the costs of computer software and hardware, data processing, visualization technologies, sound synchronization, editing, and the rental of facilities and equipment. 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 qualified digital media content production expenses.

"Qualified film production expenses" means an expense incurred in New Jersey for the production of a film including post-production costs incurred in New Jersey. Qualified film production expenses shall include but shall 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; the costs of construction, operations, editing, photography, sound synchronization, lighting, wardrobe and accessories and the cost of rental of facilities and

equipment. Qualified film production expenses shall not include expenses incurred in marketing or advertising a film.

"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.

"Post-production costs" means the costs of the phase of production that follows principal photography, in which raw footage is cut and assembled into a finished film with sound synchronization and visual effects.

f. The Director of the Division of Taxation in the Department of the Treasury, in consultation with the New Jersey Motion Picture and Television Development Commission and the New Jersey Economic Development Authority, shall adopt rules in accordance with the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), as are necessary to implement this act including examples of qualified film production and digital media content production expenses and the procedures and forms to apply for a credit and for a tax credit transfer certificate necessary for a taxpayer to sell or assign an amount of tax credit under this section. The value of 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 section 2 of P.L.2005, c.345 (C.54A:4-12) shall not exceed a cumulative total of \$10,000,000 in any fiscal year 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 cumulative total amount of 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 section 2 of P.L.2005, c.345 (C.54A:4-12) exceeds the amount of credits available in that year, then taxpayers who have first applied for and have not been allowed a 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 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 section 2 of P.L.2005, c.345 (C.54A:4-12) are not in excess of the amount of credits available. The value of credits, including tax credits allowed through the granting of tax credit transfer certificates, approved by the director and the authority pursuant to subsection b. of this section shall not exceed a total of \$5,000,000 in any fiscal year to apply against the tax

imposed pursuant to section 5 of P.L.1945, c.162 (C.54:10A-5). If the total amount of 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 exceeds the amount of credits available in that year, then taxpayers who have first applied for and have not been allowed a 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 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 are not in excess of the amount of credits available. The Executive Director of the New Jersey Economic Development Authority, in conjunction with the Director of the Division of Taxation shall prepare and submit a report to the Governor and the Legislature on the effectiveness of the credit as an incentive for encouraging film productions and digital media content productions to locate in New Jersey which shall be completed before the third taxable year or privilege period in which a credit may be claimed.

g. For the purpose of determining eligibility for or the amount of any grant of tax credits pursuant to this section, the authority shall not include any job that is included in the calculation of a business employment incentive grant pursuant to the provisions of P.L.1996, c.26 (C.34:1B-124 et al.) or a business retention and relocation grant pursuant to P.L.1996, c.25 (C.34:1B-112 et seq.).

2. Section 2 of P.L.2005, c.345 (C.54A:4-12) is amended to read as follows:

C.54A:4-12 Gross income tax credit for certain film production expenses; definitions.

2. a. A taxpayer, upon application to the Director of the Division of Taxation in the Department of the Treasury and the New Jersey Economic Development Authority, 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 film production expenses of the taxpayer during a taxable year commencing after the effective date of P.L.2005, c.345, provided that (1) at least 60 percent of the total production expenses, exclusive of post-production costs, of the taxpayer will be incurred for services performed and goods used or consumed in New Jersey, and (2) principal photography of the film commences within 150 days after the approval of the application for the credit.

b. The amount of the credit allowed pursuant to this section shall be applied against the tax otherwise due under N.J.S.54A:1-1 et seq. after all other credits and payments. If the credit exceeds the amount of tax otherwise due, that amount of excess shall be an overpayment for the purposes of N.J.S.54A:9-7.

c. A taxpayer may, with an application for a credit provided for in subsection a. of this section, apply to the director and the executive director of the authority for a tax credit transfer certificate in lieu of the taxpayer being allowed any amount of the credit against the tax liability of the taxpayer. The director and the executive director of the authority may consult with the New Jersey Motion Picture and Television Development Commission in consideration of any application for approval of a tax credit or tax credit transfer certificate under this section. The tax credit transfer certificate, upon receipt thereof by the taxpayer from the director and the authority, may be sold or assigned, in full or in part, to any other taxpayer that may have a tax liability under N.J.S.54A:1-1 et seq. or 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 credit. The certificate provided to the taxpayer shall include a statement waiving the taxpayer's right to claim that amount of the 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% of the transferred 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 credit pursuant to subsection b. of this section. Any amount of a tax credit transfer certificate obtained by a purchaser or assignee under this section may be applied against the purchaser's or assignee's tax liability under P.L.1945, c.162 and shall be subject to the same limitations and conditions that apply to the use of a credit pursuant to section 1 of P.L.2005, c.345 (C.54:10A-5.39).

d. A partnership shall not be allowed a credit under this section directly, but the amount of credit or tax credit transfer certificate 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 or certificate 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. For the purposes of subsection b. of this section, the amount of tax liability that would be otherwise due of a taxpayer is that proportion of the total liability of the taxpayer that the taxpayer's share of the partnership income or gain included in gross income bears to the total gross income of the taxpayer. The provisions of subsection c. of this section shall apply to the amount of any credit or certificate of a taxpayer in respect of a distributive share of partnership income.

e. As used in this section:

"Film" means a feature film, a television series or a television show of 15 minutes or more in length, intended for a national audience. Film shall not include a production featuring news, current events, weather and market reports or public programming, talk show, game show, sports event, award show or other gala event, a production that solicits funds, a production containing obscene material as defined in N.J.S.2C:34-2 and N.J.S.2C:34-3, or a production primarily for private, industrial, corporate or institutional purposes.

"Qualified film production expenses" means an expense incurred in New Jersey for the production of a film including post-production costs incurred in New Jersey. Qualified film production expenses shall include but shall 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; the costs of construction, operations, editing, photography, sound synchronization, lighting, wardrobe and accessories and the cost of rental of facilities and equipment. Qualified film production expenses shall not include expenses incurred in marketing or advertising a film.

"Total film production expenses" means costs for services performed and tangible personal property used or consumed in the production of a film.

"Post production costs" means the costs of the phase of production that follows principal photography, in which raw footage is cut and assembled into a finished film with sound synchronization and visual effects.

f. The Director of the Division of Taxation in the Department of the Treasury, in consultation with the New Jersey Motion Picture and Television Development Commission and the New Jersey Economic Development Authority, shall adopt rules in accordance with the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), as are necessary to implement this act including examples of qualified film production expenses and the procedures and forms to apply for a credit and for a tax credit transfer certificate necessary for a taxpayer to sell or assign an amount of tax credit under this section. The amount of 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 section 1 of P.L.2005, c.345 (C.54:10A-5.39) shall not exceed a cumulative total of \$10,000,000 in any fiscal year to apply against the tax imposed under 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 cumulative total amount of credits and tax credit transfer certificates allowed to taxpayers for taxable years or privilege periods commencing during a single fiscal year under this section and subsection a. of section 1 of P.L.2005, c.345 (C.54:10A-5.39) exceeds the amount of credits available in that year, then taxpayers who have first applied for and have not been allowed a 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 certificate on the first day of the next succeeding fiscal year in which tax credits and tax transfer certificates under this section and subsection a. of section 1 are not in excess of the amount of credits available. The Executive Director of the New Jersey Economic Development Authority, in conjunction with the Director of the Division of Taxation shall prepare and submit a report to the Governor and the Legislature on the effectiveness of the credit as an incentive for encouraging film productions to locate in New Jersey which shall be completed before the third taxable year or privilege period in which a credit may be claimed.

3. This act shall take effect immediately.

Approved January 11, 2008.

CHAPTER 258

AN ACT concerning tax preparation services and supplementing Title 17 of the Revised Statutes.

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

C.17:11D-1 Definitions relative to tax preparation services.

1. As used in this act:

"Client" means an individual who engages the services of a tax preparer.

"Commissioner" means the Commissioner of Banking and Insurance.

"Refund anticipation loan" means a loan that is secured by, or that the tax preparer anticipates from, a client's federal or State income tax refund.

"Tax preparation services" means services provided for a fee or other consideration to a client to:

(1) assist with preparing or filing State or federal individual income tax returns;

(2) assume final responsibility for completed work on an individual income tax return on which preliminary work has been completed by another; or

(3) offer, facilitate, or make refund anticipation loans.

"Tax preparer" means an individual, corporation, partnership, limited liability company, association, trustee or other entity who provides tax preparation services.

C.17:11D-2 Actions prohibited to tax preparer.

2. No tax preparer shall:

a. Without reasonable cause, fail to promptly, diligently and without unreasonable delay complete a client's tax return;

b. Obtain the signature of a client to a tax return or authorizing document containing blank entries to be completed after the document has been signed;

c. Fail to sign a client's tax return as the tax preparer;

d. Fail or refuse to give a client a copy of any document requiring the client's signature within a reasonable time after the client signs the document;

e. Fail to retain for at least four years a copy of individual income tax returns;

f. Fail to maintain a confidential relationship with a client or former client;

g. Fail to take reasonable measures to maintain the confidentiality of information or documents provided by the client;

h. Produce, authorize, publish, disseminate, circulate, or cause to make any false, deceptive, or misleading statement or representation relating to or in connection with the offering or provision of tax preparation services;

i. Require a client to enter into a refund anticipation loan in order to complete a tax return;

j. Claim, or make representations to a client concerning, credits or deductions for which the tax preparer knows or reasonably should know the client does not qualify;

k. Charge, offer to accept, or accept a fee based on a percentage of an anticipated refund in exchange for tax preparation services; or

l. Withhold or decline to return to a client documentation provided by the client for use in preparing a client's tax return.

C.17:11D-3 Refund anticipation loans, compliance, disclosures required.

3. a. Any tax preparer offering, facilitating, or making refund anticipation loans shall comply with the provisions of the “New Jersey Licensed Lenders Act,” P.L.1996, c.157 (C.17:11C-1 et seq.), N.J.S.2C:21-19, and R.S.31:1-1 et seq. The interest rate for any loan shall include any rate, fee, charge, consideration, or other thing of value received or retained by, or credited to, the lender, directly or indirectly, for the loan or forbearance.

b. At the time a tax preparer offers or facilitates a refund anticipation loan to the client, the tax preparer shall provide, and verbally explain, to the client the following statement, to be printed in at least 14-point type:

NOTICE TO BORROWER

THIS IS A LOAN. THE ANNUAL PERCENTAGE RATE (APR), BASED ON THE ESTIMATED PAYMENT PERIOD IS _____ (fill in estimated APR). YOUR TAX REFUND WILL BE USED TO REPAY THE LOAN. AS A RESULT, THE AMOUNT OF YOUR REFUND WILL BE REDUCED BY _____ (fill in the dollar amount) FOR FEES, INTEREST AND OTHER CHARGES.

AS AN ALTERNATIVE TO THIS LOAN, YOU CAN RECEIVE YOUR FULL REFUND IN APPROXIMATELY TWO WEEKS IF YOU FILE YOUR RETURN ELECTRONICALLY AND THE INTERNAL REVENUE SERVICE WILL SEND YOUR FULL REFUND TO YOUR BANK ACCOUNT.

c. If, under the terms of the refund anticipation loan, the client is subject to additional interest when a refund is delayed, the following statement shall also be included in the notice:

IF YOU CHOOSE TO TAKE THIS LOAN AND YOUR REFUND IS DELAYED, YOU MAY HAVE TO PAY ADDITIONAL INTEREST.

d. A tax preparer may use an alternative disclosure in lieu of the disclosure set forth in subsections b. and c. provided that:

(1) the information provided to the taxpayer in the alternative disclosure includes information substantially equivalent in scope and content to the specific language set forth in subsections b. and c.;

(2) the alternative disclosure includes a chart listing examples of the refund anticipation loan fees and Annual Percentage Rates, calculated using the guidelines established under the federal Truth in Lending Act, title I of Pub.L.90-321 (15 U.S.C.s.1601 et seq.), for loans of at least three different representative loan amounts; and

(3) the alternative disclosure includes a chart listing the estimated timelines for the delivery of funds to the taxpayer under various delivery methods, including Internal Revenue Service mailed check, Internal Reve-

nue Service direct deposit into a taxpayer's preexisting bank account, and through a refund anticipation loan.

C.17:11D-4 Itemized statement of service charges.

4. A tax preparer shall provide an itemized statement of service charges to the client, including, but not limited to, charges for each of the following:

- a. tax return preparation;
- b. electronic filing of a tax return; and
- c. providing or facilitating a refund anticipation loan.

C.17:11D-5 Additional penalties.

5. In addition to any sanctions provided by N.J.S.2C:21-19, R.S.31:1-1 et seq., or any other provision of law, a tax preparer who violates any provision of this act shall be liable to a civil administrative penalty not exceeding \$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.).

C.17:11D-6 Inapplicability of act.

6. The provisions of this act shall not apply to:

- a. a tax preparer providing tax preparation services to less than six clients per calendar year;
- b. an individual providing tax preparation services for a spouse, parent, grandparent, child or sibling;
- c. an employee who, as part of the regular clerical duties of his or her employment, prepares an employer's income, sales or payroll tax returns;
- d. any fiduciary, or the regular employee of a fiduciary, while acting on behalf of the fiduciary estate, the testator, trustor, grantor, or their beneficiaries;
- e. an attorney admitted to practice law in New Jersey;
- f. a certified public accountant or public accountant qualified to practice in New Jersey;
- g. an enrolled agent who has passed the special enrollment examination administered by the Internal Revenue Service; or
- h. the Internal Revenue Service's Volunteer Income Tax Assistance (VITA) Program, provided that it receives no compensation for or in connection with any services performed for or products purchased by the taxpayer.

C.17:11D-7 Rules, regulations.

7. The commissioner shall promulgate rules and regulations in accordance with the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.) necessary to carry out the provisions of this act.

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

Approved January 11, 2008.

CHAPTER 259

AN ACT regulating dental decisions by insurers and third party administrators, providing for limited professional registration certificates, and supplementing Titles 17 and 45 of the Revised Statutes.

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

C.17:48G-1 Definitions relative to dental decision regulation.

1. As used in this act:

"Adverse dental decision" means a dental decision by an insurer or a third party administrator, or any other person acting on its behalf to deny, reduce, or fail to provide payment, in whole or in part, for a covered service based upon a dental decision.

"Board" means the New Jersey State Board of Dentistry.

"Dental decision" means a decision which is based upon a dental diagnosis or a dental judgment related to dental services performed or to be performed in the State of New Jersey, including, but not limited to, any decision relating to: the quality or appropriateness of dental services rendered or proposed to be rendered by a dentist; reasonable necessity for or customary performance of a dental service; or diagnosis or prognosis of a dental condition.

"Insurer" means an insurance company, health service corporation, hospital service corporation, medical service corporation, dental service corporation, dental plan organization or health maintenance organization authorized to issue dental contracts or plans in this State.

"Third party administrator" means "third party administrator" as defined by section 1 of P.L.2001, c.267 (C.17B:27B-1).

C.17:48G-2 Dental decisions made by insurer.

2. a. An insurer may make dental decisions in connection with the processing or payment of dental claims or otherwise in the course of its dental benefit administration activity. Dental decisions made by an insurer shall be consistent with the following:

(1) an initial adverse dental decision shall be made by a dentist duly licensed in this or another state;

(2) if a treating dentist questions the adverse dental decision and specifies in writing the basis of the disagreement with the adverse dental decision, the insurer, within 30 days shall:

(a) designate a reviewing dentist who is duly licensed in this State or who has been issued a limited registration certificate pursuant to section 4 of this act; and

(b) notify the treating dentist in writing promptly of the name and address where the reviewing dentist can be contacted and the telephone number which can be used to contact the reviewing dentist;

(3) if an agreement is not reached within a reasonable period of time, not to exceed 30 days from the insurer's notice issued pursuant to subparagraph (b) of paragraph (2) of this subsection, the insurer shall make its decision and communicate the results of the reviewing dentist's dental decision to the treating dentist.

b. Within 14 days of a written request by the treating dentist, or the patient or the patient's authorized representative, for the basis of an adverse dental decision by a reviewing dentist, provided to the treating dentist pursuant to paragraph (3) of subsection a. of this section, the insurer shall send a written notice containing the full name, address and telephone number of the reviewing dentist and a narrative statement specifically identifying the basis for the decision.

C.17:48G-3 Dental decisions made by third party administrator.

3. a. A third party administrator may make dental decisions in connection with the processing or payment of dental claims or otherwise in the course of its dental benefit administration activity. Dental decisions made by a third party administrator shall be consistent with all of the following:

(1) an initial adverse dental decision shall be made by a dentist duly licensed in this or another state;

(2) if a treating dentist questions the adverse dental decision and specifies in writing the basis of the disagreement with the adverse dental decision, the third party administrator within 30 days shall:

(a) designate a reviewing dentist who is duly licensed in this State or who has been issued a limited registration certificate pursuant to section 4 of this act; and

(b) notify the treating dentist in writing promptly of the name and business address where the reviewing dentist can be contacted and telephone number which can be used to contact the reviewing dentist;

(3) if an agreement is not reached within a reasonable period of time, not to exceed 30 days from the third party administrator's notice issued pursuant to subparagraph (b) of paragraph (2) of this subsection, the third party administrator shall make its decision and communicate the results of the reviewing dentist's dental decision to the treating dentist.

b. Within 14 days of a written request by the treating dentist, or the patient or the patient's authorized representative, for the basis of an adverse dental decision by a reviewing dentist, provided to the treating dentist pursuant to paragraph (3) of subsection a. of this section, the third party administrator shall send a written notice containing the full name, address and telephone number of the reviewing dentist and a narrative statement specifically identifying the basis for the decision.

C.45:6-70 Issuance of limited registration certificate.

4. The New Jersey State Board of Dentistry shall issue to a dentist in good standing holding an active license to practice dentistry in any other state a limited registration certificate authorizing the registrant to make dental decisions pursuant to P.L.2007, c.259 (C.17:48G-1 et al.), if there is no pending dental license disciplinary action and no adverse information disclosed in a criminal background check or data bank search. A limited registration certificate shall not be deemed to authorize the registrant to treat patients or otherwise engage in the private practice of dentistry in this State.

C.45:6-71 Fee for certificate.

5. Each applicant for a limited registration certificate and each registrant shall pay to the board a fee in the amount established by the board, not to exceed a sum equal to 20 percent of the fee established for the issuance of a two-year active dentist registration; except that, the fee for submitting the application for the initial limited registration certificate shall be \$125, which shall be deemed to include the fee which would otherwise be due for the unexpired portion of the first biennial registration period. The board shall process and issue a limited registration certificate to each qualified applicant within 30 days of its receipt of a completed application therefor.

C.45:6-72 Standards for dentists and holders of limited registration certificates.

6. Dentists licensed in New Jersey and holders of limited registration certificates are intended to be subject to the same standards of honesty, integrity and competency. In exercising its powers under R.S.45:6-1 et seq., the board shall apply the same standards as to honesty, integrity and competency to New Jersey dentists and to holders of limited registration certificates.

C.17:48G-4 Inapplicability of act relative to certain decisions of insurers, third party administrators.

7. This act shall not be construed:

a. To regulate insurers' or third party administrators' making any decision, including, but not limited to, a decision concerning benefit or insurance coverage, that does not involve the making of a dental decision;

b. To regulate insurers' or third party administrators' use of a protocol for denying or limiting benefit payments for dental services where the protocol:

(1) has been approved for use by a dentist who is duly licensed in this State or who has been issued a limited registration certificate pursuant to section 4 of this act; and

(2) does not involve evaluation of an individual patient's dental care or condition; or

c. To regulate the application of contract limitations and exclusions, the credentialing of dentists or the conduct of retrospective fraud reviews.

C.17:48G-5 Applicability of act to dental decisions.

8. This act shall be construed to apply only to insurers and third party administrators or persons acting on their behalf who make dental decisions.

C.17:48G-6 Construction of act relative to board.

9. Nothing in this act shall be construed to confer jurisdiction upon the board to make any dental benefit coverage determinations or to direct any insurer, benefit plan, administrator or other payor to make any payment or otherwise to regulate the conduct of an insurer or third party administrator.

C.45:6-1a Additional board member.

10. In addition to the current membership of the board as prescribed by R.S.45:6-1, the Governor shall appoint, in the same manner as presently prescribed by law for the appointment of members, one additional member to the board who shall have resided and practiced dentistry in this State for at least 10 years immediately preceding his or her appointment.

11. Sections 4, 5 and 6 shall take effect on the 30th day after the date of enactment, and the remainder of this act shall take effect on the 90th day following enactment, but the board shall take such anticipatory administrative action in advance as shall be necessary for the implementation of this act.

Approved January 11, 2008.

CHAPTER 260

AN ACT providing for the maintenance and support of a thorough and efficient system of free public schools and revising parts of the statutory law.

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

C.18A:7F-43 Short title.

1. This act shall be known and may be cited as the “School Funding Reform Act of 2008.”

C.18A:7F-44 Findings, declarations relative to school funding reforms.

2. The Legislature finds and declares that:

a. The Constitution of the State of New Jersey states that the Legislature shall provide for the maintenance and support of a thorough and efficient system of free public schools for the instruction of all children in the State between the ages of five and eighteen years. (N.J. Const. art. VIII, sec. 4, par.1).

b. The State, in addition to any constitutional mandates, has a moral obligation to ensure that New Jersey’s children, wherever they reside, are provided the skills and knowledge necessary to succeed. Any school funding formula should provide resources in a manner that optimizes the likelihood that children will receive an education that will make them productive members of society.

c. Although the Supreme Court of New Jersey has held that prior school funding statutes did not establish a system of public education that was thorough and efficient as to certain districts, the Court has consistently held that the Legislature has the responsibility to substantively define what constitutes a thorough and efficient system of education responsive to that constitutional requirement.

d. Every child in New Jersey must have an opportunity for an education based on academic standards that satisfy constitutional requirements regardless of where the child resides, and public funds allocated to this purpose must be expended to support schools that are thorough and efficient in delivering those educational standards. In turn, school districts must be assured the financial support necessary to provide those constitutionally compelled educational standards. Any school funding formula should provide State aid for every school district based on the characteristics of the student population and up-to-date measures of the individual district’s ability to pay.

e. New Jersey's current public school funding formula, established under the provisions of the "Comprehensive Educational Improvement and Financing Act of 1996," (CEIFA) P.L.1996, c.138, has not been used to calculate State aid for public schools since the 2001-02 school year. Any new school funding formula should account for changes in enrollment and other significant developments, providing relief to those districts that have experienced substantial enrollment increases.

f. The decisions in the Abbott cases have resulted in frequent litigation and a fragmented system of funding under which limited resources cannot be distributed equitably to all districts where at-risk children reside, instead dividing the districts sharply into Abbott and non-Abbott categories for funding purposes without regard to a district's particular pupil characteristics and leading to needlessly adversarial relationships among school districts and between districts and the State.

g. In the absence of a clear, unitary, enforceable statutory formula to govern appropriations for education, crucial funding decisions are made annually, in competition for limited State resources with other needs and requirements as part of the annual budget negotiation process, utilizing many different classes and categories of aid, leading to an uncertain, unpredictable, and untenable funding situation for the State and school districts alike.

h. This act represents the culmination of five years of diligent efforts by both the Executive and Legislative branches of State government to develop an equitable and predictable way to distribute State aid that addresses the deficiencies found in past formulas as identified by the Supreme Court. Working together toward this common goal, the Department of Education and the Legislature engaged nationally recognized experts in education funding and provided significant opportunities for stakeholder involvement and public input to assist in formulating and refining a comprehensive school funding model that has been validated by experts. The formula accounts for the individual characteristics of school districts and the realities of their surroundings, including the need for additional resources to address the increased disadvantages created by high concentrations of children at-risk.

i. The formula established under this act is the product of a careful and deliberative process that first involved determining the educational inputs necessary to provide a high-quality education, including specifically addressing the supplemental needs of at-risk students and those with limited English proficiency (LEP), and a determination of the actual cost of providing those programs. The formula provides adequate funding that is realistically geared to the core curriculum content standards, thus linking those standards to the actual funding needed to deliver that content.

j. In recognition of the unique problems and cost disadvantages faced by districts with high concentrations of at-risk students, it is appropriate to reflect in the formula a greater weight as the district's proportion of at-risk students increases. In addition, the new formula recognizes the disadvantages of an expanded group of students by including in the definition of at-risk those students who qualify for free or reduced-price lunch. Expanding the definition of at-risk students in this manner will significantly increase the resources flowing to districts with high concentrations of these low-income students.

k. In light of the demonstrable, beneficial results and success of the current Abbott preschool program, it is appropriate to build upon this success by incorporating in the formula an expanded high-quality preschool program for all children who qualify for free and reduced price meals in all districts. It is appropriate for the formula to acknowledge that at-risk children do not always receive the same educational exposure at an early age as their peers and to provide the additional resources necessary through high-quality preschool to prepare every child to learn and succeed.

l. It is appropriate to reflect in this formula the inherent value of educating a child in the least restrictive environment and, whenever possible, in that child's neighborhood school alongside his peers. The new funding formula should provide incentives for keeping classified students in district.

m. It is also appropriate to recognize in the formula the need for all schools to incorporate effective security measures, which may vary from district to district depending upon the at-risk student population and other factors, and to provide categorical funding to address these important requirements.

n. In recognition of the potentially wide variability in special education costs, even for the same category of disability, from district to district, it is appropriate for the new funding formula to mitigate the impact of that variability by establishing a census model based on the actual Statewide average excess cost of educating special education students and by providing for an increase in State aid for extraordinary costs incurred by districts.

o. It is imperative that any new school funding formula work in conjunction with the key school accountability measures that have been enacted in recent years to promote greater oversight, transparency, and efficiency in the delivery of educational services. These accountability measures include the New Jersey Quality Single Accountability Continuum, the "School District Fiscal Accountability Act," P.L.2006, c.15 (C.18A:7A-54 et seq.), P.L.2007, c.63 (C.40A:65-1 et al.) which established the duties and responsibilities of the executive county superintendent of schools, and P.L.2007, c.53 (C.18A:55-3 et al.).

p. Together with a renewed legislative focus on and commitment to providing sufficient means to maintain and support a high-quality system of free public schools in the State, a new funding formula supported by significantly increased State resources will ensure compliance with all statutory and constitutional mandates. Districts that were formerly designated as Abbott districts will be provided sufficient resources to continue those Court-identified programs, positions, and services that have proven effective while being provided the flexibility to shift resources and programmatic focus based on the needs of their students and current research.

q. The time has come for the State to resolve the question of the level of funding required to provide a thorough and efficient system of education for all New Jersey school children. The development and implementation of an equitable and adequate school funding formula will not only ensure that the State's students have access to a constitutional education as defined by the core curriculum content standards, but also may help to reduce property taxes and assist communities in planning to meet their educational expenses. The development of a predictable, transparent school funding formula is essential for school districts to plan effectively and deliver the quality education that our citizens expect and our Constitution requires.

C.18A:7F-45 Definitions relative to school funding reform.

3. As used in this act and P.L.1996, c.138, unless the context clearly requires a different meaning:

“At-risk pupils” means those resident pupils from households with a household income at or below the most recent federal poverty guidelines available on October 15 of the prebudget year multiplied by 1.85;

“Base per pupil amount” means the cost per elementary pupil of delivering the core curriculum content standards and extracurricular and cocurricular activities necessary for a thorough and efficient education;

“Bilingual education pupil” means a resident pupil enrolled in a program of bilingual education or in an English as a second language program approved by the State Board of Education;

“Budgeted local share” means the district's local tax levy contained in the budget certified for taxation purposes;

“Capital outlay” means capital outlay as defined in GAAP;

“Combination pupil” means a resident pupil who is both an at-risk pupil and a bilingual education pupil;

“Commissioner” means the Commissioner of Education;

“Concentration of at-risk pupils” shall be based on prebudget year pupil data and means, for a school district or a county vocational school dis-

trict, the number of at-risk pupils among those counted in resident enrollment, divided by resident enrollment;

“County special services school district” means any entity established pursuant to article 8 of chapter 46 of Title 18A of the New Jersey Statutes;

“County vocational school district” means any entity established pursuant to article 3 of chapter 54 of Title 18A of the New Jersey Statutes;

“CPI” means the increase, expressed as a decimal, in the average annualized consumer price index for the New York City and Philadelphia areas in the fiscal year preceding the prebudget year relative to the previous fiscal year as reported by the United States Department of Labor;

“Debt service” means payments of principal and interest upon school bonds and other obligations issued to finance the purchase or construction of school facilities, additions to school facilities, or the reconstruction, remodeling, alteration, modernization, renovation or repair of school facilities, including furnishings, equipment, architect fees, and the costs of issuance of such obligations and shall include payments of principal and interest upon bonds heretofore issued to fund or refund such obligations, and upon municipal bonds and other obligations which the commissioner approves as having been issued for such purposes;

“District income” means the aggregate income of the residents of the taxing district or taxing districts, based upon data provided by the Division of Taxation in the New Jersey Department of the Treasury and contained on the New Jersey State Income Tax forms for the calendar year ending two years prior to the prebudget year. The commissioner may supplement data contained on the State Income Tax forms with data available from other State or federal agencies in order to better correlate the data to that collected on the federal census. With respect to regional districts and their constituent districts, however, the district income as described above shall be allocated among the regional and constituent districts in proportion to the number of pupils resident in each of them;

“Equalized valuation” means the equalized valuation of the taxing district or taxing districts, as certified by the Director of the Division of Taxation on October 1, or subsequently revised by the tax court by January 15, of the prebudget year. With respect to regional districts and their constituent districts, however, the equalized valuations as described above shall be allocated among the regional and constituent districts in proportion to the number of pupils resident in each of them. In the event that the equalized table certified by the director shall be revised by the tax court after January 15 of the prebudget year, the revised valuations shall be used in the recomputation of aid for an individual school district filing an appeal, but shall

have no effect upon the calculation of the property value rate, Statewide average equalized school tax rate, or Statewide equalized total tax rate;

"Full-day preschool" means a preschool day consisting of a six-hour comprehensive educational program in accordance with the district's kindergarten through grade 12 school calendar;

"GAAP" means the generally accepted accounting principles established by the Governmental Accounting Standards Board as prescribed by the State board pursuant to N.J.S.18A:4-14;

"General special education services pupil" means a pupil receiving specific services pursuant to chapter 46 of Title 18A of the New Jersey Statutes;

"Geographic cost adjustment" means an adjustment that reflects county differences in the cost of providing educational services that are outside the control of the district;

"Household income" means income as defined in 7 CFRss.245.2 and 245.6 or any subsequent superseding federal law or regulation;

"Net budget" means the sum of the district's general fund tax levy, State aid received pursuant to the provisions of this act other than preschool education aid, miscellaneous revenue estimated pursuant to GAAP, and designated general fund balance;

"Prebudget year" means the school fiscal year preceding the year in which the school budget is implemented;

"Nonpreschool ECPA" means the amount of early childhood program aid, excluding prior year carry-forward amounts, included in a district's 2007-2008 school year budget certified for taxes that was allocated to grades K through 3;

"Report" means the Educational Adequacy Report issued by the commissioner pursuant to section 4 of this act;

"Resident enrollment" means the number of pupils other than preschool pupils, post-graduate pupils, and post-secondary vocational pupils who, on the last school day prior to October 16 of the current school year, are residents of the district and are enrolled in: (1) the public schools of the district, excluding evening schools, (2) another school district, other than a county vocational school district in the same county on a full-time basis, or a State college demonstration school or private school to which the district of residence pays tuition, or (3) a State facility in which they are placed by the district; or are residents of the district and are: (1) receiving home instruction, or (2) in a shared-time vocational program and are regularly attending a school in the district and a county vocational school district. In addition, resident enrollment shall include the number of pupils who, on the last school day prior to October 16 of the prebudget year, are residents of

the district and in a State facility in which they were placed by the State. Pupils in a shared-time vocational program shall be counted on an equated full-time basis in accordance with procedures to be established by the commissioner. Resident enrollment shall include regardless of nonresidence, the enrolled children of teaching staff members of the school district or county vocational school district who are permitted, by contract or local district policy, to enroll their children in the educational program of the school district or county vocational school district without payment of tuition. Disabled children between three and five years of age and receiving programs and services pursuant to N.J.S.18A:46-6 shall be included in the resident enrollment of the district;

“School district” means any local or regional school district established pursuant to chapter 8 or chapter 13 of Title 18A of the New Jersey Statutes;

“Spending growth limitation” means the annual rate of growth permitted in the net budget of a school district, county vocational school district, or county special services school district as measured between the net budget of the prebudget year and the net budget of the budget year as calculated pursuant to the provisions of section 5 of P.L.1996, c.138 (C.18A:7F-5);

“State facility” means a State developmental center, a State Division of Youth and Family Services’ residential center, a State residential mental health center, a Department of Children and Families Regional Day School, a State training school/secure care facility, a State juvenile community program, a juvenile detention center or a boot camp under the supervisory authority of the Juvenile Justice Commission pursuant to P.L.1995, c.284 (C.52:17B-169 et seq.), or an institution operated by or under contract with the Department of Corrections, Children and Families or Human Services, or the Juvenile Justice Commission;

“Statewide equalized school tax rate” means the amount calculated by dividing the general fund tax levy for all school districts, which excludes county vocational school districts and county special services school districts as defined pursuant to this section, in the State for the prebudget year by the equalized valuations certified in the year prior to the prebudget year of all taxing districts in the State except taxing districts for which there are not school tax levies.

C.18A:7F-46 Review, update of core curriculum content standards; Educational Adequacy Report, development of T & E standards.

4. a. The State Board of Education shall review and update the core curriculum content standards every five years. The standards shall ensure

that all children are provided the educational opportunity needed to equip them for the role of citizen and labor market competitor.

The Commissioner of Education shall develop and establish, through the report issued pursuant to subsection b. of this section, efficiency standards which define the types of programs, services, activities, and materials necessary to achieve a thorough and efficient education.

b. By September 1 of 2010 and by September 1 every three years thereafter, the Governor, after consultation with the commissioner, shall recommend to the Legislature through the issuance of the Educational Adequacy Report for the three school years to which the report is applicable:

- (1) the base per pupil amount based upon the core curriculum content standards established pursuant to subsection a. of this section;
- (2) the per pupil amounts for full-day preschool;
- (3) the weights for grade level, county vocational school districts, at-risk pupils, bilingual pupils, and combination pupils;
- (4) the cost coefficients for security aid and transportation aid;
- (5) the State average classification rate for general special education services pupils and for speech-only pupils;
- (6) the excess cost for general special education services pupils and for speech-only pupils; and
- (7) the extraordinary special education aid thresholds.

The base per pupil amount, the per pupil amounts for full-day preschool, the excess costs for general special education services pupils and for speech-only pupils, and the cost-coefficients for security aid and transportation aid shall be adjusted by the CPI for each of the two school years following the first school year to which the report is applicable.

The amounts shall be deemed approved for the three successive fiscal years beginning from the subsequent July 1, unless between the date of transmittal and the subsequent November 30, the Legislature adopts a concurrent resolution stating that the Legislature is not in agreement with all or any specific part of the report. The concurrent resolution shall advise the Governor of the Legislature's specific objections to the report and shall direct the commissioner to submit to the Legislature a revised report which responds to those objections by January 1.

C.18A:7F-47 Total stabilized aid per district, limit on increase.

5. a. Notwithstanding any provision of this act to the contrary, the total stabilized aid for each district shall not be increased by more than the district's State aid growth limit. In the event that total stabilized aid exceeds the prebudget year total by a rate greater than the State aid growth limit, the

commissioner shall adjust the components of total stabilized aid so that they total exactly the prebudget year total increased by the State aid growth limit.

b. For the 2008-2009 school year, the prebudget year total shall include Core Curriculum Standards Aid, Supplemental Core Curriculum Standards Aid, Education Opportunity Aid, Above Average Enrollment Growth Aid, High Expectations for Learning Proficiency Aid, Instructional Supplement Aid, Demonstrably Effective Program Aid, Stabilization Aid, Supplemental Stabilization Aid, Adult and Postsecondary Education Grants, Bilingual Education Aid, Special Education Aid, County Vocational Program Aid, Transportation Aid, School Choice Aid, Consolidated Aid, Additional Formula Aid, Full-day Kindergarten Supplemental Aid, Targeted-At-Risk Aid, Abbott-Bordered District Aid, Nonpreschool ECPA, Extraordinary Special Education Aid paid in 2006-2007, and Aid for Enrollment Adjustments, taking into consideration the June 2008 payment made in July 2008. For the 2009-2010 school year and thereafter, the prebudget year total shall be the total for the same aid categories as included in total stabilized aid.

c. For the 2008-2009 school year, total stabilized aid shall include equalization aid, special education categorical aid, extraordinary special education aid projected for 2008-2009, security aid, and transportation aid.

For the 2009-2010 school year and thereafter, total stabilized aid shall include equalization aid, special education categorical aid, security aid, and transportation aid.

d. For the purposes of this section, "State aid growth limit" means 10% in the case of a district spending above adequacy and 20% in the case of a district spending below adequacy.

(1) For purposes of determining if a school district or county vocational school district is spending above or below adequacy and its applicable State aid growth limit, the district's spending shall equal the sum for the prebudget year of its equalization aid calculated pursuant to section 11 of this act, special education categorical aid calculated pursuant to section 13 of this act, security categorical aid calculated pursuant to section 14 of this act, and general fund local levy.

(2) Notwithstanding any provision of this section to the contrary, for the purposes of determining a district's increase in State aid between the 2007-2008 and 2008-2009 school years, the commissioner shall compare the State aid received by the district for the 2007-2008 school year under the State aid categories listed under subsection b. of this section, other than transportation aid, and the district's general fund levy for that school year to the sum of the district's adequacy budget calculated pursuant to section 9 of this act, special education categorical aid calculated pursuant to section 13

of this act, extraordinary special education aid projected for the 2008-2009 school year, and security aid calculated pursuant to section 14 of this act.

(3) Notwithstanding any provision of this section to the contrary, the commissioner may increase the State aid growth limit in the case of a county vocational school district that has revised one or more of its programs from a shared-time program to a full-time program between the 2001-2002 and 2007-2008 school years or shall make such revision in the 2008-2009 school year. In the event that the commissioner increases the State aid growth limit for a county vocational school district, the commissioner shall adjust the State aid amount provided for the district in the December 12, 2007 report.

C.18A:7F-48 Calculation of equalization aid.

6. Beginning in the 2009-2010 school year and for each school year thereafter, the amount of equalization aid for the budget year shall equal the total Statewide equalization aid calculated pursuant to section 11 of this act for the prebudget year and prior to the application of section 5 of this act indexed by the sum of 1.0, the CPI, and the State average enrollment growth percentage between the prebudget year and the budget year as projected by the commissioner.

C.18A:7F-49 Determination of base per pupil amount; grade level weights.

7. The commissioner shall determine, based on the standards established pursuant to section 4 of this act, a base per pupil amount, and shall develop appropriate weights reflecting the differing costs of providing education at the kindergarten, elementary, middle school, and high school levels, which weights shall be applied in determining a district's base cost as set forth in section 8 of this act. The base per pupil amount for the 2008-2009 school year shall be \$9,649. The weight for kindergarten shall be 0.5 in the case of a pupil enrolled in a half-day kindergarten program and 1.0 in the case of a pupil enrolled in a full-day kindergarten program, and shall be 1.0 for the elementary (grades 1-5) level, 1.04 for the middle school (grades 6-8) level, and 1.17 for the high school (grades 9-12) level.

The base per pupil amount shall be adjusted by the CPI in the 2009-2010 and 2010-2011 school years as required pursuant to subsection b. of section 4 of this act. For subsequent school years, the base per pupil amount and the grade level weights shall be established in the Educational Adequacy Report, with the base per pupil amount adjusted by the CPI for each of the two school years following the first school year to which the report is applicable.

C.18A:7F-50 Calculation of weighted enrollment for each school district.

8. a. The weighted enrollment for each school district and county vocational school district shall be calculated as follows:

$$\text{WENR} = (\text{PW} \times \text{PENR}) + (\text{EW} \times \text{EENR}) + (\text{MW} \times \text{MENR}) + (\text{HW} \times \text{HENR})$$

where

PW is the applicable weight for kindergarten enrollment;

EW is the weight for elementary enrollment;

MW is the weight for middle school enrollment;

HW is the weight for high school enrollment;

PENR is the resident enrollment for kindergarten;

EENR is the resident enrollment for grades 1 - 5;

MENR is the resident enrollment for grades 6 - 8; and

HENR is the resident enrollment for grades 9 - 12.

For the purposes of this section, ungraded pupils shall be counted in their age-equivalent grade.

b. The base cost for each school district shall be calculated as follows:

$$\text{BC} = \text{BPA} \times \text{WENR}; \text{ and}$$

the base cost for each county vocational school district shall be calculated as follows:

$$\text{BC} = \text{BPA} \times \text{WENR} \times 1.31$$

where

BPA is the base per pupil amount; and

WENR is the weighted enrollment of the school district or county vocational school district.

C.18A:7F-51 Calculation of adequacy budget.

9. a. The adequacy budget for each school district and county vocational school district shall be calculated as follows:

$$\text{AB} = (\text{BC} + \text{AR Cost} + \text{LEP Cost} + \text{COMB Cost} + \text{SE Census}) \times \text{GCA}$$

where

BC is the district's or county vocational school district's base cost as calculated pursuant to section 8 of this act;

AR Cost is the cost of providing educational and other services for at-risk pupils as calculated pursuant to subsection b. of this section;

LEP Cost is the cost of providing educational and other services for bilingual education pupils as calculated pursuant to subsection c. of this section;

COMB Cost is the cost of providing educational and other services for pupils who are both at-risk and bilingual as calculated pursuant to subsection d. of this section;

SE Census is the cost of providing programs and services to general special education services pupils and speech-only pupils as calculated pursuant to subsection e. of this section; and

GCA is geographic cost adjustment.

The GCA shall be the geographic cost adjustment developed by the commissioner and revised by the commissioner every five years in accordance with receipt of census data.

b. AR Cost shall be calculated as follows:

$$\text{AR Cost} = \text{BPA} \times \text{ARWENR} \times \text{AR Weight}$$

where

BPA is the base per pupil amount;

ARWENR is the weighted enrollment for at-risk pupils of the school district or county vocational school district, which shall not include combination pupils; and

AR Weight is the at-risk weight.

For the 2008-2009 through 2010-2011 school years the at-risk weight shall be as follows:

for a district in which the concentration of at-risk pupils is less than 20% of resident enrollment, the at-risk weight shall equal 0.47;

for a district in which the concentration of at-risk pupils is equal to 20% but less than 60% of resident enrollment, the at-risk weight shall equal the district's $((\text{at-risk \%} - 0.20) \times 0.25) + 0.47$; and

for a district in which the concentration of at-risk pupils is equal to or greater than 60% of resident enrollment, the at-risk weight shall equal 0.57.

For subsequent school years, the AR weight shall be established in the Educational Adequacy Report.

c. LEP Cost shall be calculated as follows:

$$\text{LEP Cost} = \text{BPA} \times \text{LWENR} \times \text{LEP Weight}$$

where

BPA is the base per pupil amount;

LWENR is the weighted enrollment for the bilingual education pupils of the school district or county vocational school district, which shall not include combination pupils; and

LEP Weight is the bilingual pupil weight.

For the 2008-2009 through 2010-2011 school years the LEP weight shall be 0.5. For subsequent school years, the LEP weight shall be established in the Educational Adequacy Report.

d. COMB Cost shall be calculated as follows:

$$\text{COMB Cost} = \text{BPA} \times \text{CWENR} \times (\text{AR Weight} + \text{COMB Weight})$$

where

BPA is the base per pupil amount;

CWENR is the weighted enrollment for pupils who are both at-risk and bilingual;

AR Weight is the at-risk weight; and

COMB Weight is the combination pupil weight.

For the 2008-2009 through 2010-2011 school years the COMB weight shall be 0.125. For subsequent school years, the COMB weight shall be established in the Educational Adequacy Report.

e. SE Census shall be calculated as follows:

$$\text{SE Census} = (\text{RE} \times \text{SEACR} \times \text{AEC} \times 2/3) + (\text{RE} \times \text{SACR} \times \text{SEC})$$

where

RE is the resident enrollment of the school district or county vocational school district;

SEACR is the State average classification rate for general special education services pupils;

AEC is the excess cost for general special education services pupils;

SACR is the State average classification rate for speech-only pupils;

and

SEC is the excess cost for speech-only pupils.

For the 2008-2009 through 2010-2011 school years the State average classification rate shall be 14.69% for general special education services pupils and 1.897% for speech-only pupils. For subsequent school years, the State average classification rates shall be established in the Educational Adequacy Report.

For the 2008-2009 school year the excess cost shall be \$10,898 for general special education services pupils and \$1,082 for speech-only pupils. The excess cost amounts shall be adjusted by the CPI in the 2009-2010 and 2010-2011 school years as required pursuant to subsection b. of section 4 of this act. For subsequent school years, the excess cost amounts shall be established in the Educational Adequacy Report, with the amounts adjusted by the CPI for each of the two school years following the first school year to which the report is applicable.

C.18A:7F-52 Determination of equalization aid.

10. Each school district and county vocational school district shall receive equalization aid predicated on a local share determined by district property wealth and district income.

a. Each district's local share shall be calculated as follows:

$$\text{LSHARE} = (\text{EQVAL} \times \text{PVR} \times 50\%) + (\text{INC} \times \text{INR} \times 50\%)$$

where

EQVAL is the district's prebudget year equalized valuation;

PVR is the Statewide property value rate determined pursuant to subsection c. of this section;

INC is the district's income; and

INR is the Statewide income rate determined pursuant to subsection c. of this section.

b. The local share for each county vocational school district shall be calculated as follows:

$$\text{LSHARE} = (\text{COLSHARE} / \text{COAB}) \times \text{AB}$$

where

COLSHARE is the sum of the local shares for all school districts in the county calculated pursuant to subsection a. of this section;

COAB is the sum of the adequacy budgets for all school districts in the county calculated pursuant to section 9 of this act; and

AB is the county vocational school district's adequacy budget calculated pursuant to section 9 of this act.

c. For the 2008-2009 school year, the property value rate shall be set at 0.0092690802 and the income value rate shall be set at 0.04546684. For subsequent school years the values for the property value rate and the income value rate shall be annually determined by the commissioner as follows:

the property value rate shall be determined such that equalization aid equals the Statewide available equalization aid for all districts determined according to this act had each school district's local share equaled the product of the property value rate and the district's equalized valuation and each county vocational school district's local share equaled the product of the county vocational school district's adequacy budget and the average local share, expressed as a percent, of the school districts located in the county; and

the income rate shall be determined such that equalization aid equals the Statewide available equalization aid for all districts determined according to this act had each school district's local share equaled the product of the income rate and the district's income and each county vocational school district's local share equaled the product of the county vocational school district's adequacy budget and the average local share, expressed as a percent, of the school districts located in the county.

In the event that these rates, when used in accordance with the provisions of this section and assuming that each district's general fund levy is equal to its local share, do not result in equalization aid for all districts equal to the Statewide available equalization aid, the commissioner shall adjust these rates appropriately, giving equal weight to each.

C.18A:7F-53 Calculation of equalization aid.

11. Each school district's and county vocational school district's equalization aid shall be calculated as follows:

$EQAID = AB - LSHARE$ provided that EQAID shall not be less than zero; and

where

AB is the district's adequacy budget calculated pursuant to section 9 of this act; and

LSHARE is the district's local share calculated pursuant to section 10 of this act.

Each district's equalization aid for general fund expenses shall be expended to provide a thorough and efficient system of education consistent with the core curriculum content standards established pursuant to section 4 of this act.

A school district may make an appeal to the commissioner on the amount of its equalization aid on the basis that the calculation of income within the local share formula under section 10 of this act does not accurately reflect the district's income wealth.

C.18A:7F-54 Access to full-day preschool; calculation of preschool education aid.

12. a. District factor group A and B school districts, and district factor group CD school districts with a concentration of at-risk pupils equal to or greater than 40%, shall provide free access to full-day preschool for all three- and four-year old pupils. All other school districts shall provide free access to full-day preschool for at-risk pupils. Preschool education aid shall reflect the cost of the pupil's placement in either a district program, a licensed child care provider program, or a Head Start Program.

(1) Preschool education aid shall be calculated for district factor group A and B school districts, and for district factor group CD school districts with a concentration of at-risk pupils equal to or greater than 40%, as follows:

$$\text{Aid} = (\text{IDE} \times \text{IDA}) + (\text{PRE} \times \text{PRA}) + (\text{HSE} \times \text{HSA})$$

where

IDE is the number of district pupils, other than preschool disabled pupils, in an in-district preschool program;

IDA is the per pupil aid amount for an in-district preschool program;

PRE is the number of district pupils, other than preschool disabled pupils, in a preschool program operated by a licensed child care provider;

PRA is the per pupil aid amount for a preschool program operated by a licensed child care provider;

HSE is the number of district pupils, other than preschool disabled pupils, in a Head Start Program; and

HSA is the per pupil aid amount for a Head Start Program.

A CD school district with a concentration of at-risk pupils equal to or greater than 40% shall be eligible to receive preschool education aid pursuant to the provisions of this paragraph for a minimum of three school years from the time of initial determination of eligibility even if the district's concentration of at-risk pupils falls below a 40% concentration of at-risk pupils. In the event that the district falls below a 40% concentration of at-risk pupils for two consecutive school years, in the third school year the district shall receive preschool education aid for each at-risk pupil and for any four-year old pupil for whom the district received preschool education aid in the prior school year, and that pupil shall receive free preschool education.

(2) Preschool education aid shall be calculated for all other districts as follows:

$$\text{Aid} = (\text{ARID} \times \text{IDA}) + (\text{ARP} \times \text{PRA}) + (\text{ARHS} \times \text{HSA})$$

where

ARID is the number of at-risk district pupils, other than preschool disabled pupils, in an in-district preschool program;

IDA is the per pupil aid amount for an in-district preschool program;

ARP is the number of at-risk district pupils, other than preschool disabled pupils, in a preschool program operated by a licensed child care provider;

PRA is the per pupil aid amount for a preschool program operated by a licensed child care provider;

ARHS is the number of at-risk district pupils, other than preschool disabled pupils, in a Head Start Program; and

HSA is the per pupil aid amount for a Head Start Program.

b. In accordance with regulations adopted by the commissioner, all districts shall submit a five-year plan that provides for the full implementation of full day preschool for all eligible three- and four-year olds by the 2013-2014 school year. For the purposes of this section, "full implementation" means serving 90% of eligible pupils in accordance with the preschool quality standards adopted by the commissioner or such greater percentage as determined by the commissioner. A school district shall annually update the five-year plan based on actual implementation experience and shall revise its pupil projections in accordance with that experience.

c. (1) In the case of a school district that did not receive any form of preschool aid in the 2007-2008 school year, the 2008-2009 school year shall be a preschool planning year. Beginning in the 2009-2010 school year, the school district shall receive preschool education aid calculated in accor-

dance with the provisions of subsection a. of this section based upon projected preschool enrollment.

In the 2009-2010 school year the school district may also receive start-up funds in accordance with regulations adopted by the commissioner.

(2) In the case of a school district that received Early Launch to Learning Initiative aid in the 2007-2008 school year, for the 2008-2009 school year the district shall receive preschool education aid in an amount equal to the district's allocation of Early Launch to Learning Initiative aid in the 2007-2008 school year. Beginning in the 2009-2010 school year, the school district shall receive preschool education aid calculated in accordance with the provisions of subsection a. of this section based upon projected preschool enrollment.

In the 2009-2010 school year the school district may also receive start-up funds in accordance with regulations adopted by the commissioner.

(3) In the case of a school district that received early childhood program aid in the 2007-2008 school year but did not receive preschool expansion aid or education opportunity aid in that year, for the 2008-2009 school year the district shall receive preschool education aid equal to the greater of the district's 2007-2008 amount of early childhood program aid for preschool or the district's 2007-2008 per pupil allocation of early childhood program aid as included in the district's original 2007-2008 budget certified for taxes, inflated by the CPI, and multiplied by the district's projected preschool enrollment; except that if the district is able to demonstrate in the five-year plan submitted to the commissioner that it has the capacity to offer a full-day three- or four-year-old program, or a full-day three- and four-year-old program, in the 2008-2009 school year, the commissioner may approve the funding of the full-day program calculated in accordance with the provisions of subsection a. of this section based upon projected preschool enrollment. The district shall be informed of the commissioner's determination upon approval of the five-year plan. Beginning in the 2009-2010 school year, the school district shall receive preschool education aid calculated in accordance with the provisions of subsection a. of this section based upon projected preschool enrollment.

In the 2009-2010 school year the school district may also receive start-up funds in accordance with regulations adopted by the commissioner.

(4) In the case of a school district that received preschool expansion aid or education opportunity aid in the 2007-2008 school year, for the 2008-2009 school year the district shall receive preschool education aid in an amount equal to the preschool budget approved by the commissioner for the 2008-2009 school year. Preschool education aid for the 2008-2009

school year shall be adjusted following receipt of the Application for State School Aid in October 2008. Beginning in the 2009-2010 school year, the school district shall receive preschool education aid calculated in accordance with the provisions of subsection a. of this section based upon projected preschool enrollment; except that for any school year the district shall not receive preschool aid in an amount less than either the total amount of preschool aid the district received in the 2008-2009 school year after the State aid adjustment or the district's 2008-2009 school year preschool per pupil aid amount multiplied by the projected number of preschool pupils after the State aid adjustment, whichever is greater.

In the 2009-2010 school year the school district may also receive start-up funds in accordance with regulations adopted by the commissioner.

d. For the 2008-2009 school year, the preschool per pupil aid amounts shall be \$11,506 for pupils enrolled in an in-district program, \$12,934 for pupils enrolled in a licensed child care provider program, and \$7,146 for pupils enrolled in a Head Start Program. The preschool per pupil aid amounts shall be adjusted by the CPI in the 2009-2010 and 2010-2011 school years as required pursuant to subsection b. of section 4 of this act. For subsequent school years, the preschool per pupil aid amounts shall be established in the Educational Adequacy Report, with the amounts adjusted by the CPI for each of the two school years following the first school year to which the report is applicable.

e. A district shall appropriate preschool education aid in a special revenue fund for expenditure. In the event that any preschool education aid is not expended during the budget year, the aid may be carried forward in accordance with regulations adopted by the commissioner.

f. In the event that a district has fully implemented a full-day preschool program for three- and four-year old pupils in accordance with its five-year plan and meets the preschool quality standards or has provided preschool education to the number of eligible students to be served during a school year in accordance with that plan and its annual updates and the preschool quality standards, the district may appropriate preschool education aid to support kindergarten through grade 12 or to provide preschool education for three- and four-year old pupils for whom the district is not required to provide preschool education upon the approval of the commissioner. The district shall request approval in its annual plan update and any approval granted by the commissioner shall be made during the annual school budget process.

g. A school district shall maintain the preschool quality standards as adopted by the commissioner as a condition of receipt of preschool education aid.

C.18A:7F-55 Calculation of special education categorical aid.

13. a. Special education categorical aid for each school district and county vocational school district shall be calculated as follows:

$$SE = (RE \times SEACR \times AEC \times 1/3) \times GCA$$

where

RE is the resident enrollment of the school district or county vocational school district;

SEACR is the State average classification rate for general special education services pupils;

AEC is the excess cost for general special education services pupils; and

GCA is the geographic cost adjustment as developed by the commissioner.

For the 2008-2009 school year the excess cost shall be \$10,898 for general special education services pupils. The excess cost amount shall be adjusted by the CPI in the 2009-2010 and 2010-2011 school years as required pursuant to subsection b. of section 4 of this act. For subsequent school years, the excess cost amount shall be established in the Educational Adequacy Report, with the amount adjusted by the CPI for each of the two school years following the first school year to which the report is applicable.

b. Extraordinary special education aid for an individual classified pupil shall be available when the student is educated in a general education classroom, special education program, including but not limited to a resource program or special class program, or any combination of general education and special education programs and services, subject to the requirements and thresholds set forth in this section.

(1) In those instances in which a pupil is educated in an in-district public school program with non-disabled peers, whether run by a public school or by a private school for the disabled, and the cost of providing direct instructional and support services for an individual classified pupil exceeds \$40,000, for those direct instructional and support services costs in excess of \$40,000 a district shall receive extraordinary special education State aid equal to 90% of the amount of that excess in accordance with the provisions of paragraph (4) of this subsection.

(2) In those instances in which a pupil is educated in a separate public school program for students with disabilities and the cost of providing direct instructional and support services for an individual classified pupil exceeds \$40,000, for those direct instructional and support services costs in excess of \$40,000 a district shall receive extraordinary special education State aid equal to 75% of the amount of that excess in accordance with the provisions of paragraph (4) of this subsection.

(3) In those instances in which a pupil is educated in a separate private school for students with disabilities and the tuition for an individual classified pupil exceeds \$55,000, for tuition costs in excess of \$55,000 a district shall receive extraordinary special education State aid equal to 75% of the amount of that excess in accordance with the provisions of paragraph (4) of this subsection.

(4) Extraordinary special education State aid for an individual classified pupil shall be calculated as follows:

$$EA = ((ADC - \$40,000) \times .90) + (((AIC - \$40,000) + (ASC - \$55,000)) \times .75)$$

where

ADC equals the district's actual cost for the direct instructional and support services in an in-district public school program as set forth in paragraph (1) of this subsection;

AIC equals the district's actual cost for direct instructional and support services in a separate public school program as set forth in paragraph (2) of this subsection; and

ASC equals the district's actual cost for tuition paid to a separate private school as set forth in paragraph (3) of this subsection.

(5) The receipt of extraordinary special education State aid for an individual classified pupil shall be conditioned upon a demonstration by the district that the pupil's Individualized Education Plan requires the provision of intensive services, pursuant to factors determined by the commissioner.

c. In order to receive funding pursuant to this section, a district shall file an application with the department that details the expenses incurred on behalf of the particular classified pupil for which the district is seeking reimbursement. Additional State aid awarded for extraordinary special education costs shall be recorded by the district as revenue in the current school year and paid to the district in the subsequent school year.

d. A school district may apply to the commissioner to receive emergency special education aid for any classified pupil who enrolls in the district prior to March of the budget year and who is in a placement with a cost in excess of \$40,000 or \$55,000, as applicable. The commissioner may debit from the student's former district of residence any special education aid which was paid to that district on behalf of the student.

e. The department shall review expenditures of federal and State special education aid by a district in every instance in which special education monitoring identifies a failure on the part of the district to provide services consistent with a pupil's Individualized Education Plan.

f. The commissioner shall commission an independent study of the special education census funding methodology to determine if adjustments in the special education funding formulas are needed in future years to address the variations in incidence of students with severe disabilities requiring high cost programs and to make recommendations for any such adjustments. The study and recommendations shall be completed by June 30, 2010.

g. A school district may apply to the commissioner to receive additional special education categorical aid if the district has an unusually high rate of low-incidence disabilities, such as autism, deaf/blindness, severe cognitive impairment, and medically fragile. In applying for the aid the district shall: demonstrate the impact of the unusually high rate of low-incidence disabilities on the school district budget and the extent to which the costs to the district are not sufficiently addressed through special education aid and extraordinary special education aid; and provide details of all special education expenditures, including details on the use of federal funds to support those expenditures.

C.18A:7F-56 Calculation of security categorical aid.

14. Security categorical aid for each school district and county vocational school district shall be calculated as follows:

$$SA = ((RE \times \$70) + (AREN \times ARSA)) \times GCA$$

where

RE means the school district's or county vocational school district's resident enrollment;

AREN means the district's number of at-risk pupils;

ARSA means the at-risk security amount; and

GCA is the geographic cost adjustment as developed by the commissioner.

For the 2008-2009 through 2010-2011 school years the at-risk security amount shall be calculated as follows:

for a district in which the concentration of at-risk pupils is less than 40% of resident enrollment, the at-risk security amount shall equal the district's $(AR\% \times \$10.15 \times 100)$; and

for a district in which the concentration of at-risk pupils is equal to or greater than 40%, the at-risk security amount shall equal \$406.

The security cost coefficients, \$70, \$10.15 and \$406, used to determine the security amount, shall be adjusted by the CPI in the 2009-2010 and 2010-2011 school years as required pursuant to subsection b. of section 4 of this act. For subsequent school years, the cost coefficients shall be established in the Educational Adequacy Report, with adjustments by the CPI for each of the two school years following the first school year to which the report is applicable.

C.18A:7F-57 Calculation of State aid for transportation.

15. a. Each school district's and county vocational school district's State aid for transportation shall consist of base aid (BA) and an incentive factor (IF) determined as follows:

$$BA = (BA1 \times IF) + BA2$$

where

$$BA1 = CP1 \times P1 + CD1 \times P1 \times D1;$$

$$BA2 = CP2 \times P2 + CD2 \times P2 \times D2;$$

P1 is the total number of regular education public pupils and regular nonpublic pupils eligible for transportation pursuant to N.J.S.18A:39-1, excluding preschool pupils except pupils that qualify for free full-day preschool pursuant to section 12 of this act, and of special education pupils eligible for transportation pursuant to N.J.S.18A:46-23 with no special transportation requirements, who are resident in the district as of the last school day prior to October 16 of the prebudget year;

D1 is the average home-to-school mileage for P1 pupils;

P2 is the total number of special education pupils eligible for transportation pursuant to N.J.S.18A:46-23 with special transportation requirements who are resident in the district as of the last school day prior to October 16 of the prebudget year;

D2 is the average home-to-school mileage for P2 pupils; and

CP1, CD1, CP2 and CD2 are cost coefficients with values set forth in subsection b. of this section.

IF is the incentive factor, which modifies base aid paid for pupils transported on regular vehicles according to each district's percentile rank in regular vehicle capacity utilization. Students within the district who receive courtesy busing services shall be included in the calculation of the district's regular vehicle capacity utilization if the courtesy busing services are provided to a student who would otherwise be required to walk to and from school along a route designated as a hazardous route by the school district pursuant to section 2 of P.L.1999, c.310 (C.18A:39-1.5). For the 2008-2009 school year, IF = 1. The Governor shall submit to the Legislature at least 60 days prior to the FY 2011 budget address proposed transportation incentive factors applicable to the 2010-2011 school year and thereafter along with supporting data. The incentive factors shall be deemed approved by the Legislature unless a concurrent resolution is passed within 60 days of the date of submission.

b. For the 2008-2009 school year, the cost coefficients in subsection a. of this section shall have the following values:

$$CP1 = \$383.88;$$

CD1 = \$10.50;
CP2 = \$2,675.77; and
CD2 = \$5.10.

The cost coefficients shall be adjusted by the CPI in the 2009-2010 and 2010-2011 school years as required pursuant to subsection b. of section 4 of this act. For subsequent school years, the cost coefficients shall be established in the Educational Adequacy Report with the amounts adjusted by the CPI for each of the two school years following the first school year to which the report is applicable.

c. For the 2008-2009 school year each district and county vocational district shall receive State transportation aid in an amount equal to the school district's or county vocational school district's State aid entitlement calculated pursuant to subsections a. and b. of this section multiplied by 81.4876%.

d. Each executive county superintendent of schools shall complete a study of pupil transportation services in the county no later than 18 months after the effective date of P.L.2007, c.260 (C.18A:7F-43 et al.). The purpose of the study shall be to determine ways to provide pupil transportation services in a more cost-effective and efficient manner. The study shall be transmitted upon completion to the Commissioner of Education and to the Legislature pursuant to section 2 of P.L.1991, c.164 (C.52:14-19.1).

C.18A:7F-58 Adjustment aid; educational adequacy aid.

16. a. (1) For the 2008-2009 school year, each school district and county vocational school district shall receive adjustment aid in such amount as to ensure that the district receives the greater of the amount of State aid calculated for the district pursuant to the provisions of this act or the State aid received by the district for the 2007-2008 school year multiplied by 102%. The State aid received by the district for the 2007-2008 school year shall include the following aid categories: Core Curriculum Standards Aid, Supplemental Core Curriculum Standards Aid, Education Opportunity Aid, Above Average Enrollment Growth Aid, High Expectations for Learning Proficiency Aid, Instructional Supplement Aid, Demonstrably Effective Program Aid, Stabilization Aid, Supplemental Stabilization Aid, Adult and Postsecondary Education Grants, Bilingual Education Aid, Special Education Aid, County Vocational Program Aid, Transportation Aid, School Choice Aid, Consolidated Aid, Additional Formula Aid, Full-day Kindergarten Supplemental Aid, Targeted-At-Risk Aid, Abbott-Bordered District Aid, Nonpreschool ECPA, Extraordinary Special Educa-

tion Aid paid in 2006-2007, and Aid for Enrollment Adjustments, taking into consideration the June 2008 payment made in July 2008.

(2) For the 2009-2010 and 2010-2011 school years a school district or county vocational school district shall receive adjustment aid in such amount as to ensure that the district receives the greater of the amount of State aid calculated for the district pursuant to the provisions of this act or the State aid, other than educational adequacy aid, received by the district for the 2008-2009 school year.

(3) For the 2011-2012 school year and for each school year thereafter, a school district or county vocational school district that does not have a decline in its weighted enrollment, adjusted for bilingual education pupils and at-risk pupils, between the 2008-2009 school year and the budget year that is greater than 5% shall receive adjustment aid in such amount as to ensure that the district receives the greater of the amount of State aid calculated pursuant to the provisions of this act or the State aid, other than educational adequacy aid, received by the district for the 2008-2009 school year.

(4) For the 2011-2012 school year and for each school year thereafter, a school district or county vocational school district that has a decline in its weighted enrollment, adjusted for bilingual education pupils and at-risk pupils, between the 2008-2009 school year and the budget year that is greater than 5% shall have its adjustment aid reduced in an amount equal to the district's 2008-2009 per pupil adjustment aid amount multiplied by the decline in its resident enrollment that is greater than 5%.

b. In the case of a school district that received education opportunity aid in the 2007-2008 school year and for which the sum of the district's 2007-2008 State aid under the State aid categories listed under paragraph (1) of subsection a. of this section and general fund local levy is less than the sum of the district's adequacy budget as calculated pursuant to section 9 of this act, special education categorical aid calculated pursuant to section 13 of this act, and security aid calculated pursuant to section 14 of this act, the district shall receive educational adequacy aid if it meets the following criteria:

(1) the district fails to meet educational adequacy standards as determined by the commissioner; or

(2) the district is located in a municipality with an equalized total tax rate that is greater than 130% of the Statewide average equalized total tax rate; or

(3) the district has an equalized school tax rate that is greater than 110% of the Statewide average equalized school tax rate and is located in a municipality with an equalized total tax rate that is greater than 120% of the Statewide average equalized total tax rate; and

(4) the district will not meet adequacy in the 2008-2009 school year based on the State aid increase received by the district for that school year.

An eligible district shall receive educational adequacy aid for the 2008-2009 school year in accordance with the following formula:

$$\text{EA aid} = ((\text{AB} + \text{SE} + \text{SA}) - (\text{GFL} + \text{A08})) \times .33) - \text{ls} - \text{SA};$$

where AB is the district's adequacy budget as calculated pursuant to section 9 of this act;

SE is the district's special education categorical aid calculated pursuant to section 13 of this act;

SA is the district's security categorical aid calculated pursuant to section 14 of this act;

GFL is the district's prebudget year general fund local levy;

A08 is the sum of the district's 2007-2008 State aid under the State aid categories listed under paragraph (1) of subsection a. of this section;

ls is the district's prebudget year general fund local levy, multiplied by 4% in the case of a district which meets the criteria of paragraph (2) or paragraph (3) of this subsection, or in the case of a district which does not meet those criteria multiplied by 6%; and

SA is any increase in State aid between the prebudget and budget years.

An eligible district shall receive educational adequacy aid for the 2009-2010 school year in accordance with the following formula:

$$\text{EA aid} = ((\text{AB} - (\text{GFL} + \text{PEQAID})) \times .50) - \text{ls}; \text{ and}$$

An eligible district shall receive educational adequacy aid for the 2010-2011 school year in accordance with the following formula:

$$\text{EA aid} = (\text{AB} - (\text{GFL} + \text{PEQAID}) - \text{ls})$$

where

AB is the district's adequacy budget as calculated pursuant to section 9 of this act;

GFL is the district's prebudget year general fund local levy;

PEQAID is the district's prebudget year equalization aid calculated pursuant to section 11 of this act; and

ls is the district's prebudget year general fund local levy, multiplied by 4% in the case of a district which meets the criteria of paragraph (2) or paragraph (3) of this subsection, or in the case of a district which does not meet those criteria multiplied by 8% for the 2009-2010 school year and by 10% for the 2010-2011 school year;

For the 2011-2012 school year and for each school year thereafter, the district shall receive the amount of educational adequacy aid that the district received in the 2010-2011 school year.

C.18A:7F-59 Study of tax levy growth limitation.

17. The Commissioner of Education shall complete by the end of the 2010-2011 school year a study of the tax levy growth limitation enacted pursuant to sections 2 through 5 of P.L.2007, c.62 (C.18A:7F-37–18A:7F-40), for the purpose of analyzing any effects that the tax levy growth limitation has had on disparities in spending among the districts. The study shall include a recommendation by the commissioner on whether the tax levy growth limitation should be continued after the 2011-2012 school year, or whether the spending growth limitation under the provisions of section 5 of P.L.1996, c.138 (C.18A:7F-5) would be more effective in addressing any identified disparities in school district spending, or whether a revised growth limitation method might be warranted.

C.18A:7F-60 Conditions for disbursement of funds.

18. The Commissioner of Education shall not authorize the disbursement of funds to any district until the commissioner is satisfied that all educational expenditures in the district will be spent effectively and efficiently in order to enable students to achieve the core curriculum content standards. The commissioner shall be authorized to take any affirmative action as is necessary to ensure the effective and efficient expenditure of funds by school districts and county vocational school districts.

C.18A:7F-61 Percentage of district's district aid for 2008-09.

19. Notwithstanding any law or regulation to the contrary, for the 2008-2009 school year a district's district aid percentage calculated for purposes of the provisions of section 10 of P.L.2000, c.72 (C.18A:7G-10) shall equal the percentage calculated for the 2001-2002 school year.

C.18A:7F-62 Calculation of aid for choice student in choice district, resident enrollment.

20. For the purpose of calculating all forms of State aid pursuant to P.L.2007, c.260 (C.18A:7F-43 et al.) for a choice student in a choice district, the student shall be counted in the resident enrollment of the receiving district. The receiving district shall receive school choice aid for each choice student equal to the adequacy budget local levy per pupil amount.

For purposes of this section, "adequacy budget local levy per pupil amount" means the adequacy budget calculated pursuant to section 9 of P.L.2007, c.260 (C.18A:7F-51) minus equalization aid calculated pursuant to section 11 of P.L.2007, c.260 (C.18A:7F-53) divided by the resident enrollment.

C.18A:7F-63 Inclusion of facilities projects in SDA district budget.

21. a. Notwithstanding any provision of P.L.2000, c.72 (C.18A:7G-1 et al.) or P.L.2007, c.137 (C.52:18A-235 et al.) to the contrary, an SDA district as defined in section 3 of P.L.2000, c.72 (C.18A:7G-3) may include in its annual capital outlay budget and construct one or more school facilities projects if the cost of each project does not exceed \$500,000 and the commissioner approves the inclusion of the project upon a demonstration by the district that its budget includes sufficient funds to finance the project. A district may also withdraw funds from a capital reserve account for such purpose with the approval of the commissioner.

b. A school facilities project, the cost of which does not exceed \$500,000 and that is not financed and constructed pursuant to subsection a. of this section, shall continue to be financed and constructed in accordance with the provisions of P.L.2000, c.72 (C.18A:7G-1 et al.) and P.L.2007, c.137 (C.52:18A-235 et al.).

22. Section 10 of P.L.1975, c.212 (C.18A:7A-10) is amended to read as follows:

C.18A:7A-10 New Jersey Quality Single Accountability Continuum for evaluating school performance.

10. For the purpose of evaluating the thoroughness and efficiency of all the public schools of the State, the commissioner, with the approval of the State board and after review by the Joint Committee on the Public Schools, shall develop and administer the New Jersey Quality Single Accountability Continuum for evaluating the performance of each school district. The goal of the New Jersey Quality Single Accountability Continuum shall be to ensure that all districts are operating at a high level of performance. The system shall be based on an assessment of the degree to which the thoroughness and efficiency standards established pursuant to section 4 of P.L.2007, c.260 (C.18A:7F-46) are being achieved and an evaluation of school district capacity in the following five key components of school district effectiveness: instruction and program; personnel; fiscal management; operations; and governance. A school district's capacity and effectiveness shall be determined using quality performance indicators comprised of standards for each of the five key components of school district effectiveness. The quality performance indicators shall take into consideration a school district's performance over time, to the extent feasible. Based on a district's compliance with the indicators, the commissioner shall assess district capacity and effectiveness and place the district on a performance continuum that will

determine the type and level of oversight and technical assistance and support the district receives.

23. Section 24 of P.L.2007, c.16 (C.18A:7A-14a) is amended to read as follows:

C.18A:7A-14a Findings, declarations relative to school district evaluation and monitoring.

24. The Legislature finds and declares that:

a. It is the constitutional obligation of the Legislature to provide all children in New Jersey with a thorough and efficient system of free public schools;

b. The breadth and scope of such a system are defined by the Legislature through the commissioner and the State board pursuant to P.L.2007, c.260 (C.18A:7F-43 et al.) so as to insure quality educational programs for all children;

c. It is imperative that the program in every school district in this State includes all of the major elements identified as essential for that system consistent with standards adopted pursuant to section 10 of P.L.1975, c.212 (C.18A:7A-10);

d. It is the responsibility of the State to insure that any school district which is shown to be deficient in one or more of these major elements takes corrective actions without delay in order to remedy those deficiencies;

e. This responsibility can be fulfilled, in addition to the mechanism for ensuring compliance established pursuant to section 6 of P.L.1996, c.138 (C.18A:7F-6), through an effective and efficient system of evaluation and monitoring which will insure quality and comprehensive instructional programming in every school district and provide for immediate and direct corrective action to insure that identified deficiencies do not persist, and which does so within the context of the maximum of local governance and management and the minimum of paperwork and unnecessary procedural requirements.

24. Section 2 of P.L.2006, c.15 (C.18A:7A-55) is amended to read as follows:

C.18A:7A-55 Appointment of State monitor in certain school districts; duties.

2. a. In addition to the powers provided pursuant to P.L.2005, c.235, P.L.1996, c.138 (C.18A:7F-1 et al.), and P.L.2007, c.260 (C.18A:7F-43 et al.) or any other law, the Commissioner of Education shall have the author-

ity to appoint a State monitor and additional staff, as necessary, to provide direct oversight of a board of education's business operations and personnel matters if: the school district receives an adverse or a disclaimer of opinion by its independent auditor in the annual audit required pursuant to N.J.S.18A:23-1; or any two or more of the following circumstances apply to the school district:

(1) the school district ends the fiscal year with a deficit balance as calculated for budgetary purposes in the general fund, special revenue fund, or capital projects fund, with the exception of a capital projects fund deficit caused by the issuance of bond anticipation notes;

(2) the school district receives a qualified opinion by its independent auditor in the annual audit required pursuant to N.J.S.18A:23-1;

(3) the school district receives an adverse, disclaimer, or qualified opinion by its independent auditor under the single audit section for State or federal awards in the annual audit required pursuant to N.J.S.18A:23-1;

(4) the school district receives any audit findings by its independent auditor identified as material weaknesses in internal controls;

(5) the school district fails to develop and implement a plan acceptable to the commissioner or his designee to address a potential or actual deficit balance in the general fund, special revenue fund, or capital projects fund, with the exception of a capital projects fund deficit caused by the issuance of bond anticipation notes;

(6) the school district fails to implement a plan from the prior year which causes any findings from the independent auditor to be repeated;

(7) the school district is required to return federal funds once it is determined that the school district's expenditures are not in compliance with the grant requirements; or

(8) the school district submits the annual audit after the submission date required pursuant to N.J.S.18A:23-1.

b. The State monitor shall:

(1) oversee the fiscal management and expenditures of school district funds, including, but not limited to, budget reallocations and reductions, approvals of purchase orders, budget transfers, and payment of bills and claims;

(2) oversee the operation and fiscal management of school district facilities, including the development and implementation of recommendations for redistricting and restructuring of schools;

(3) ensure development and implementation of an acceptable plan to address the circumstances set forth in subsection a. of this section which resulted in the appointment of the State monitor. The plan shall include

measurable benchmarks and specific activities to address the deficiencies of the school district;

(4) oversee all district staffing, including the ability to hire, promote, and terminate employees;

(5) have authority to override a chief school administrator's action and a vote by the board of education on any of the matters set forth in this subsection, except that all actions of the State monitor shall be subject to the education, labor, and employment laws and regulations, including the "New Jersey Employer-Employee Relations Act," P.L.1941, c.100 (C.34:13A-1 et seq.), and collective bargaining agreements entered into by the school district;

(6) attend all meetings of the board of education, including closed sessions; and

(7) meet with the board of education on at least a quarterly basis to discuss with the members of the board the past actions of the board which led to the appointment of the State monitor and to provide board members with education and training that address the deficiencies identified in board actions.

c. The Commissioner of Education shall notify the State Board of Education following the appointment of a State monitor pursuant to subsection a. of this section. The State monitor shall report directly to the commissioner or his designee on a weekly basis. The State monitor shall also report monthly to the board of education and members of the public at the regularly scheduled board of education meeting.

d. For purposes of the "New Jersey Tort Claims Act," N.J.S.59:1-1 et seq., the State monitor shall be considered a State officer, but for all other purposes the State monitor shall be considered an employee of the district.

e. The State monitor shall provide oversight in the school district until the commissioner determines that all remedial actions required under the plan have been implemented and the necessary local capacity and fiscal controls have been restored to school district operations.

f. The salary of the State monitor shall be fixed by the commissioner and adjusted from time to time as the commissioner deems appropriate. The school district shall assume the total cost of the State monitor and necessary additional staff appointed pursuant to subsection a. of this section. The State monitor shall have the authority to appoint legal counsel if legal action is taken against him while acting in his official duties as a State monitor or as needed upon approval of the commissioner.

25. Section 14 of P.L.2007, c.53 (C.18A:7A-60) is amended to read as follows:

C.18A:7A-60 Additional powers of Commissioner of Education relative to performance of compliance audit report.

14. a. In addition to the powers provided pursuant to P.L.2005, c.235, P.L.1996, c.138 (C.18A:7F-1 et al.), and P.L.2007, c.260 (C.18A:7F-43 et al.) or any other law, the Commissioner of Education may appoint an external entity, in accordance with State procurement laws, to perform a compliance audit of the spending of the district's general fund budget upon identification that the district may be spending State education funds for purposes that are not in compliance with State education law and regulation. The scope of the compliance audit shall be determined by the commissioner based upon the specific circumstances of the district.

b. The final report of a compliance audit conducted pursuant to subsection a. of this section shall include specific findings and recommendations, as applicable, and shall be submitted to the commissioner. The commissioner may use the audit report as evidence for the appointment of a State monitor pursuant to the provisions of subsection a. of section 2 of P.L.2006, c.15 (C.18A:7A-55).

c. The school district shall reimburse the Department of Education for the total cost of the compliance audit conducted pursuant to subsection a. of this section if the final audit report includes findings that the district has spent State education funds for purposes that are not in compliance with State education law and regulation.

26. Section 9 of P.L.1979, c.207 (C.18A:7B-5) is amended to read as follows:

C.18A:7B-5 Rules, regulations to ensure thorough and efficient education for children in State facilities.

9. The Commissioner of Education, with the approval of the State Board of Education, shall promulgate rules and regulations to ensure a thorough and efficient education, consistent with the provisions of P.L.2007, c.260 (C.18A:7F-43 et al.), for the children in State facilities. In the case of county juvenile detention centers, the Office of Education in the Juvenile Justice Commission shall develop, in consultation with the commissioner, appropriate standards, to be effective for Fiscal Year 1999, for the provision of a thorough and efficient education by the county for facilities established under chapter 10 and chapter 11 of Title 9 of the Revised Statutes.

The commissioner shall continually review the operation of educational programs in State facilities. If he finds that the operation of any of these programs does not meet the educational standard required by the regula-

tions, he shall direct that a remedial plan be prepared by the education director of the facility in which the program is located, together with the director of educational services of the department which is operating or contracting with the facility. The plan shall be submitted to the Commissioner of Education for his approval. If he approves the plan, it shall be implemented in a timely and effective manner. If he finds the plan or its implementation to be insufficient, he may, until the insufficiency is corrected, withhold and place in a special account any State aid funds which otherwise would have been forwarded pursuant to section 6 of P.L.1979, c.207.

27. Section 19 of P.L.1979, c.207 (C.18A:7B-12) is amended to read as follows:

C.18A:7B-12 Determination of district of residence.

19. For school funding purposes, the Commissioner of Education shall determine district of residence as follows:

a. The district of residence for children in resource family homes shall be the district in which the resource family parents reside. If a child in a resource family home is subsequently placed in a State facility or by a State agency, the district of residence of the child shall then be determined as if no such resource family placement had occurred.

b. The district of residence for children who are in residential State facilities, or who have been placed by State agencies in group homes, skill development homes, private schools or out-of-State facilities, shall be the present district of residence of the parent or guardian with whom the child lived prior to his most recent admission to a State facility or most recent placement by a State agency.

If this cannot be determined, the district of residence shall be the district in which the child resided prior to such admission or placement.

c. The district of residence for children whose parent or guardian temporarily moves from one school district to another as the result of being homeless shall be the district in which the parent or guardian last resided prior to becoming homeless. For the purpose of this amendatory and supplementary act, "homeless" shall mean an individual who temporarily lacks a fixed, regular and adequate residence.

d. If the district of residence cannot be determined according to the criteria contained herein, or if the criteria contained herein identify a district of residence outside of the State, the State shall assume fiscal responsibility for the tuition of the child. The tuition shall equal the approved per pupil cost established pursuant to P.L.1996, c.138 (C.18A:7F-1 al.). This amount

shall be appropriated in the same manner as other State aid under this act. The Department of Education shall pay the amount to the Department of Human Services, the Department of Children and Families, the Department of Corrections or the Juvenile Justice Commission established pursuant to section 2 of P.L.1995, c.284 (C.52:17B-170) or, in the case of a homeless child, the Department of Education shall pay to the school district in which the child is enrolled the weighted base per pupil amount calculated pursuant to section 7 of P.L.2007, c.260 (C.18A:7F-49) and the appropriate security categorical aid per pupil and special education categorical aid per pupil.

e. If the State has assumed fiscal responsibility for the tuition of a child in a private educational facility approved by the Department of Education to serve children who are classified as needing special education services, the department shall pay to the Department of Human Services, the Department of Children and Families or the Juvenile Justice Commission, as appropriate, the aid specified in subsection d. of this section and in addition, such aid as required to make the total amount of aid equal to the actual cost of the tuition.

28. Section 5 of P.L.1996, c.138 (C.18A:7F-5) is amended to read as follows:

C.18A:7F-5 Notification of districts of aid payable; budget submissions.

5. As used in this section, "cost of living" means the CPI as defined in section 3 of P.L.2007, c.260 (C.18A:7F-45).

a. Within 30 days following the approval of the Educational Adequacy Report, the commissioner shall notify each district of the base per pupil amount, the per pupil amounts for full-day preschool, the weights for grade level, county vocational school districts, at-risk pupils, bilingual pupils, and combination pupils, the cost coefficients for security aid and for transportation aid, the State average classification rate and the excess cost for general special education services pupils, the State average classification rate and the excess cost for speech-only pupils, and the geographic cost adjustment for each of the school years to which the report is applicable.

Annually, within two days following the transmittal of the State budget message to the Legislature by the Governor pursuant to section 11 of P.L.1944, c.112 (C.52:27B-20), the commissioner shall notify each district of the maximum amount of aid payable to the district in the succeeding school year pursuant to the provisions of P.L.2007, c.260 (C.18A:7F-43 et al.), and shall notify each district of the district's adequacy budget for the succeeding school year.

For the 2008-2009 school year and thereafter, unless otherwise specified within P.L.2007, c.260 (C.18A:7F-43 et al.), aid amounts payable for the budget year shall be based on budget year pupil counts, which shall be projected by the commissioner using data from prior years. Adjustments for the actual pupil counts of the budget year shall be made to State aid amounts payable during the school year succeeding the budget year. Additional amounts payable shall be reflected as revenue and an account receivable for the budget year.

Notwithstanding any other provision of this act to the contrary, each district's State aid payable for the 2008-2009 school year, with the exception of aid for school facilities projects, shall be based on simulations employing the various formulas and State aid amounts contained in P.L.2007, c.260 (C.18A:7F-43 et al.). The commissioner shall prepare a report dated December 12, 2007 reflecting the State aid amounts payable by category for each district and shall submit the report to the Legislature prior to the adoption of P.L.2007, c.260 (C.18A:7F-43 et al.). Except as otherwise provided pursuant to this subsection and paragraph (3) of subsection d. of section 5 of P.L.2007, c.260 (C.18A:7F-47), the amounts contained in the commissioner's report shall be the final amounts payable and shall not be subsequently adjusted other than to reflect the phase-in of the required general fund local levy pursuant to paragraph (4) of subsection b. of section 16 of P.L.2007, c.260 (C.18A:7F-58) and to reflect school choice aid to which a district may be entitled pursuant to section 20 of that act. The projected pupil counts and equalized valuations used for the calculation of State aid shall also be used for the calculation of adequacy budget, local share, and required local share. For 2008-2009, extraordinary special education State aid shall be included as a projected amount in the commissioner's report dated December 12, 2007 pending the final approval of applications for the aid. If the actual award of extraordinary special education State aid is greater than the projected amount, the district shall receive the increase in the aid payable in the subsequent school year pursuant to the provisions of subsection c. of section 13 of P.L.2007, c.260 (C.18A:7F-55). If the actual award of extraordinary special education State aid is less than the projected amount, other State aid categories shall be adjusted accordingly so that the district shall not receive less State aid than as provided in accordance with the provisions of sections 5 and 16 of P.L.2007, c.260 (C.18A:7F-47 and C.18A:7F-58).

In the event that the commissioner determines, following the enactment of P.L.2007, c.260 (C.18A:7F-43 et al.) but prior to the issuance of State aid notices for the 2008-2009 school year, that a significant district-specific

change in data warrants an increase in State aid for that district, the commissioner may adjust the State aid amount provided for the district in the December 12, 2007 report to reflect the increase.

b. Each district shall have a required local share. For districts that receive educational adequacy aid pursuant to subsection b. of section 16 of P.L.2007, c.260 (C.18A:7F-58), the required local share shall be calculated in accordance with the provisions of that subsection.

For all other districts, the required local share shall equal the lesser of the local share calculated at the district's adequacy budget pursuant to section 9 of P.L.2007, c.260 (C.18A:7F-51), or the district's budgeted local share for the prebudget year.

In order to meet this requirement, each district shall raise a general fund tax levy which equals its required local share.

No municipal governing body or bodies or board of school estimate, as appropriate, shall certify a general fund tax levy which does not meet the required local share provisions of this section.

c. Annually, on or before March 4, each district board of education shall adopt, and submit to the commissioner for approval, together with such supporting documentation as the commissioner may prescribe, a budget that provides for a thorough and efficient education. Notwithstanding the provisions of this subsection to the contrary, the commissioner may adjust the date for the submission of district budgets if the commissioner determines that the availability of preliminary aid numbers for the subsequent school year warrants such adjustment.

Notwithstanding any provision of this section to the contrary, for the 2005-2006 school year each district board of education shall submit a proposed budget in which the advertised per pupil administrative costs do not exceed the lower of the following:

(1) the district's advertised per pupil administrative costs for the 2004-2005 school year inflated by the cost of living or 2.5 percent, whichever is greater; or

(2) the per pupil administrative cost limits for the district's region as determined by the commissioner based on audited expenditures for the 2003-2004 school year.

The executive county superintendent of schools may disapprove the school district's 2005-2006 proposed budget if he determines that the district has not implemented all potential efficiencies in the administrative operations of the district. The executive county superintendent shall work with each school district in the county during the 2004-2005 school year to identify administrative inefficiencies in the operations of the district that

might cause the superintendent to reject the district's proposed 2005-2006 school year budget.

For the 2006-2007 school year and each school year thereafter, each district board of education shall submit a proposed budget in which the advertised per pupil administrative costs do not exceed the lower of the following:

(1) the district's prior year per pupil administrative costs; except that the district may submit a request to the commissioner for approval to exceed the district's prior year per pupil administrative costs due to increases in enrollment, administrative positions necessary as a result of mandated programs, administrative vacancies, nondiscretionary fixed costs, and such other items as defined in accordance with regulations adopted pursuant to section 7 of P.L.2004, c.73. In the event that the commissioner approves a district's request to exceed its prior year per pupil administrative costs, the increase authorized by the commissioner shall not exceed the cost of living or 2.5 percent, whichever is greater; or

(2) the prior year per pupil administrative cost limits for the district's region inflated by the cost of living or 2.5 percent, whichever is greater.

d. (1) A district shall submit, as appropriate, to the board of school estimate or to the voters of the district at the annual school budget election conducted pursuant to the provisions of P.L.1995, c.278 (C.19:60-1 et al.), a general fund tax levy which when added to the other components of its net budget does not exceed the prebudget year net budget by more than the spending growth limitation calculated as follows: the sum of the cost of living or 2.5 percent, whichever is greater, multiplied by the prebudget year net budget, and adjustments for changes in enrollment, certain capital outlay expenditures, expenditures for pupil transportation services provided pursuant to N.J.S.18A:39-1.1, expenditures incurred in connection with the opening of a new school facility during the budget year, and special education costs per pupil in excess of \$40,000. The adjustment for special education costs shall equal any increase in the sum of per pupil amounts in excess of \$40,000 for the budget year less the sum of per pupil amounts in excess of \$40,000 for the prebudget year indexed by the cost of living or 2.5 percent, whichever is greater. The adjustment for enrollments shall equal the increase in weighted resident enrollments between the prebudget year and budget year multiplied by the per pupil general fund tax levy amount for the prebudget year indexed by the cost of living or 2.5 percent, whichever is greater. The adjustment for capital outlay shall equal any increase between the capital outlay portion of the general fund budget for the budget year less any withdrawals from the capital reserve account and the

capital outlay portion of the general fund budget for the prebudget year indexed by the cost of living or 2.5 percent, whichever is greater. Any district with a capital outlay adjustment to its spending growth limitation shall be restricted from transferring any funds from capital outlay accounts to current expense accounts. The adjustment for capital outlay shall not become part of the prebudget year net budget for purposes of calculating the spending growth limitation of the subsequent year. The adjustment for pupil transportation costs provided pursuant to N.J.S.18A:39-1.1 shall equal any increase between the cost of providing such pupil transportation services for the budget year and the cost of providing such pupil transportation services for the prebudget year indexed by the cost of living or 2.5 percent, whichever is greater. The adjustment for the opening of a new school facility shall include costs associated with the new facility related to new teaching staff members, support staff, materials and equipment, custodial and maintenance expenditures, and such other required costs as determined by the commissioner.

(2) (Deleted by amendment, P.L.2007, c.260).

(3) (Deleted by amendment, P.L.2007, c.260).

(4) Any debt service payment made by a school district during the budget year shall not be included in the calculation of the district's spending growth limitation.

(5) (Deleted by amendment, P.L.2007, c.260).

(6) (Deleted by amendment, P.L.2007, c.260).

(7) (Deleted by amendment, P.L.2004, c.73).

(8) If an increase in tuition for the budget year charged to a sending district by the receiving district pursuant to the provisions of N.J.S.18A:38-19 would reduce the sending district's per pupil net budget amount below the prior year's per pupil net budget amount in order to comply with the district's spending growth limitation, the district may apply to the commissioner for an adjustment to that limitation.

(9) Any district may submit at the annual school budget election a separate proposal or proposals for additional funds, including interpretive statements, specifically identifying the program purposes for which the proposed funds shall be used, to the voters, who may, by voter approval, authorize the raising of an additional general fund tax levy for such purposes. In the case of a district with a board of school estimate, one proposal for the additional spending shall be submitted to the board of school estimate. Any proposal or proposals submitted to the voters or the board of school estimate shall not include any programs and services that were included in the district's prebudget year net budget unless the proposal is approved by the commissioner

upon submission by the district of sufficient reason for an exemption to this requirement; or include any new programs and services necessary for students to achieve the thoroughness standards established pursuant to subsection a. of section 4 of P.L.2007, c.260 (C.18A:7F-46).

The executive county superintendent of schools may prohibit the submission of a separate proposal or proposals to the voters or board of school estimate if he determines that the district has not implemented all potential efficiencies in the administrative operations of the district, which efficiencies would eliminate the need for the raising of an additional general fund tax levy.

Except as otherwise provided pursuant to paragraph (3) of subsection c. of section 4 of P.L.2007, c.62 (C.18A:7F-39), any proposal or proposals rejected by the voters shall be submitted to the municipal governing body or bodies for a determination as to the amount, if any, that should be expended notwithstanding voter rejection. The decision of the municipal governing body or bodies or board of school estimate, as appropriate, shall be final and no appeals shall be made to the commissioner.

(10) Notwithstanding any provision of law to the contrary, if a district proposes a budget with a general fund tax levy and equalization aid which exceed the adequacy budget, the following statement shall be published in the legal notice of public hearing on the budget pursuant to N.J.S.18A:22-28, posted at the public hearing held on the budget pursuant to N.J.S.18A:22-29, and printed on the sample ballot required pursuant to section 10 of P.L.1995, c.278 (C.19:60-10):

"Your school district has proposed programs and services in addition to the core curriculum content standards adopted by the State Board of Education. Information on this budget and the programs and services it provides is available from your local school district."

(11) Any reduction that may be required to be made to programs and services included in a district's prebudget year net budget in order for the district to limit the growth in its budget between the prebudget and budget years by its spending growth limitation as calculated pursuant to this subsection, shall only include reductions to excessive administration or programs and services that are inefficient or ineffective.

e. (1) Any general fund tax levy rejected by the voters for a proposed budget that includes a general fund tax levy and equalization aid in excess of the adequacy budget shall be submitted to the governing body of each of the municipalities included within the district for determination of the amount that should be expended notwithstanding voter rejection. In the case of a district having a board of school estimate, the general fund tax levy shall be submitted to the board for determination of the amount that

should be expended. If the governing body or bodies or board of school estimate, as appropriate, reduce the district's proposed budget, the district may appeal any of the reductions to the commissioner on the grounds that the reductions will negatively impact on the stability of the district given the need for long term planning and budgeting. In considering the appeal, the commissioner shall consider enrollment increases or decreases within the district; the history of voter approval or rejection of district budgets; the impact on the local levy; and whether the reductions will impact on the ability of the district to fulfill its contractual obligations. A district may not appeal any reductions on the grounds that the amount is necessary for a thorough and efficient education.

(2) Any general fund tax levy rejected by the voters for a proposed budget that includes a general fund tax levy and equalization aid at or below the adequacy budget shall be submitted to the governing body of each of the municipalities included within the district for determination of the amount that should be expended notwithstanding voter rejection. In the case of a district having a board of school estimate, the general fund tax levy shall be submitted to the board for determination. Any reductions may be appealed to the commissioner on the grounds that the amount is necessary for a thorough and efficient education or that the reductions will negatively impact on the stability of the district given the need for long term planning and budgeting. In considering the appeal, the commissioner shall also consider the factors outlined in paragraph (1) of this subsection.

In addition, the municipal governing body or board of school estimate shall be required to demonstrate clearly to the commissioner that the proposed budget reductions shall not adversely affect the ability of the school district to provide a thorough and efficient education or the stability of the district given the need for long term planning and budgeting.

(3) In lieu of any budget reduction appeal provided for pursuant to paragraphs (1) and (2) of this subsection, the State board may establish pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), an expedited budget review process based on a district's application to the commissioner for an order to restore a budget reduction.

(4) When the voters, municipal governing body or bodies, or the board of school estimate authorize the general fund tax levy, the district shall submit the resulting budget to the commissioner within 15 days of the action of the voters or municipal governing body or bodies, whichever is later, or of the board of school estimate as the case may be.

f. (Deleted by amendment, P.L.2007, c.260).

g. (Deleted by amendment, P.L.2007, c.260).

29. Section 36 of P.L.2000, c.126 (C.18A:7F-5a) is amended to read as follows:

C.18A:7F-5a Inclusion of certain amounts in future school district budget.

36. a. Notwithstanding any provision of P.L.1996, c.138 (C.18A:7F-1 et al.) or P.L.2007, c.260 (C.18A:7F-43 et al.) to the contrary and except as otherwise provided pursuant to subsection b. of this section, any school district which increases its net budget between the prebudget and budget years in an amount less than that authorized pursuant to subsection d. of section 5 of P.L.1996, c.138 (C.18A:7F-5), shall be permitted to include the amount of the difference between its actual net budget and its permitted net budget in either of the next two succeeding budget years; except that beginning with any difference in the 2004-2005 budget year and any difference in a subsequent budget year, only 50% of the difference may be included in either of the next two succeeding budget years.

b. For the 2005-2006 school year and thereafter, the executive county superintendent of schools may disapprove a school district's proposed budget which includes the amount of any difference authorized pursuant to subsection a. of this section if the executive county superintendent determines that the district has not implemented all potential efficiencies in the administrative operations of the district, which efficiencies would eliminate the need for the inclusion of the differential amount. The executive county superintendent shall work with each school district in the county during the 2004-2005 school year and each subsequent school year to identify administrative inefficiencies in the operations of the district that might cause the executive county superintendent to reject the district's proposed budget.

30. Section 6 of P.L.1996, c.138 (C.18A:7F-6) is amended to read as follows:

C.18A:7F-6 Approval of budget by commissioner.

6. a. The commissioner shall not approve any budget submitted pursuant to subsection c. of section 5 of this act unless he is satisfied that the district has adequately implemented within the budget the thoroughness and efficiency standards set forth pursuant to section 4 of P.L.2007, c.260 (C.18A:7F-46). In those instances in which a district submits a budget with a general fund tax levy and equalization aid set at less than its adequacy budget, the commissioner may, when he deems it necessary to ensure implementation of standards, direct additional expenditures, in specific accounts and for specific purposes, up to the district's adequacy budget. A

district which submits a budget with a general fund tax levy and equalization aid set at less than its adequacy budget and which fails to meet core curriculum content standards in any school year shall be required to increase expenditures so as to meet at least the adequacy budget within the next two budget years. In all cases, including those instances in which a district submits a budget with a general fund tax levy and equalization aid above its adequacy budget, the commissioner may direct such budgetary reallocations and programmatic adjustments, or take such other measures, as he deems necessary to ensure implementation of the required thoroughness and efficiency standards.

b. In addition, whenever the commissioner determines, through the results of Statewide assessments conducted pursuant to law and regulation, or during the course of an evaluation of school performance conducted pursuant to section 10 of P.L.1975, c.212 (C.18A:7A-10), that a district, or one or more schools within the district, is failing to achieve the core curriculum content standards, the commissioner may summarily take such action as he deems necessary and appropriate, including but not limited to:

- (1) directing the restructuring of curriculum or programs;
- (2) directing staff retraining or reassignment;
- (3) conducting a comprehensive budget evaluation;
- (4) redirecting expenditures;
- (5) enforcing spending at the full adequacy budget; and
- (6) notwithstanding any provisions of the "New Jersey Employer-Employee Relations Act," P.L.1941, c.100 (C.34:13A-1 et seq.), to the contrary, reviewing the terms of future collective bargaining agreements.

The commissioner shall report any action taken under this subsection to the State board within 30 days. A board of education may appeal a determination that the district is failing to achieve the core curriculum content standards and any action of the commissioner to the State board.

Nothing in this section shall be construed to limit such general or specific powers as are elsewhere conferred upon the commissioner pursuant to law.

Nothing in this act shall be deemed to restrict or limit any rights established pursuant to the "New Jersey Employer-Employee Relations Act," P.L.1941, c.100 (C.34:13A-1 et seq.), nor shall the commissioner's powers under this act be construed to permit the commissioner to restrict, limit, interfere with, participate, or be directly involved in collective negotiations, contract administration, or processing of grievances, or in relation to any terms and conditions of employment. This provision shall apply to an existing State-operated school district or a district that is placed under full

State intervention only after the terms and conditions of a contract have been finalized.

c. (Deleted by amendment, P.L.2007, c.260).

d. In addition to the audit required of school districts pursuant to N.J.S.18A:23-1, the accounts and financial transactions of any school district in which the State aid equals 80% or more of its net budget for the budget year shall be directly audited by the Office of the State Auditor on an annual basis.

e. (Deleted by amendment, P.L.2007, 260).

31. Section 8 of P.L.1996, c.138 (C.18A:7F-8) is amended to read as follows:

C.18A:7F-8 Payments to school district by State Treasurer, dates.

8. The amounts payable to each school district and county vocational school district pursuant to this act shall be paid by the State Treasurer upon the certification of the commissioner and warrant of the Director of the Division of Budget and Accounting. Five percent of the appropriation for equalization aid, special education categorical aid, preschool education aid, security aid, transportation aid, adjustment aid, and any other aid pursuant to P.L.2007, c.260 (C.18A:7F-43 et al.) shall be paid on the eighth and twenty-second of each month from September through June. If a local board of education requires funds prior to the first payment, the board shall file a written request with the commissioner stating the need for the funds. The commissioner shall review each request and forward for payment those for which need has been demonstrated.

Facilities funds shall be paid as required to meet due dates for payment of principal and interest. Each school district, county vocational school district, and county special services school district shall file an annual report regarding facilities payments to the commissioner. The report shall include the amount of interest bearing school debt, if any, of the municipality or district then remaining unpaid, together with the rate of interest payable thereon, the date or dates on which the bonds or other evidences of indebtedness were issued, and the date or dates upon which they fall due. In the case of a Type I school district, the board secretary shall secure the schedule of outstanding obligations from the clerk of the municipality.

32. Section 9 of P.L.1996, c.138 (C.18A:7F-9) is amended to read as follows:

C.18A:7F-9 Receipt of State aid by school district; conditions.

9. In order to receive any State aid pursuant to P.L.2007, c.260 (C.18A:7F-43 et al.), a school district, county vocational school district, or county special services school district shall comply with the rules and standards for the equalization of opportunity which have been or may hereafter be prescribed by law or formulated by the commissioner pursuant to law, including those implementing P.L.1996, c.138 (C.18A:7F-1 et al.) and P.L.2007, c.260 (C.18A:7F-43 et al.) or related to the core curriculum content standards required by P.L.2007, c.260 (C.18A:7F-43 et al.), and shall further comply with any directive issued by the commissioner pursuant to section 6 of P.L.1996, c.138 (C.18A:7F-6). The commissioner is hereby authorized to withhold all or part of a district's State aid for failure to comply with any rule, standard or directive. No State aid shall be paid to any district which has not provided public school facilities for at least 180 days during the preceding school year, but the commissioner, for good cause shown, may remit the penalty.

33. Section 32 of P.L.1996, c.138 (C.18A:7F-32) is amended to read as follows:

C.18A:7F-32 Adjustment of State aid calculations in regional districts.

32. a. When State aid is calculated for any year and a part of any district becomes a new school district or a part of another school district, or comes partly under the authority of a regional board of education, the commissioner shall adjust the State aid calculations among the districts affected, or between the district and the regional board, as the case may be, on an equitable basis in accordance with the intent of this act.

Whenever an all-purpose regional school district is approved by the voters during any calendar year, the regional district shall become effective on the succeeding July 1 for the purpose of calculating State aid, and the commissioner shall request supplemental appropriations for such additional State aid as may be required. After a regional school district becomes entitled to State aid, it shall continue to be entitled to aid as calculated for a regional district notwithstanding the subsequent consolidation of the constituent municipalities of the regional school district.

b. For a period of five years following regionalization, each regional school district formed after the effective date of P.L.2007, c.260 (C.18A:7F-43 et al.) shall be eligible to receive supplemental State aid equal to the difference between the regional district's equalization aid calculated pursuant to section 11 of P.L.2007, c.260 (C.18A:7F-53) for the

budget year and the sum of equalization aid received by each constituent district of that regional school district in the year prior to regionalization, multiplied by the transition weight. For the purpose of this section, the transition weight shall equal 1.0 for the first year following regionalization, .80 for the second year following regionalization, .60 for the third year following regionalization, .40 for the fourth year following regionalization, and .20 for the fifth year following regionalization.

34. Section 33 of P.L.1996, c.138 (C.18A:7F-33) is amended to read as follows:

C.18A:7F-33 Annual filing of district report with commissioner.

33. Annually, on or before October 20, the secretary of the board of education, with approval of the superintendent of schools, or if there is no superintendent of schools, with the approval of the executive county superintendent of schools, shall file with the commissioner a report prescribed by the commissioner containing all data necessary to effectuate the aid provisions of P.L.2007, c.260 (C.18A:7F-43 et al.), which shall include but not be limited to, the number of pupils enrolled by grade, the number of these pupils classified as eligible for special education services and speech-only services, the number of pupils in approved programs for bilingual education, the number of at-risk pupils, the number of combination pupils, and the number of pupils in State facilities, county vocational schools, State college demonstration schools, evening schools, other public or private schools to which the district is paying tuition, or who are receiving home instruction on the last school day prior to October 16. In addition, districts shall file annual reports providing such information as the commissioner may require for pupils receiving special education services.

35. Section 84 of P.L.1996, c.138 (C.18A:7F-34) is amended to read as follows:

C.18A:7F-34 Rules, regulations.

84. The Commissioner of Education shall 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 provisions of this act.

36. Section 2 of P.L.2007, c.62 (C.18A:7F-37) is amended to read as follows:

C.18A:7F-37 Definitions relative to property tax levy cap concerning school districts.

2. For the purposes of sections 2 through 7 of P.L.2007, c.62 (C.18A:7F-37 through C.18A:7F-42):

"Adjusted tax levy" means the amount raised by property taxation for the purposes of the school district, excluding any debt service payment.

"Commissioner" means the Commissioner of Education.

"New Jersey Quality Single Accountability Continuum" or "NJQSAC" means the monitoring and evaluation process of school districts pursuant to section 10 of P.L.1975, c.212 (C.18A:7A-10).

"Prebudget year adjusted tax levy" means the amount raised by property taxation in the prebudget year for the purposes of the school district, excluding any debt service payment, less any amounts raised after approval of a waiver by the commissioner or separate question by the voters or board of school estimate in the prebudget year unless such approval explicitly allows the approved increases to be permanent.

"School district" means any local or regional school district established pursuant to chapter 8 or chapter 13 of Title 18A of the New Jersey Statutes.

"Unrestricted State aid" means, for the 2007-2008 school year, State aid that is included in a school district's State aid notice and allocated pursuant to P.L.1996, c.138 (C.18A:7F-1 et al.) or any other law for appropriation in a school district's general fund plus early childhood program aid allocated pursuant to section 16 of P.L.1996, c.138 (C.18A:7F-16) or any other law and demonstrably effective program aid and instructional supplement aid allocated pursuant to section 18 of P.L.1996, c.138 (C.18A:7F-18) or any other law; and for the 2008-2009 through 2011-2012 school years, State aid that is included in a school district's State aid notice and allocated pursuant to P.L.2007, c.260 (C.18A:7F-43 et al.) or any other law for appropriation in a school district's general fund plus preschool education aid allocated pursuant to section 12 of P.L.2007, c.260 (C.18A:7F-54) or any other law.

"Weighted resident enrollment" means weighted resident enrollment as calculated pursuant to section 8 of P.L.2007, c.260 (C.18A:7F-50) and as projected by the commissioner.

37. Section 3 of P.L.2007, c.62 (C.18A:7F-38) is amended to read as follows:

C.18A:7F-38 School district budget increase subject to tax levy growth limitation.

3. a. (1) Notwithstanding the provisions of any other law to the contrary, a school district shall not adopt a budget pursuant to sections 5 and 6 of P.L.1996, c.138 (C.18A:7F-5 and 18A:7F-6) with an increase in its ad-

justed tax levy that exceeds the tax levy growth limitation calculated as follows: the sum of the prebudget year adjusted tax levy and the adjustment for increases in enrollment multiplied by four percent, and adjustments for a reduction in total unrestricted State aid from the prebudget year, an increase in health care costs, and beginning in the 2008-2009 school year, amounts approved by a waiver granted by the commissioner pursuant to section 4 of P.L.2007, c.62 (C.18A:7F-39).

(2) Notwithstanding any provision of paragraph (1) of this subsection to the contrary, beginning in the 2008-2009 school year the tax levy growth limitation for a district which is spending above adequacy as determined pursuant to subsection d. of section 5 of P.L.2007, c.260 (C.18A:7F-47) and has a prebudget year general fund tax levy greater than its local share as calculated pursuant to section 10 of that act and which receives an increase in State aid between the prebudget and budget years that is greater than 2% or the CPI, whichever is greater, shall be reduced by the amount of the State aid increase that exceeds 2% or the CPI, whichever is greater. For the purposes of this paragraph, the CPI shall not exceed 4%. The reduction shall be made following the calculation of any adjustments for increases in enrollment, a reduction in total unrestricted State aid, and an increase in health care costs calculated pursuant to subsections b., c., and d. of this section and prior to the request or approval of waivers pursuant to section 4 of P.L.2007, c.62 (C.18A:7F-39). In the event that the reduction would bring the district's spending below adequacy, notwithstanding the requirements of this paragraph to the contrary the amount of the reduction made to the district's tax levy growth limitation shall not be greater than the amount that brings the district's spending to adequacy.

b. (1) The allowable adjustment for increases in enrollment authorized pursuant to subsection a. of this section shall equal the per pupil prebudget year adjusted tax levy multiplied by EP, where EP equals the sum of:

(a) 0.50 for each unit of weighted resident enrollment that constitutes an increase from the prebudget year over 1%, but not more than 2.5%;

(b) 0.75 for each unit of weighted resident enrollment that constitutes an increase from the prebudget year over 2.5%, but not more than 4%; and

(c) 1.00 for each unit of weighted resident enrollment that constitutes an increase from the prebudget year over 4%.

(2) A school district may request approval from the commissioner to calculate EP equal to 1.00 for any increase in weighted resident enrollment if it can demonstrate that the calculation pursuant to paragraph (1) of this subsection would result in an average class size that exceeds 10% above the

facilities efficiency standards established pursuant to P.L.2000, c.72 (C.18A:7G-1 et al.).

c. The allowable adjustment for a reduction in total unrestricted State aid authorized pursuant to subsection a. of this section shall equal any reduction in total unrestricted State aid from the prebudget to the budget year.

d. The allowable adjustment for increases in health care costs authorized pursuant to subsection a. of this section shall equal that portion of the actual increase in total health care costs for the budget year, less any withdrawals from the current expense emergency reserve account for increases in total health care costs, that exceeds four percent of the total health care costs in the prebudget year, but that is not in excess of the product of the total health care costs in the prebudget year multiplied by the average percentage increase of the State Health Benefits Program, P.L.1961, c.49 (C.52:14-17.25 et seq.), as annually determined by the Division of Pensions and Benefits in the Department of the Treasury.

e. In addition to the adjustments authorized pursuant to subsection a. of this section, for the purpose of determining a school district's allowable tax levy growth limitation for the 2007-2008 school year, a school district may apply to the commissioner for an adjustment for increases in special education costs over \$40,000 per pupil, increases in tuition, capital outlay increases, and incremental increases in costs for opening a new school facility in the budget year.

(1) The allowable adjustment for increases in special education costs over \$40,000 per pupil shall equal any increase in the sum of per pupil amounts in excess of \$40,000 for the budget year less the sum of per pupil amounts in excess of \$40,000 for the prebudget year indexed by four percent.

(2) The allowable adjustment for increases in tuition shall equal any increase in the tuition for the budget year charged to a sending district by the receiving district pursuant to the provisions of N.J.S.18A:38-19 or charged by a county vocational school district pursuant to the provisions of section 71 of P.L.1990, c.52 (C.18A:54-20.1) less 104 percent of the tuition for the prebudget year charged to a sending district by the receiving district pursuant to the provisions of N.J.S.18A:38-19 or charged by a county vocational school district pursuant to the provisions of section 71 of P.L.1990, c.52 (C.18A:54-20.1).

(3) The allowable adjustment for increases in capital outlay shall equal any increase in capital outlay, less any withdrawals from the capital reserve account, over the prebudget year in excess of four percent.

f. The adjusted tax levy shall be increased or decreased accordingly whenever the responsibility and associated cost of a school district activity is transferred to another school district or governmental entity.

38. Section 2 of P.L.2000, c.72 (C.18A:7G-2) is amended to read as follows:

C.18A:7G-2 Findings, declarations relative to construction, financing of public school facilities.

2. The Legislature finds and declares that:

a. The Constitution of the State of New Jersey requires the Legislature to provide for the maintenance and support of a thorough and efficient system of free public schools and this legislative responsibility includes ensuring that students are educated in physical facilities that are safe, healthy, and conducive to learning.

b. Inadequacies in the quality, utility, and safety of educational facilities have arisen among local school districts of this State. In order to ensure that the Legislature's constitutional responsibility for adequate educational facilities is met, there is a need to establish an efficiency standard for educational facilities at the elementary, middle, and secondary school levels which will assure that the core curriculum content standards are taught to all of the children of the State in a setting which facilitates and promotes that learning.

c. Educational infrastructure inadequacies are greatest in the SDA districts where maintenance has been deferred and new construction has not been initiated due to concerns about cost. To remedy the facilities inadequacies of the SDA districts, the State must promptly engage in a facilities needs assessment and fund the entire cost of repairing, renovating, and constructing the new school facilities determined by the Commissioner of Education to be required to meet the school facilities efficiency standards in the SDA districts. In other districts, the State must also identify need in view of anticipated growth in school population, and must contribute to the cost of the renovation and construction of new facilities to ensure the provision of a thorough and efficient education in those districts.

d. While providing that the educational infrastructure meets the requirements of a thorough and efficient education, the State must also protect the interests of taxpayers who will bear the burden of this obligation. Design of school facilities should incorporate maximum operating efficiencies and new technologies to advance the energy efficiency of school facilities and the efficiency of other school building systems, construction should be achieved in as efficient a manner as possible, and a mechanism to assure

proper maintenance of new facilities should be established and implemented, in order to reduce the overall cost of the program and to preserve this infrastructure investment.

39. Section 3 of P.L.2000, c.72 (C.18A:7G-3) is amended to read as follows:

C.18A:7G-3 Definitions relative to construction, financing of public school facilities.

3. As used in sections 1 through 30 and 57 through 71 of P.L.2000, c.72 (C.18A:7G-1 et al.) and sections 14 through 17 of P.L.2007, c.137 (C.18A:7G-45 through C.18A:7G-48), unless the context clearly requires a different meaning:

"Area cost allowance" means \$138 per square foot for the school year 2000-2001 and shall be inflated by an appropriate cost index for the 2001-2002 school year. For the 2002-2003 school year and subsequent school years, the area cost allowance shall be established by the commissioner pursuant to subsection h. of section 4 of P.L.2000, c.72 (C.18A:7G-4). The area cost allowance used in determining preliminary eligible costs of school facilities projects shall be that of the year of application for approval of the project;

"Capital maintenance project" means a school facilities project intended to extend the useful life of a school facility, including up-grades and replacements of building systems, such as structure, enclosure, mechanical, plumbing and electrical systems;

"Commissioner" means the Commissioner of Education;

"Core curriculum content standards" means the standards established pursuant to the provisions of subsection a. of section 4 of P.L.2007, c.260 (C.18A:7F-46);

"Cost index" means the average annual increase, expressed as a decimal, in actual construction cost factors for the New York City and Philadelphia areas during the second fiscal year preceding the budget year as determined pursuant to regulations promulgated by the development authority pursuant to section 26 of P.L.2000, c.72 (C.18A:7G-26);

"Debt service" means and includes payments of principal and interest upon school bonds issued to finance the acquisition of school sites and the purchase or construction of school facilities, additions to school facilities, or the reconstruction, remodeling, alteration, modernization, renovation or repair of school facilities, including furnishings, equipment, architect fees and the costs of issuance of such obligations and shall include payments of principal and interest upon school bonds heretofore issued to fund or refund such obligations, and upon municipal bonds and other obligations which

the commissioner approves as having been issued for such purposes. Debt service pursuant to the provisions of P.L.1978, c.74 (C.18A:58-33.22 et seq.), P.L.1971, c.10 (C.18A:58-33.6 et seq.) and P.L.1968, c.177 (C.18A:58-33.2 et seq.) is excluded;

"Demonstration project" means a school facilities project selected by the State Treasurer for construction by a redevelopment entity pursuant to section 6 of P.L.2000, c.72 (C.18A:7G-6);

"Development authority" means the New Jersey Schools Development Authority established pursuant to section 3 of P.L.2007, c.137 (C.52:18A-237);

"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.);

"District aid percentage" means the number expressed as a percentage derived from dividing the district's equalization aid calculated pursuant to section 11 of P.L.2007, c.260 (C.18A:7F-53) as of the date of the commissioner's determination of preliminary eligible costs by the district's adequacy budget calculated pursuant to section 9 of P.L.2007, c.260 (C.18A:7F-51) as of the date of the commissioner's determination of preliminary eligible costs;

"Excess costs" means the additional costs, if any, which shall be borne by the district, of a school facilities project which result from design factors that are not required to meet the facilities efficiency standards and not approved pursuant to paragraph (1) of subsection g. of section 5 of P.L.2000, c.72 (C.18A:7G-5) or are not authorized as community design features included in final eligible costs pursuant to subsection c. of section 6 of P.L.2000, c.72 (C.18A:7G-6);

"Facilities efficiency standards" means the standards developed by the commissioner pursuant to subsection h. of section 4 of P.L.2000, c.72 (C.18A:7G-4);

"Final eligible costs" means for school facilities projects to be constructed by the development authority, the final eligible costs of the school facilities project as determined by the commissioner, in consultation with the development authority, pursuant to section 5 of P.L.2000, c.72 (C.18A:7G-5); for demonstration projects, the final eligible costs of the project as determined by the commissioner and reviewed by the development authority which may include the cost of community design features

determined by the commissioner to be an integral part of the school facility and which do not exceed the facilities efficiency standards, and which were reviewed by the development authority and approved by the State Treasurer pursuant to section 6 of P.L.2000, c.72 (C.18A:7G-6); and for districts other than SDA districts, final eligible costs as determined pursuant to paragraph (1) of subsection h. of section 5 of P.L.2000, c.72 (C.18A:7G-5);

"Financing authority" means the New Jersey Economic Development Authority established pursuant to P.L.1974, c.80 (C.34:1B-1 et seq.);

"FTE" means a full-time equivalent student which shall be calculated as follows: each student in grades 1 through 12 shall be counted at 100% of the actual count of students, in the case of districts which operate a half-day kindergarten program each kindergarten student shall be counted at 50% of the actual count of kindergarten students, in the case of districts which operate a full-day kindergarten program or which currently operate a half-day kindergarten program but propose to build facilities to house a full-day kindergarten program each kindergarten student shall be counted at 100% of the actual count of kindergarten students, and each preschool student who is enrolled in a full-day preschool program pursuant to section 12 of P.L.2007, c.260 (C.18A:7F-54) shall be counted at 100% of the actual count of preschool students. In addition, each preschool disabled child who is entitled to receive a full-time program pursuant to N.J.S.18A:46-6 shall be counted at 100% of the actual count of these students in the district;

"Functional capacity" means the number of students that can be housed in a building in order to have sufficient space for it to be educationally adequate for the delivery of programs and services necessary for student achievement of the core curriculum content standards. Functional capacity is determined by dividing the existing gross square footage of a school building by the minimum area allowance per FTE student pursuant to subsection b. of section 8 of P.L.2000, c.72 (C.18A:7G-8) for the grade level students contained therein. The difference between the projected enrollment determined pursuant to subsection a. of section 8 of P.L.2000, c.72 (C.18A:7G-8) and the functional capacity is the unhoused students that are the basis upon which the additional costs of space to provide educationally adequate facilities for the entire projected enrollment are determined. The existing gross square footage for the purposes of defining functional capacity is exclusive of existing spaces that are not contained in the facilities efficiency standards but which are used to deliver programs and services aligned to the core curriculum content standards, used to provide support services directly to students, or other existing spaces that the district can

demonstrate would be structurally or fiscally impractical to convert to other uses contained in the facilities efficiency standards;

"Lease purchase payment" means and includes payment of principal and interest for lease purchase agreements in excess of five years approved pursuant to subsection (f) of N.J.S.18A:20-4.2 prior to the effective date of P.L.2000, c.72 (C.18A:7G-1 et al.) to finance the purchase or construction of school facilities, additions to school facilities, or the reconstruction, remodeling, alteration, modernization, renovation or repair of school facilities, including furnishings, equipment, architect fees and issuance costs. Approved lease purchase agreements in excess of five years shall be accorded the same accounting treatment as school bonds;

"Local share" means, in the case of a school facilities project to be constructed by the development authority, the total costs less the State share as determined pursuant to section 5 of P.L.2000, c.72 (C.18A:7G-5); in the case of a demonstration project, the total costs less the State share as determined pursuant to sections 5 and 6 of P.L.2000, c.72 (C.18A:7G-5 and C.18A:7G-6); and in the case of a school facilities project which shall be financed pursuant to section 15 of P.L.2000, c.72 (C.18A:7G-15), the total costs less the State share as determined pursuant to that section;

"Local unit" means a county, municipality, board of education or any other political subdivision or instrumentality authorized to construct, operate and maintain a school facilities project and to borrow money for those purposes pursuant to law;

"Local unit obligations" means bonds, notes, refunding bonds, refunding notes, lease obligations and all other obligations of a local unit which are issued or entered into for the purpose of paying for all or a portion of the costs of a school facilities project, including moneys payable to the development authority;

"Long-range facilities plan" means the plan required to be submitted to the commissioner by a district pursuant to section 4 of P.L.2000, c.72 (C.18A:7G-4);

"Maintenance" means expenditures which are approved for repairs and replacements for the purpose of keeping a school facility open and safe for use or in its original condition, including repairs and replacements to a school facility's heating, lighting, ventilation, security and other fixtures to keep the facility or fixtures in effective working condition. Maintenance shall not include capital maintenance or contracted custodial or janitorial services, expenditures for the cleaning of a school facility or its fixtures, the care and upkeep of grounds or parking lots, and the cleaning of, or repairs and replacements to, movable furnishings or equipment, or other expendi-

tures which are not required to maintain the original condition over the school facility's useful life. Approved maintenance expenditures shall be as determined by the commissioner pursuant to regulations to be adopted by the commissioner pursuant to section 26 of P.L.2000, c.72 (C.18A:7G-26);

"Other allowable costs" means the costs of temporary facilities, site development, acquisition of land or other real property interests necessary to effectuate the school facilities project, fees for the services of design professionals, including architects, engineers, construction managers and other design professionals, legal fees, financing costs and the administrative costs of the development authority and the financing authority or the district incurred in connection with the school facilities project;

"Other facilities" means athletic stadiums, swimming pools, any associated structures or related equipment tied to such facilities including, but not limited to, grandstands and night field lights, greenhouses, facilities used for non-instructional or non-educational purposes, and any structure, building, or facility used solely for school administration;

"Preliminary eligible costs" means the initial eligible costs of a school facilities project as calculated pursuant to the formulas set forth in section 7 of P.L.2000, c.72 (C.18A:7G-7) or as otherwise provided pursuant to section 5 of P.L.2000, c.72 (C.18A:7G-5) and which shall be deemed to include the costs of construction and other allowable costs;

"Redevelopment entity" means a redevelopment entity authorized by a municipal governing body to implement plans and carry out redevelopment projects in the municipality pursuant to the "Local Redevelopment and Housing Law," P.L.1992, c.79 (C.40A:12A-1 et al.);

"School bonds" means, in the case of a school facilities project which is to be constructed by the development authority, a redevelopment entity, or a district under section 15 of P.L.2000, c.72 (C.18A:7G-15), bonds, notes or other obligations issued by a district to finance the local share; and, in the case of a school facilities project which is not to be constructed by the development authority or a redevelopment entity, or financed under section 15 of P.L.2000, c.72 (C.18A:7G-15), bonds, notes or other obligations issued by a district to finance the total costs;

"School enrollment" means the number of FTE students other than evening school students, including post-graduate students and post-secondary vocational students, who, on the last school day prior to October 16 of the current school year, are recorded in the registers of the school;

"School facility" means and includes any structure, building or facility used wholly or in part for educational purposes by a district and facilities that physically support such structures, buildings and facilities, such as dis-

strict wastewater treatment facilities, power generating facilities, and steam generating facilities, but shall exclude other facilities;

"School facilities project" means the planning, acquisition, demolition, construction, improvement, alteration, modernization, renovation, reconstruction or capital maintenance of all or any part of a school facility or of any other personal property necessary for, or ancillary to, any school facility, and shall include fixtures, furnishings and equipment, and shall also include, but is not limited to, site acquisition, site development, the services of design professionals, such as engineers and architects, construction management, legal services, financing costs and administrative costs and expenses incurred in connection with the project;

"SDA district" is a district that received education opportunity aid or preschool expansion aid in the 2007-2008 school year;

"Special education services pupil" means a pupil receiving specific services pursuant to chapter 46 of Title 18A of the New Jersey Statutes;

"State aid" means State municipal aid and State school aid;

"State debt service aid" means for school bonds issued for school facilities projects approved by the commissioner after the effective date of P.L.2000, c.72 (C.18A:7G-1 et al.) of districts which elect not to have a redevelopment entity construct the project or which elect not to finance the project under section 15 of P.L.2000, c.72 (C.18A:7G-15), the amount of State aid determined pursuant to section 9 of P.L.2000, c.72 (C.18A:7G-9); and for school bonds or certificates of participation issued for school facilities projects approved by the commissioner prior to the effective date of P.L.2000, c.72 (C.18A:7G-1 et al.) the amount of State aid determined pursuant to section 10 of P.L.2000, c.72 (C.18A:7G-10);

"State municipal aid" means business personal property tax replacement revenues, State urban aid and State revenue sharing, as these terms are defined in section 2 of P.L.1976, c.38 (C.40A:3-3), or other similar forms of State aid payable to the local unit and to the extent permitted by federal law, federal moneys appropriated or apportioned to the municipality or county by the State;

"State school aid" means the funds made available to school districts pursuant to section 11 of P.L.2007, c.260 (C.18A:7F-53);

"State share" means the State's proportionate share of the final eligible costs of a school facilities project to be constructed by the development authority as determined pursuant to section 5 of P.L.2000, c.72 (C.18A:7G-5); in the case of a demonstration project, the State's proportionate share of the final eligible costs of the project as determined pursuant to sections 5 and 6 of P.L.2000, c.72 (C.18A:7G-5 and C.18A:7G-6); and in the case of a

school facilities project to be financed pursuant to section 15 of P.L.2000, c.72 (C.18A:7G-15), the State share as determined pursuant to that section;

"Total costs" means, in the case of a school facilities project which is to be constructed by the development authority or a redevelopment entity or financed pursuant to section 15 of P.L.2000, c.72 (C.18A:7G-15), the final eligible costs plus excess costs if any; and in the case of a school facilities project which is not to be constructed by the development authority or a redevelopment entity or financed pursuant to section 15 of P.L.2000, c.72 (C.18A:7G-15), the total cost of the project as determined by the district.

40. Section 4 of P.L.2000, c.72 (C.18A:7G-4) is amended to read as follows:

C.18A:7G-4 Long-range facilities plan; facilities efficiency standards; time lines.

4. a. By December 15, 2000 and by October 1, 2005, each district shall prepare and submit to the commissioner a long-range facilities plan that details the district's school facilities needs and the district's plan to address those needs for the ensuing five years. Following the approval of the 2005 long-range facilities plan, each district shall amend its long-range facilities plan at least once every five years to update enrollment projections, building capacities, and health and safety conditions. The long-range facilities plan shall incorporate the facilities efficiency standards and shall be filed with the commissioner for approval in accordance with those standards. For those Abbott districts that have submitted long-range facilities plans to the commissioner prior to the effective date of P.L.2000, c.72 (C.18A:7G-1 et al.), this subsection shall not be read to require an additional filing by October 1, 2000.

b. Notwithstanding any other law or regulation to the contrary, an application for a school facilities project pursuant to section 5 of P.L.2000, c.72 (C.18A:7G-5) shall not be approved unless the district has filed a long-range facilities plan that is consistent with the application and the plan has been approved by the commissioner; except that prior to October 1, 2000, the commissioner may approve an application if the project is necessary to protect the health or safety of occupants of the school facility, or is related to required early childhood education programs, or is related to a school facility in which the functional capacity is less than 90% of the facilities efficiency standards based on current school enrollment, or the district received bids on the school facilities project prior to the effective date of P.L.2000, c.72 (C.18A:7G-1 et al.) and the district demonstrates that further delay will negatively affect the cost of the project.

c. An amendment to a long-range facilities plan may be submitted at any time to the commissioner for review and determination on the approval or disapproval of the amendment.

d. Each long-range facilities plan shall include a cohort survival methodology or other methodology approved by the commissioner, accompanied by a certification by a qualified demographer retained by the district that serves as the basis for identifying the capacity and program needs detailed in the long-range facilities plan.

e. The long-range facilities plan shall include an educational adequacy inventory of all existing school facilities in the district including the adequacy of school facilities to educate within the district the existing and projected number of pupils with disabilities, the identification of all deficiencies in the district's current inventory of school facilities, which includes the identification of those deficiencies that involve emergent health and safety concerns, and the district's proposed plan for future construction and renovation. The long-range facilities plan submissions shall conform to the guidelines, criteria and format prescribed by the commissioner.

f. Each district shall determine the number of "unhoused students" for the ensuing five-year period calculated pursuant to the provisions of section 8 of P.L.2000, c.72 (C.18A:7G-8).

g. Each district shall submit the long-range facilities plan to the planning board of the municipality or municipalities in which the district is situate for the planning board's review and findings and the incorporation of the plan's goals and objectives into the municipal master plan adopted by the municipality pursuant to section 19 of P.L.1975, c.291 (C.40:55D-28).

h. The commissioner shall develop, for the March 2002 Report on the Cost of Providing a Thorough and Efficient Education issued by the commissioner pursuant to section 4 of P.L.1996, c.138 (C.18A:7F-4), facilities efficiency standards for elementary, middle, and high schools consistent with the core curriculum school delivery assumptions in the report and sufficient for the achievement of the core curriculum content standards, including the provision of required programs in Abbott districts and early childhood education programs in the districts in which these programs are required by the State. The area allowances per FTE student in each class of the district shall be derived from these facilities efficiency standards. The commissioner shall revise the facilities efficiency standards and the area cost allowance in accordance with such schedule as the commissioner deems necessary. The commissioner shall publish the revised facilities efficiency standards and the area cost allowance in the New Jersey Register and, within a reasonable period of time after 30 days following publication,

shall file the revised facilities efficiency standards and the area cost allowance with the Office of Administrative Law for publication in the New Jersey Register and those standards shall become effective immediately upon filing. During the 30-day period the commissioner shall provide an opportunity for public comment on the proposed facilities efficiency standards and the area cost allowance.

The facilities efficiency standards developed by the commissioner shall not be construction design standards but rather shall represent the instructional spaces, specialized instructional areas, and administrative spaces that are determined by the commissioner to be educationally adequate to support the achievement of the core curriculum content standards including the provision of required programs in Abbott districts and early childhood education programs in the districts in which these programs are required by the State. A district may design, at its discretion, the educational and other spaces to be included within the school facilities project. The design of the project may eliminate spaces in the facilities efficiency standards, include spaces not in the facilities efficiency standards, or size spaces differently than in the facilities efficiency standards upon a demonstration of the adequacy of the school facilities project to deliver the core curriculum content standards pursuant to paragraph (2) of subsection g. of section 5 of P.L.2000, c.72 (C.18A:7G-5).

Within a reasonable period of time after the effective date of P.L.2000, c.72 (C.18A:7G-1 et al.), the commissioner shall publish the facilities efficiency standards developed for the 2000-2001, 2001-2002, and 2002-2003 school years in the New Jersey Register. Within a reasonable period of time after 30 days after publication in the New Jersey Register, the commissioner shall file the facilities efficiency standards with the Office of Administrative Law and those standards shall become effective immediately upon filing with the Office of Administrative Law. During the 30-day period the commissioner shall provide an opportunity for public comment on the proposed facilities efficiency standards.

i. Within 90 days of the commissioner's receipt of a long-range facilities plan for review, the commissioner shall determine whether the plan is fully and accurately completed and whether all information necessary for a decision on the plan has been filed by the district. If the commissioner determines that the plan is complete, the commissioner shall promptly notify the district in writing and shall have 60 days from the date of that notification to determine whether to approve the plan or not. If the commissioner determines that the plan is not complete, the commissioner shall notify the district in writing. The district shall provide to the commissioner whatever informa-

tion the commissioner determines is necessary to make the plan accurate and complete. The district shall submit that information to the commissioner, and the commissioner shall have 60 days from the date of receipt of accurate and complete information to determine whether to approve the plan or not.

j. Notwithstanding any provision in subsection i. of this section, if at any time the number of long-range facilities plans filed by school districts with the commissioner and pending review exceeds 20% of the number of school districts in New Jersey, the commissioner may extend by 60 days the deadline for reviewing each plan pending at that time.

k. (Deleted by amendment, P.L.2007, c.260).

l. By July 1, 2001, the commissioner shall provide the Legislature with recommendations to address the circumstances of districts which are contiguous with two or more Abbott districts. The recommendations shall address the issues of the financing of school facilities projects and the funding of the educational and other programs required within these districts as a result of their unique demographic situation.

m. By July 1, 2001, the commissioner shall study the Safe Schools Design Guidelines, prepared by the Florida Center for Community Design and Research, which address the issues of school safety and security through the design of school facilities. Based upon the commissioner's study, the commissioner shall issue recommendations to districts on the appropriateness of including the Safe Schools Design Guidelines in the design and construction of school facilities projects.

41. Section 5 of P.L.2000, c.72 (C.18A:7G-5) is amended to read as follows:

C.18A:7G-5 Undertaking and financing of school facilities in certain districts.

5. a. The development authority shall undertake and the financing authority shall finance the school facilities projects of SDA districts.

b. In the case of a district other than an SDA district, State support for the project shall be determined pursuant to section 9 or section 15 of P.L.2000, c.72 (C.18A:7G-9 or C.18A:7G-15), as applicable.

c. Notwithstanding any provision of N.J.S.18A:18A-16 to the contrary, the procedures for obtaining approval of a school facilities project shall be as set forth in this act; provided that any district whose school facilities project is not constructed by the development authority shall also be required to comply with the provisions of N.J.S.18A:18A-16.

d. (1) Any district seeking to initiate a school facilities project shall apply to the commissioner for approval of the project. The application may

include, but not be limited to: a description of the school facilities project; a schematic drawing of the project or, at the option of the district, preliminary plans and specifications; a delineation and description of each of the functional components of the project; educational specifications detailing the programmatic needs of each proposed space; the number of unhoused students to be housed in the project; the area allowances per FTE student as calculated pursuant to section 8 of P.L.2000, c.72 (C.18A:7G-8); and the estimated cost to complete the project as determined by the district.

(2) In the case of an SDA district school facilities project, based upon its educational priority ranking and the Statewide strategic plan established pursuant to subsection m. of this section, the commissioner may authorize the development authority to undertake preconstruction activities which may include, but need not be limited to, site identification, investigation, and acquisition, feasibility studies, land-related design work, design work, site remediation, demolition, and acquisition of temporary facilities. Upon receipt of the authorization, the development authority may initiate the preconstruction activities required to prepare the application for commissioner approval of the school facilities project.

e. The commissioner shall review each proposed school facilities project to determine whether it is consistent with the district's long-range facilities plan and whether it complies with the facilities efficiency standards and the area allowances per FTE student derived from those standards; and in the case of an SDA district the commissioner shall also review the project's educational priority ranking and the Statewide strategic plan developed pursuant to subsection m. of this section. The commissioner shall make a decision on a district's application within 90 days from the date he determines that the application is fully and accurately completed and that all information necessary for a decision has been filed by the district, or from the date of the last revision made by the district. If the commissioner is not able to make a decision within 90 days, he shall notify the district in writing explaining the reason for the delay and indicating the date on which a decision on the project will be made, provided that the date shall not be later than 60 days from the expiration of the original 90 days set forth in this subsection. If the decision is not made by the subsequent date indicated by the commissioner, then the project shall be deemed approved and the preliminary eligible costs for new construction shall be calculated by using the proposed square footage of the building as the approved area for unhoused students.

f. If the commissioner determines that the school facilities project complies with the facilities efficiency standards and the district's long-range

facilities plan and does not exceed the area allowance per FTE student derived from those standards, the commissioner shall calculate the preliminary eligible costs of the project pursuant to the formulas set forth in section 7 of P.L.2000, c.72 (C.18A:7G-7); except that (1) in the case of a county special services school district or a county vocational school district, the commissioner shall calculate the preliminary eligible costs to equal the amount determined by the board of school estimate and approved by the board of chosen freeholders pursuant to section 14 of P.L.1971, c.271 (C.18A:46-42) or N.J.S.18A:54-31 as appropriate, and (2) in the case of an SDA district, the commissioner shall calculate the preliminary eligible costs to equal the estimated cost as determined by the development authority.

g. If the commissioner determines that the school facilities project is inconsistent with the facilities efficiency standards or exceeds the area allowances per FTE student derived from those standards, the commissioner shall notify the district.

(1) The commissioner shall approve area allowances in excess of the area allowances per FTE student derived from the facilities efficiency standards if the board of education or State district superintendent, as appropriate, demonstrates that school facilities needs related to required programs cannot be addressed within the facilities efficiency standards and that all other proposed spaces are consistent with those standards. The commissioner shall approve area allowances in excess of the area allowances per FTE student derived from the facilities efficiency standards if the additional area allowances are necessary to accommodate centralized facilities to be shared among two or more school buildings within the district and the centralized facilities represent a more cost effective alternative.

(2) The commissioner may waive a facilities efficiency standard if the board of education or State district superintendent, as appropriate, demonstrates to the commissioner's satisfaction that the waiver will not adversely affect the educational adequacy of the school facility, including the ability to deliver the programs and services necessary to enable all students to achieve the core curriculum content standards.

(3) To house the district's central administration, a district may request an adjustment to the approved areas for unhoused students of 2.17 square feet for each FTE student in the projected total district school enrollment if the proposed administrative offices will be housed in a school facility and the district demonstrates either that the existing central administrative offices are obsolete or that it is more practical to convert those offices to instructional space. To the extent that existing administrative space will con-

tinue to be used for administrative purposes, the space shall be included in the formulas set forth in section 7 of P.L.2000, c.72 (C.18A:7G-7).

If the commissioner approves excess facilities efficiency standards or additional area allowances pursuant to paragraph (1), (2), or (3) of this subsection, the commissioner shall calculate the preliminary eligible costs based upon the additional area allowances or excess facilities efficiency standards pursuant to the formulas set forth in section 7 of P.L.2000, c.72 (C.18A:7G-7). In the event that the commissioner does not approve the excess facilities efficiency standards or additional area allowances, the district may either: modify its submission so that the school facilities project meets the facilities efficiency standards; or pay for the excess costs.

(4) The commissioner shall approve spaces in excess of, or inconsistent with, the facilities efficiency standards, hereinafter referred to as nonconforming spaces, upon a determination by the district that the spaces are necessary to comply with State or federal law concerning individuals with disabilities, including that the spaces are necessary to provide in-district programs and services for current disabled pupils who are being served in out-of-district placements or in-district programs and services for the projected disabled pupil population. A district may apply for additional State aid for nonconforming spaces that will permit pupils with disabilities to be educated to the greatest extent possible in the same buildings or classes with their nondisabled peers. The nonconforming spaces may: (a) allow for the return of pupils with disabilities from private facilities; (b) permit the retention of pupils with disabilities who would otherwise be placed in private facilities; (c) provide space for regional programs in a host school building that houses both disabled and nondisabled pupils; and (d) provide space for the coordination of regional programs by a county special services school district, educational services commission, jointure commission, or other agency authorized by law to provide regional educational services in a school building that houses both disabled and nondisabled pupils. A district's State support ratio shall be adjusted to equal the lesser of the sum of its district aid percentage as defined in section 3 of P.L.2000, c.72 (C.18A:7G-3) plus 0.25, or 100% for any nonconforming spaces approved by the commissioner pursuant to this paragraph.

h. Upon approval of a school facilities project and determination of the preliminary eligible costs:

(1) In the case of a district other than an SDA district, the commissioner shall notify the district whether the school facilities project is approved and, if so approved, the preliminary eligible costs and the excess costs, if any. Following the determination of preliminary eligible costs and

the notification of project approval, the district may appeal to the commissioner for an increase in those costs if the detailed plans and specifications completed by a design professional for the school facilities project indicate that the cost of constructing that portion of the project which is consistent with the facilities efficiency standards and does not exceed the area allowances per FTE student exceeds the preliminary eligible costs as determined by the commissioner for the project by 10% or more. The district shall file its appeal within 30 days of the preparation of the plans and specifications. If the district chooses not to file an appeal, then the final eligible costs shall equal the preliminary eligible costs.

The appeal shall outline the reasons why the preliminary eligible costs calculated for the project are inadequate and estimate the amount of the adjustment which needs to be made to the preliminary eligible costs. The commissioner shall forward the appeal information to the development authority for its review and recommendation. If the additional costs are the result of factors that are within the control of the district or are the result of design factors that are not required to meet the facilities efficiency standards, the development authority shall recommend to the commissioner that the preliminary eligible costs be accepted as the final eligible costs. If the development authority determines the additional costs are not within the control of the district or are the result of design factors required to meet the facilities efficiency standards, the development authority shall recommend to the commissioner a final eligible cost based on its experience for districts with similar characteristics, provided that, notwithstanding anything to the contrary, the commissioner shall not approve an adjustment to the preliminary eligible costs which exceeds 10% of the preliminary eligible costs. The commissioner shall make a determination on the appeal within 30 days of its receipt. If the commissioner does not approve an adjustment to the school facilities project's preliminary eligible costs, the commissioner shall issue his findings in writing on the reasons for the denial and on why the preliminary eligible costs as originally calculated are sufficient.

(2) In the case of an SDA district, the commissioner shall promptly prepare and submit to the development authority a preliminary project report which shall consist, at a minimum, of the following information: a complete description of the school facilities project; the actual location of the project; the total square footage of the project together with a breakdown of total square footage by functional component; the preliminary eligible costs of the project; the project's priority ranking determined pursuant to subsection m. of this section; any other factors to be considered by the

development authority in undertaking the project; and the name and address of the person from the district to contact in regard to the project.

i. Upon receipt by the development authority of the preliminary project report, the development authority, upon consultation with the district, shall prepare detailed plans and specifications and schedules which contain the development authority's estimated cost and schedule to complete the school facilities project. The development authority shall transmit to the commissioner its recommendations in regard to the project which shall, at a minimum, contain the detailed plans and specifications; whether the school facilities project can be completed within the preliminary eligible costs; and any other factors which the development authority determines should be considered by the commissioner.

(1) In the event that the development authority determines that the school facilities project can be completed within the preliminary eligible costs: the final eligible costs shall be deemed to equal the preliminary eligible costs; the commissioner shall be deemed to have given final approval to the project; and the preliminary project report shall be deemed to be the final project report delivered to the development authority pursuant to subsection j. of this section.

(2) In the event that the development authority determines that the school facilities project cannot be completed within the preliminary eligible costs, prior to the submission of its recommendations to the commissioner, the development authority shall, in consultation with the district and the commissioner, determine whether changes can be made in the project which will result in a reduction in costs while at the same time meeting the facilities efficiency standards approved by the commissioner.

(a) If the development authority determines that changes in the school facilities project are possible so that the project can be accomplished within the scope of the preliminary eligible costs while still meeting the facilities efficiency standards, the development authority shall so advise the commissioner, whereupon the commissioner shall: calculate the final eligible costs to equal the preliminary eligible costs; give final approval to the project with the changes noted; and issue a final project report to the development authority pursuant to subsection j. of this section.

(b) If the development authority determines that it is not possible to make changes in the school facilities project so that it can be completed within the preliminary eligible costs either because the additional costs are the result of factors outside the control of the district or the additional costs are required to meet the facilities efficiency standards, the development authority shall recommend to the commissioner that the preliminary eligi-

ble costs be increased accordingly, whereupon the commissioner shall: calculate the final eligible costs to equal the sum of the preliminary eligible costs plus the increase recommended by the development authority; give final approval to the project; and issue a final project report to the development authority pursuant to subsection j. of this section.

(c) If the additional costs are the result of factors that are within the control of the district or are the result of design factors that are not required to meet the facilities efficiency standards or approved pursuant to paragraph (1) of subsection g. of this section, the development authority shall recommend to the commissioner that the preliminary eligible costs be accepted, whereupon the commissioner shall: calculate the final eligible costs to equal the preliminary eligible costs and specify the excess costs which are to be borne by the district; give final approval to the school facilities project; and issue a final project report to the development authority pursuant to subsection j. of this section; provided that the commissioner may approve final eligible costs which are in excess of the preliminary eligible costs if, in his judgment, the action is necessary to meet the educational needs of the district.

(d) For a school facilities project undertaken by the development authority, the development authority shall be responsible for any costs of construction, but only from the proceeds of bonds issued by the financing authority pursuant to P.L.2000, c.72 (C.18A:7G-1 et al.) and P.L.2007, c.137 (C.52:18A-235 et al.), which exceed the amount originally projected by the development authority and approved for financing by the development authority, provided that the excess is the result of an underestimate of labor or materials costs by the development authority. After receipt by the development authority of the final project report, the district shall be responsible only for the costs associated with changes, if any, made at the request of the district to the scope of the school facilities project.

j. The development authority shall not commence the construction of a school facilities project unless the commissioner transmits to the development authority a final project report and the district complies with the approval requirements for the local share, if any, pursuant to section 11 of P.L.2000, c.72 (C.18A:7G-11). The final project report shall contain all of the information contained in the preliminary project report and, in addition, shall contain: the final eligible costs; the excess costs, if any; the total costs which equals the final eligible costs plus excess costs, if any; the State share; and the local share.

k. For the SDA districts, the State share shall be 100% of the final eligible costs. For all other districts, the State share shall be an amount equal to 115% of the district aid percentage; except that the State share shall not be less than 40% of the final eligible costs.

If any district which is included in district factor group A or B, other than an SDA district, is having difficulty financing the local share of a school facilities project, the district may apply to the commissioner to receive 100% State support for the project and the commissioner may request the approval of the Legislature to increase the State share of the project to 100%.

l. The local share for school facilities projects constructed by the authority or a redevelopment entity shall equal the final eligible costs plus any excess costs less the State share.

m. (1) Within 90 days of the effective date of P.L.2007, c.137 (C.52:18A-235 et al.), the commissioner shall develop an educational facilities needs assessment for each SDA district. The assessment shall be updated periodically by the commissioner in accordance with the schedule the commissioner deems appropriate for the district; except that each assessment shall at a minimum be updated within five years of the development of the district's most recent prior educational needs assessment. The assessment shall be transmitted to the development authority to be used to initiate the planning activities required prior to the establishment of the educational priority ranking of school facilities projects pursuant to paragraph (2) of this subsection.

(2) Following the approval of an SDA district's long-range facilities plan or of an amendment to that plan, but prior to authorization of preconstruction activities for a school facilities project included in the plan or amendment, the commissioner shall establish, in consultation with the SDA district, an educational priority ranking of all school facilities projects in the SDA district based upon the commissioner's determination of critical need in accordance with priority project categories developed by the commissioner. The priority project categories shall include, but not be limited to, health and safety, overcrowding in the early childhood, elementary, middle, and high school grade levels, spaces necessary to provide in-district programs and services for current disabled students who are being served in out-of-district placements or in-district programs and services for the projected disabled student population, rehabilitation, and educational adequacy.

(3) Upon the commissioner's determination of the educational priority ranking of school facilities projects in SDA districts pursuant to paragraph (2) of this subsection, the development authority, in consultation with the commissioner, the SDA districts, and the governing bodies of the municipalities in which the SDA districts are situate, shall establish a Statewide strategic plan to be used in the sequencing of SDA district school facilities projects based upon the projects' educational priority rankings and issues which impact the development authority's ability to complete the projects

including, but not limited to, the construction schedule and other appropriate factors. The development authority shall revise the Statewide strategic plan and the sequencing of SDA district school facilities projects in accordance with that plan no less than once every five years.

Any amendment to an SDA district's long-range facilities plan that is submitted to the commissioner in the period between the five-year updates of the long-range facilities plan shall be considered by the development authority, in consultation with the commissioner, for incorporation into the Statewide strategic plan. In making a determination on whether or not to amend the Statewide strategic plan, the development authority shall consider the cost of the amendment, the impact of the amendment upon the school development plans for other districts, and other appropriate factors.

n. The provisions of the "Public School Contracts Law," N.J.S.18A:18A-1 et seq., shall be applicable to any school facilities project constructed by a district but shall not be applicable to projects constructed by the development authority or a redevelopment entity pursuant to the provisions of this act.

o. In the case of a school facilities project of a district other than an SDA district, any proceeds of school bonds issued by the district for the purpose of funding the project which remain unspent upon completion of the project shall be used by the district to reduce the outstanding principal amount of the school bonds.

p. Upon completion by the development authority of a school facilities project, if the cost of construction and completion of the project is less than the total costs, the district shall be entitled to receive a portion of the local share based on a pro rata share of the difference based on the ratio of the State share to the local share.

q. The development authority shall determine the cause of any costs of construction which exceed the amount originally projected by the development authority and approved for financing by the financing authority.

r. (Deleted by amendment, P.L.2007, c.137).

s. (Deleted by amendment, P.L.2007, c.137).

42. Section 9 of P.L.2000, c.72 (C.18A:7G-9) is amended to read as follows:

C.18A:7G-9 Distribution of State debt service aid.

9. a. State debt service aid for capital investment in school facilities for a district other than an SDA district which elects not to finance the project under section 15 of P.L.2000, c.72 (C.18A:7G-15), shall be distributed

upon a determination of preliminary eligible costs by the commissioner, according to the following formula:

Aid is the sum of A for each issuance of school bonds issued for a school facilities project approved by the commissioner after the effective date of P.L.2000, c.72 (C.18A:7G-1 et al.)

where

$$A = B \times AC/P \times (DAP \times 1.15) \times M, \text{ with } AC/P = 1$$

whenever AC/P would otherwise yield a number greater than one, and where:

B is the district's debt service for the individual issuance for the fiscal year;

AC is the preliminary eligible costs determined pursuant to section 7 of P.L.2000, c.72 (C.18A:7G-7);

P is the principal of the individual issuance plus any other funding sources approved for the school facilities project;

DAP is the district's district aid percentage as defined pursuant to section 3 of P.L.2000, c.72 (C.18A:7G-3) and where $(DAP \times 1.15)$ shall not be less than 40%; and

M is a factor representing the degree to which a district has fulfilled maintenance requirements for a school facilities project determined pursuant to subsection b. of this section.

For county special services school districts, DAP shall be that of the county vocational school district in the same county.

b. The maintenance factor (M) shall be 1.0 except when one of the following conditions applies, in which case the maintenance factor shall be as specified:

(1) Effective ten years from the date of the enactment of P.L.2000, c.72 (C.18A:7G-1 et al.), the maintenance factor for aid for reconstruction, remodeling, alteration, modernization, renovation or repair, or for an addition to a school facility, shall be zero for all school facilities projects for which the district fails to demonstrate over the ten years preceding issuance a net investment in maintenance of the related school facility of at least 2% of the replacement cost of the school facility, determined pursuant to subsection b. of section 7 of P.L.2000, c.72 (C.18A:7G-7) using the area cost allowance of the year ten years preceding the year in which the school bonds are issued.

(2) For new construction, additions, and school facilities aided under subsection b. of section 7 of P.L.2000, c.72 (C.18A:7G-7) supported by financing issued for projects approved by the commissioner after the effective date of P.L.2000, c.72 (C.18A:7G-1 et al.), beginning in the fourth year after occupancy of the school facility, the maintenance factor shall be re-

duced according to the following schedule for all school facilities projects for which the district fails to demonstrate in the prior fiscal year an investment in maintenance of the related school facility of at least two-tenths of 1% of the replacement cost of the school facility, determined pursuant to subsection b. of section 7 of P.L.2000, c.72 (C.18A:7G-7).

Maintenance Percentage	Maintenance Factor (M)
.199% - .151%	75%
.150% - .100%	50%
Less than .100%	Zero

(3) Within one year of the enactment of P.L.2000, c.72 (C.18A:7G-1 et al.), the commissioner shall promulgate rules requiring districts to develop a long-range maintenance plan and specifying the expenditures that qualify as an appropriate investment in maintenance for the purposes of this subsection.

c. Any district which obtained approval from the commissioner since September 1, 1998 and prior to the effective date of P.L.2000, c.72 (C.18A:7G-1 et al.) of the educational specifications for a school facilities project or obtained approval from the Department of Community Affairs or the appropriately licensed municipal code official since September 1, 1998 of the final construction plans and specifications, and the district has issued debt, may elect to have the final eligible costs of the project determined pursuant to section 5 of P.L.2000, c.72 (C.18A:7G-5) and to receive debt service aid under this section or under section 10 of P.L.2000, c.72 (C.18A:7G-10).

Any district which received approval from the commissioner for a school facilities project at any time prior to the effective date of P.L.2000, c.72 (C.18A:7G-1 et al.), and has not issued debt, other than short term notes, may submit an application pursuant to section 5 of P.L.2000, c.72 (C.18A:7G-5) to have the final eligible costs of the project determined pursuant to that section and to have the New Jersey Economic Development Authority construct the project; or, at its discretion, the district may choose to receive debt service aid under this section or under section 10 of P.L.2000, c.72 (C.18A:7G-10) or to receive a grant under section 15 of P.L.2000, c.72 (C.18A:7G-15).

For the purposes of this subsection, the "issuance of debt" shall include lease purchase agreements in excess of five years.

43. Section 10 of P.L.2000, c.72 (C.18A:7G-10) is amended to read as follows:

C.18A:7G-10 Issuance of school bonds, certificates of participation, determination of aid.

10. For each issuance of school bonds or certificates of participation issued for a school facilities project approved by the commissioner prior to the effective date of P.L.2000, c.72 (C.18A:7G-1 et al.):

Aid is the sum of A

where

$$A = B \times EQAID/AB$$

and where

B is the district's total debt service or lease purchase payment for the individual issuance for the fiscal year;

EQAID is the district's equalization aid amount determined pursuant to section 11 of P.L.2007, c.260 (C.18A:7F-53); and

AB is the district's adequacy budget determined pursuant to section 9 of P.L.2007, c.260 (C.18A:7F-51).

For county special services school districts, EQAID/AB shall be that of the county vocational school district in the same county.

44. Section 13 of P.L.2000, c.72 (C.18A:7G-13) is amended to read as follows:

C.18A:7G-13 Responsibilities of financing authority, development authority.

13. a. The financing authority shall be responsible for the issuance of bonds pursuant to section 14 of P.L.2000, c.72 (C.18A:7G-14) and the development authority shall be responsible for the planning, design, construction management, acquisition, construction, and completion of school facilities projects. In the case of a capital maintenance project, the development authority may, in its discretion, authorize an SDA district to undertake the design, acquisition, construction and all other appropriate actions necessary to complete the capital maintenance project and shall enter into a grant agreement with the district for the payment of the State share. The development authority may also authorize an SDA district to undertake the design, acquisition, construction and all other appropriate actions necessary to complete any other school facilities project in accordance with the procedures established pursuant to subsection e. of this section.

b. The financing authority shall undertake the financing of school facilities projects pursuant to the provisions of this act. The financing authority shall finance the State share of a school facilities project and may, in its discretion and upon consultation with the district, finance the local share of the project. In the event that the financing authority finances only the State

share of a project, the development authority shall not commence acquisition or construction of the project until the development authority receives the local share from the district.

c. In order to implement the arrangements established for school facilities projects which are to be constructed by the development authority and financed pursuant to this section, a district shall enter into an agreement with the development authority and the commissioner containing the terms and conditions determined by the parties to be necessary to effectuate the project.

d. Upon completion by the development authority of a school facilities project, the district shall enter into an agreement with the development authority to provide for the maintenance of the project by the district. In the event that the school facilities project is constructed by a district, upon the completion of the project, the district shall submit to the commissioner a plan to provide for the maintenance of the project by the district. Any agreement or plan shall contain, in addition to any other terms and provisions, a requirement for the establishment of a maintenance reserve fund consistent with the appropriation and withdrawal requirements for capital reserve accounts established pursuant to section 57 of P.L.2000, c.72 (C.18A:7G-31), the funding levels of which shall be as set forth in regulations adopted by the commissioner pursuant to section 26 of P.L.2000, c.72 (C.18A:7G-26).

e. (1) Within one year of the effective date of P.L.2007, c.137 (C.52:18A-235 et al.), the commissioner, in consultation with the development authority, shall adopt pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), rules and regulations by which the commissioner shall determine whether an SDA district is eligible to be considered by the development authority to manage a school facilities project or projects. In making the determination, the commissioner shall consider the district's fiscal integrity and operations, the district's performance in each of the five key components of school district effectiveness under the New Jersey Quality Single Accountability Continuum (NJQSAC) in accordance with section 10 of P.L.1975, c.212 (C.18A:7A-10), and other relevant factors.

(2) Within one year of the effective date of P.L.2007, c.137 (C.52:18A-235 et al.), the development authority, in consultation with the commissioner, shall adopt pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), rules and regulations by which the development authority shall determine the capacity of an SDA district, deemed eligible by the commissioner pursuant to paragraph (1) of this subsection, to manage a school facilities project or projects identified by the development authority. In making the determination, the development au-

thority shall consider the experience of the SDA district, the size, complexity, and cost of the project, time constraints, and other relevant factors.

(3) The development authority, in consultation with the commissioner, shall develop and implement training programs, seminars, or symposia to provide technical assistance to SDA districts deemed to lack the capacity to manage a school facility project or projects; except that nothing herein shall be construed to require the development authority or the commissioner to authorize an SDA district to hire additional staff in order to achieve capacity.

(4) If the development authority determines to delegate a school facilities project to an SDA district in accordance with paragraph (2) of this subsection, the development authority, the commissioner, and the district shall enter into a grant agreement.

45. Section 14 of P.L.2000, c.72 (C.18A:7G-14) is amended to read as follows:

C.18A:7G-14 Powers of financing authority; powers of development authority.

14. Notwithstanding any other provisions of law to the contrary:

a. The financing authority shall have the power, pursuant to the provisions of P.L.2000, c.72 (C.18A:7G-1 et al.), P.L.1974, c.80 (C.34:1B-1 et seq.) and P.L.2007, c.137 (C.52:18A-235 et al.), to issue bonds and refunding bonds, incur indebtedness and borrow money secured, in whole or in part, by moneys received pursuant to sections 17, 18 and 19 of P.L.2000, c.72 (C.18A:7G-17, C.18A:7G-18 and C.18A:7G-19) for the purposes of: financing all or a portion of the costs of school facilities projects and any costs related to the issuance thereof, including, but not limited to, the administrative, insurance, operating and other expenses of the financing authority to undertake the financing, and the development authority to undertake the planning, design, and construction of school facilities projects; lending moneys to local units to pay the costs of all or a portion of school facilities projects and any costs related to the issuance thereof; funding the grants to be made pursuant to section 15 of P.L.2000, c.72 (C.18A:7G-15); and financing the acquisition of school facilities projects to permit the refinancing of debt by the district pursuant to section 16 of P.L.2000, c.72 (C.18A:7G-16). The aggregate principal amount of the bonds, notes or other obligations issued by the financing authority shall not exceed: \$100,000,000 for the State share of costs for county vocational school district school facilities projects; \$6,000,000,000 for the State share of costs for Abbott district school facilities projects; and \$2,500,000,000 for the State share of costs for school facilities projects in all other districts. This

limitation shall not include any bonds, notes or other obligations issued for refunding purposes.

The financing authority may establish reserve funds to further secure bonds and refunding bonds issued pursuant to this section and may issue bonds to pay for the administrative, insurance and operating costs of the financing authority and the development authority in carrying out the provisions of this act. In addition to its bonds and refunding bonds, the financing authority shall have the power to issue subordinated indebtedness, which shall be subordinate in lien to the lien of any or all of its bonds or refunding bonds as the financing authority may determine.

b. The financing authority shall issue the bonds or refunding bonds in such manner as it shall determine in accordance with the provisions of P.L.2000, c.72 (C.18A:7G-1 et al.), P.L.1974, c.80 (C.34:1B-1 et seq.), and P.L.2007, c.137 (C.52:18A-235 et al.); provided that notwithstanding any other law to the contrary, no resolution adopted by the financing authority authorizing the issuance of bonds or refunding bonds pursuant to this section shall be adopted or otherwise made effective without the approval in writing of the State Treasurer; and refunding bonds issued to refund bonds issued pursuant to this section shall be issued on such terms and conditions as may be determined by the financing authority and the State Treasurer. The financing authority may, in any resolution authorizing the issuance of bonds or refunding bonds issued pursuant to this section, pledge the contract with the State Treasurer provided for pursuant to section 18 of P.L.2000, c.72 (C.18A:7G-18), or any part thereof, or may pledge all or any part of the repayments of loans made to local units pursuant to section 19 of P.L.2000, c.72 (C.18A:7G-19) for the payment or redemption of the bonds or refunding bonds, and covenant as to the use and disposition of money available to the financing authority for payment of the bonds and refunding bonds. All costs associated with the issuance of bonds and refunding bonds by the financing authority for the purposes set forth in this act may be paid by the financing authority from amounts it receives from the proceeds of the bonds or refunding bonds, and from amounts it receives pursuant to sections 17, 18, and 19 of P.L.2000, c.72 (C.18A:7G-17, C.18A:7G-18 and C.18A:7G-19). The costs may include, but shall not be limited to, any costs relating to the issuance of the bonds or refunding bonds, administrative costs of the financing authority attributable to the making and administering of loans and grants to fund school facilities projects, and costs attributable to the agreements entered into pursuant to subsection d. of this section.

c. Each issue of bonds or refunding bonds of the financing authority shall be special obligations of the financing authority payable out of par-

tical revenues, receipts or funds, subject only to any agreements with the holders of bonds or refunding bonds, and may be secured by other sources of revenue, including, but not limited to, one or more of the following:

(1) Pledge of the revenues and other receipts to be derived from the payment of local unit obligations and any other payment made to the financing authority pursuant to agreements with any local unit, or a pledge or assignment of any local unit obligations, and the rights and interest of the financing authority therein;

(2) Pledge of rentals, receipts and other revenues to be derived from leases or other contractual arrangements with any person or entity, public or private, including one or more local units, or a pledge or assignment of those leases or other contractual arrangements and the rights and interests of the financing authority therein;

(3) Pledge of all moneys, funds, accounts, securities and other funds, including the proceeds of the bonds;

(4) Pledge of the receipts to be derived from payments of State aid to the financing authority pursuant to section 21 of P.L.2000, c.72 (C.18A:7G-21);

(5) Pledge of the contract or contracts with the State Treasurer pursuant to section 18 of P.L.2000, c.72 (C.18A:7G-18);

(6) Pledge of any sums remitted to the local unit by donation from any person or entity, public or private, subject to the approval of the State Treasurer;

(7) A mortgage on all or any part of the property, real or personal, comprising a school facilities project then owned or thereafter to be acquired, or a pledge or assignment of mortgages made to the financing authority by any person or entity, public or private, including one or more local units and rights and interests of the financing authority therein; and

(8) The receipt of any grants, reimbursements or other payments from the federal government.

d. The resolution authorizing the issuance of bonds or refunding bonds pursuant to this section may also provide for the financing authority to enter into any revolving credit agreement, agreement establishing a line of credit or letter of credit, reimbursement agreement, interest rate exchange agreement, currency exchange agreement, interest rate floor or cap, options, puts or calls to hedge payment, currency, rate, spread or similar exposure or similar agreements, float agreements, forward agreements, insurance contracts, surety bonds, commitments to purchase or sell bonds, purchase or sale agreements, or commitments or other contracts or agreements and other security agreements approved by the financing authority in connection with the issuance of the bonds or refunding bonds pursuant to this section. In

addition, the financing authority may, in anticipation of the issuance of the bonds or the receipt of appropriations, grants, reimbursements or other funds, including, without limitation, grants from the federal government for school facilities projects, issue notes, the principal of or interest on which, or both, shall be payable out of the proceeds of notes, bonds or other obligations of the financing authority or appropriations, grants, reimbursements or other funds or revenues of the financing authority.

e. The financing authority is authorized to engage, subject to the approval of the State Treasurer and in such manner as the State Treasurer shall determine, the services of financial advisors and experts, placement agents, underwriters, appraisers, and other advisors, consultants and agents as may be necessary to effectuate the financing of school facilities projects.

f. Bonds and refunding bonds issued by the financing authority pursuant to this section shall be special and limited obligations of the financing authority payable from, and secured by, funds and moneys determined by the financing authority in accordance with this section. Notwithstanding any other provision of law or agreement to the contrary, any bonds and refunding bonds issued by the financing authority pursuant to this section shall not be secured by the same property as bonds and refunding bonds issued by the financing authority to finance projects other than school facilities projects. Neither the members of the financing authority nor any other person executing the bonds or refunding bonds shall be personally liable with respect to payment of interest and principal on these bonds or refunding bonds. Bonds or refunding bonds issued pursuant to this section shall not be a debt or liability of the State or any agency or instrumentality thereof, except as otherwise provided by this subsection, either legal, moral or otherwise, and nothing contained in this act shall be construed to authorize the financing authority to incur any indebtedness on behalf of or in any way to obligate the State or any political subdivision thereof, and all bonds and refunding bonds issued by the financing authority shall contain a statement to that effect on their face.

g. The State hereby pledges and covenants with the holders of any bonds or refunding bonds issued pursuant to this act that it will not limit or alter the rights or powers vested in the financing authority by this act, nor limit or alter the rights or powers of the State Treasurer in any manner which would jeopardize the interest of the holders or any trustee of the holders, or inhibit or prevent performance or fulfillment by the financing authority or the State Treasurer with respect to the terms of any agreement made with the holders of the bonds or refunding bonds or agreements made pursuant to subsection d. of this section; except that the failure of the Legis-

lature to appropriate moneys for any purpose of this act shall not be deemed a violation of this section.

h. The financing authority and the development authority may charge to and collect from local units, districts, the State and any other person, any fees and charges in connection with the financing authority's or development authority's actions undertaken with respect to school facilities projects, including, but not limited to, fees and charges for the financing authority's administrative, organization, insurance, operating and other expenses incident to the financing of school facilities projects, and the development authority's administrative, organization, insurance, operating, planning, design, construction management, acquisition, construction, completion and placing into service and maintenance of school facilities projects. Notwithstanding any provision of this act to the contrary, no SDA district shall be responsible for the payment of any fees and charges related to the development authority's operating expenses.

i. Upon the issuance by the financing authority of bonds pursuant to this section, other than refunding bonds, the net proceeds of the bonds shall be transferred to the development authority.

46. Section 15 of P.L.2000, c.72 (C.18A:7G-15) is amended to read as follows:

C.18A:7G-15 Election by district to receive one-time grant for State share.

15. In the case of a district other than an SDA district, for any project approved by the commissioner after the effective date of this act, the district may elect to receive a one-time grant for the State share of the project rather than annual debt service aid under section 9 of P.L.2000, c.72 (C.18A:7G-9). The State share payable to the district shall equal the product of the project's final eligible costs and 115% of the district aid percentage or 40%, whichever is greater. The development authority shall provide grant funding for the State's share of the final eligible costs of a school facilities project pursuant to an agreement between the district and the development authority which shall, in addition to other terms and conditions, set forth the terms of disbursement of the State share. The funding of the State share shall not commence until the district secures financing for the local share.

47. Section 21 of P.L.2000, c.72 (C.18A:7G-21) is amended to read as follows:

C.18A:7G-21 Payment to financing, development authority to cover deficiency.

21. a. In the event that a local unit has failed or is unable to pay to the financing authority or the development authority in full when due any local unit obligations issued by the local unit to the financing authority, including, but not limited to, any lease or sublease obligations, or any other moneys owed by the district to the financing authority, to assure the continued operation and solvency of the authority, the State Treasurer shall pay directly to the financing authority an amount sufficient to satisfy the deficiency from State aid payable to the local unit; provided that if the local unit is a school district, the State aid shall not include any State aid which may otherwise be restricted pursuant to the provisions of P.L.2007, c.260 (C.18A:7F-43 et al.). As used in this section, local unit obligations include the principal or interest on local unit obligations or payment pursuant to a lease or sublease of a school facilities project to a local unit, including the subrogation of the financing authority to the right of the holders of those obligations, any fees or charges payable to the financing authority, and any amounts payable by a local unit under a service contract or other contractual arrangement the payments under which are pledged to secure any local unit obligations issued to the financing authority by another local unit.

b. If the financing authority requires, and if there has been a failure or inability of a local unit to pay its local unit obligations to the financing authority for a period of 30 days, the chairman or the executive director of the financing authority shall certify to the State Treasurer, with written notice to the fiscal officer of the local unit, the amount remaining unpaid, and the State Treasurer shall pay that amount to the financing authority; or if the right to receive those payments has been pledged or assigned to a trustee for the benefit of the holders of bonds or refunding bonds of the financing authority, to that trustee, out of the State aid payable to the local unit, until the amount so certified has been paid. Notwithstanding any provision of this act to the contrary, the State Treasurer's obligation to pay the financing authority pursuant to this section shall not extend beyond the amount of State aid payable to the local unit.

c. The amount paid to the financing authority pursuant to this section shall be deducted from the appropriation or apportionment of State aid payable to the local unit and shall not obligate the State to make, nor entitle the local unit to receive, any additional appropriation or apportionment. The obligation of the State Treasurer to make payments to the financing authority or trustee and the right of the financing authority or trustee to receive those payments shall be subject and subordinate to the rights of holders of qualified

bonds issued prior to the effective date of this act pursuant to P.L.1976, c.38 (C.40A:3-1 et seq.) and P.L.1976, c.39 (C.18A:24-85 et seq.).

48. Section 15 of P.L.2007, c.137 (C.18A:7G-46) is amended to read as follows:

C.18A:7G-46 Acquisition of land in SDA district; submission of land inventory.

15. If land is necessary to be acquired in connection with a school facilities project in an SDA district, the board of education of the district and the governing body of the municipality in which the district is situate shall jointly submit to the commissioner and to the development authority a complete inventory of all district- and municipal-owned land located in the municipality. The inventory shall include a map of the district showing the location of each of the identified parcels of land. The board of education and the governing body of the municipality shall provide an analysis of why any district- or municipal-owned land is not suitable as a site for a school facilities project identified in the district's long-range facilities plan. The inventory shall be updated as needed in connection with any subsequent school facilities projects for which it is necessary to acquire land.

49. Section 16 of P.L.2007, c.137 (C.18A:7G-47) is amended to read as follows:

C.18A:7G-47 Approval of site plan in SDA district; procedure.

16. a. Whenever the board of education of an SDA district submits to the New Jersey Schools Development Authority established pursuant to P.L.2007, c.137 (C.52:18A-235 et al.) information on a proposed preferred site for the construction of a school facilities project, the development authority shall file a copy of a map, plan or report indicating the proposed preferred site with the county clerk of the county within which the site is located and with the municipal clerk, planning board, and building inspector of the municipality within which the site is located.

b. Whenever a map, plan, or report indicating a proposed preferred site for the construction of an SDA district school facilities project is filed by the development authority pursuant to subsection a. of this section, any municipal approving authority before granting any site plan approval, building permit, or approval of a subdivision plat, or exercising any other approval power with respect to the development or improvement of any lot, tract, or parcel of land which is located wholly or partially within the proposed preferred site shall refer the site plan, application for a building per-

■it or subdivision plat or any other application for proposed development or improvement to the development authority for review and recommendation as to the effect of the proposed development or improvement upon the construction of the school facilities project.

c. A municipal approving authority shall not issue any site plan approval or building permit or approve a subdivision plat or exercise any other approval power with respect to the development or improvement of the lot, tract, or parcel of land without the recommendation of the development authority until 45 days following referral to the development authority pursuant to subsection b. of this section. Within that 45-day period, the development authority may:

(1) give notice to the municipal approving authority and to the owner of the lot, tract, or parcel of land of probable intention to acquire the whole or any part thereof, and no further action shall be taken by the approving authority for a further period of 180 days following receipt of notice from the development authority. If within the 180-day period the development authority has not acquired, agreed to acquire, or commenced an action to condemn the property, the municipal approving authority shall be free to act upon the pending application in such manner as may be provided by law; or

(2) give notice to the municipal approving authority and to the owner of the lot, tract, or parcel of land that the development authority has no objection to the granting of the permit or approval for which application has been made. Upon receipt of the notice the municipal approving authority shall be free to act upon the pending application in such manner as may be provided by law.

50. N.J.S.18A:13-23 is amended to read as follows:

Apportionment of appropriations.

18A:13-23. The annual or special appropriations for regional districts, including the amounts to be raised for interest upon, and the redemption of, bonds payable by the district, shall be apportioned among the municipalities included within the regional district, as may be approved by the voters of each municipality at the annual school election or a special school election, upon the basis of:

a. the portion of each municipality's equalized valuation allocated to the regional district, calculated as described in the definition of equalized valuation in section 3 of P.L.2007, c.260 (C.18A:7F-45);

b. the proportional number of pupils enrolled from each municipality on the 15th day of October of the prebudget year in the same manner as

would apply if each municipality comprised separate constituent school districts; or

c. any combination of apportionment based upon equalized valuations pursuant to subsection a. of this section or pupil enrollments pursuant to subsection b. of this section.

51. N.J.S.18A:21-3 is amended to read as follows:

Earnings credited to capital reserve accounts.

18A:21-3. The account shall be established by resolution of the board of school estimate or the board of education, as the case may be, in such form as shall be prescribed by the commissioner, a true copy of which shall be filed with the department. The account shall include the earnings attributable to the investment of the assets of the account.

52. N.J.S.18A:22-8 is amended to read as follows:

Contents of budget; format.

18A:22-8. The budget shall be prepared in such detail and upon such forms as shall be prescribed by the commissioner and to it shall be annexed a statement so itemized as to make the same readily understandable, in which shall be shown:

a. In tabular form there shall be set forth the following:

(1) The total expenditure for each item for the preceding school year, the amount appropriated for the current school year adjusted for transfers as of February 1 of the current school year, and the amount estimated to be necessary to be appropriated for the ensuing school year, indicated separately for each item as determined by the commissioner;

(2) The amount of the surplus account available at the beginning of the preceding school year, at the beginning of the current school year and the amount anticipated to be available for the ensuing school year;

(3) The amount of revenue available for budget purposes for the preceding school year, the amount available for the current school year as of February 1 of the current school year and the amount anticipated to be available for the ensuing school year in the following categories:

(a) Total to be raised by local property taxes

(b) Total State aid

(i) Equalization aid

(ii) Special education categorical aid

(iii) Transportation aid

- (iv) Preschool education aid
- (v) Security aid
- (vi) Adjustment aid
- (vii) Other (detailed at the discretion of the commissioner)
- (c) Total federal aid
 - (i) Elementary and Secondary Education Act of 1965 (20 U.S.C.s.2701 et seq.)
 - (ii) Handicapped
 - (iii) Impact Aid
 - (iv) Vocational
 - (v) Other (detailed at the discretion of the commissioner)
- (d) Other sources (detailed at the discretion of the commissioner).
- b. (Deleted by amendment, P.L.1993, c.117).
- c. In the event that the total expenditure for any item of appropriation is equal to \$0.00 for: (1) the preceding school year, (2) the current school year, and (3) the amount estimated to be necessary to be appropriated for the ensuing school year, that item shall not be required to be published pursuant to N.J.S.18A:22-11.
- d. The instruction function of the budget shall be divided at a minimum into elementary (K-5), middle school (6-8), and high school (9-12) cost centers, each of which shall be further divided by the core curriculum content areas. The commissioner shall phase in these requirements as soon as practicable.
- e. The budget as adopted for the school year pursuant to section 5 of P.L.1996, c.138 (C.18A:7F-5) shall be provided for public inspection on the school district's Internet site, if one exists, and made available in print in a "user-friendly" format using plain language. The Commissioner of Education shall promulgate a "user-friendly," plain language budget summary format for the use of school districts for this purpose.

53. Section 2 of P.L.1979, c.294 (C.18A:22-8.1) is amended to read as follows:

C.18A:22-8.1 Transfer of funds, conditions.

2. Except as otherwise provided pursuant to this section, whenever a school district desires to transfer amounts among line items and program categories, the transfers shall be by resolution of the board of education approved by a two-thirds affirmative vote of the authorized membership of the board; however, a board may, by resolution, designate the chief school administrator to approve such transfers as are necessary between meetings

of the board. Transfers approved by the chief school administrator shall be reported to the board, ratified and duly recorded in the minutes at a subsequent meeting of the board, but not less than monthly. Transfers of surplus amounts or any other unbudgeted or underbudgeted revenue to line items and program categories shall require the approval of the Commissioner of Education and shall only be approved between April 1 and June 30 for line items and program categories necessary to achieve the thoroughness standards established pursuant to section 4 of P.L.2007, c.260 (C.18A:7F-46); except that upon a two-thirds affirmative vote of the authorized membership of a board of education, the board may petition the commissioner for authority to transfer such revenue prior to April 1 due to an emergent circumstance and the commissioner may authorize the transfer if he determines that the transfer is necessary to meet such emergency. Transfers from any general fund appropriation account that, on a cumulative basis, exceed 10% of the amount of the account included in the school district's budget as certified for taxes shall require the approval of the commissioner. In a school district wherein the Commissioner of Education has directed an in-depth evaluation pursuant to subsection e. of section 14 of P.L.1975, c.212 (C.18A:7A-14), the board of education shall obtain the written approval of the executive county superintendent of schools prior to implementing any board authorized transfer of funds.

54. N.J.S.18A:22-38 is amended to read as follows:

Failure to certify; commissioner to act; amount included in tax levy.

18A:22-38. If the governing body or bodies fail to certify any amount determined to be necessary pursuant to section 5 of P.L.1996, c.138 (C.18A:7F-5) for any item rejected at the annual school election, or in the event that the governing bodies of the municipalities comprising a school district, shall certify different amounts, then the commissioner shall determine the amount or amounts which in his judgment, are necessary to be appropriated, for each of the items appearing in the budget, submitted to the governing body or bodies, and certify to the county board of taxation the totals of the amount determined to be necessary for the general fund expenses of the schools; and the amount certified shall be included in the taxes to be assessed, levied and collected in the municipality or municipalities for those purposes.

55. Section 2 of P.L.1976, c.39 (C.18A:24-87) is amended to read as follows:

C.18A:24-87 Definitions.

2. For the purposes of this act, unless the context clearly requires a different meaning:

a. "Commissioner" means the Commissioner of Education of the State of New Jersey;

b. "Debt service" means and includes payments of principal and interest upon qualified bonds issued pursuant to the terms of this act or amounts required in order to satisfy sinking fund payment requirements with respect to such bonds;

c. "Local Finance Board" means the Local Finance Board in the Division of Local Government Services in the Department of Community Affairs, established pursuant to P.L.1974, c.35 (C.52:27D-18.1);

d. "Paying agent" means any bank, trust company or national banking association having the power to accept and administer trusts, named or designated in any qualified bond of a school district or municipality as the agent for the payment of the principal of and interest thereon and shall include the holder of any sinking fund established for the payment of such bonds;

e. "Qualified bonds" means those bonds of a school district or municipality authorized and issued in conformity with the provisions of this act;

f. "State board" means the State Board of Education of the State of New Jersey;

g. "School district" means a Type I, Type II, regional, or consolidated school district as defined in Title 18A of the New Jersey Statutes;

h. "State school aid" means the funds made available to local school districts pursuant to section 11 of P.L.2007, c.260 (C.18A:7F-53).

56. Section 7 of P.L.1985, c.321 (C.18A:29-5.6) is amended to read as follows:

C.18A:29-5.6 Determination of teacher base salary.

7. a. The actual salary paid to each teacher under each district's or educational services commission's 1984-85 approved salary guide shall be considered a base salary for purposes of this act.

b. In addition to all other funds to which the local district or educational services commission is entitled under the provisions of P.L.2007, c.260 (C.18A:7F-43 et al.) and other pertinent statutes, each board of education or board of directors of an educational services commission shall receive from the State during the 1985-86 academic year and for two years thereafter an amount equal to the sum of the amounts by which the actual salary prescribed for each current full-time teaching staff member under the

salary schedule adopted by the local board of education or board of directors for the 1984-85 academic year in the manner prescribed by law is less than \$18,500.00, provided that the teaching staff member has been certified by the local board of education or board of directors as performing his duties in an acceptable manner for the 1984-85 school year pursuant to N.J.A.C.6:3-1.19 and 6:3-1.21. Each local board of education or board of directors shall receive from the State on behalf of the newly employed full-time teaching staff members for the 1985-86 academic year and for two years thereafter an amount equal to the sum of the amounts by which the actual salary prescribed for each newly employed full-time teaching staff member under the salary schedule adopted by the local board of education or board of directors for the 1984-85 academic year is less than \$18,500.00. All adjustments for teachers who are hired or who leave employment during the school year and who make less than \$18,500.00 shall be made in the school year following the year in which they were hired or left employment.

c. For the 1988-89 academic year and thereafter, this act shall be funded in accordance with the recommendations of the State and Local Expenditure and Revenue Policy Commission created pursuant to P.L.1984, c.213. If the commission's recommendations for funding this program are not enacted into law, this act shall be funded in accordance with subsection d. of this section and sections 9 and 10 of P.L.1985, c.321 (C.18A:29-5.8 and C.18A:29-5.9).

d. For the purpose of funding this act in the 1988-89 academic year as determined pursuant to this section, each teacher's salary based on the 1984-85 salary guide shall be increased by the product of the base salary multiplied by 21%.

e. In each subsequent year the product of the base salary times 7% shall be cumulatively added to each teacher's salary as calculated in subsection d. of this section in determining the aid payable. In any year subsequent to the 1987-88 academic year in which the base salary plus the cumulative increases under this section exceed \$18,500.00, aid will no longer be payable.

57. Section 11 of P.L.1995, c.426 (C.18A:36A-11) is amended to read as follows:

C.18A:36A-11 Operation of charter school.

11. a. A charter school shall operate in accordance with its charter and the provisions of law and regulation which govern other public schools; except that, upon the request of the board of trustees of a charter school, the

commissioner may exempt the school from State regulations concerning public schools, except those pertaining to assessment, testing, civil rights and student health and safety, if the board of trustees satisfactorily demonstrates to the commissioner that the exemption will advance the educational goals and objectives of the school.

b. A charter school shall comply with the provisions of chapter 46 of Title 18A of the New Jersey Statutes concerning the provision of services to handicapped students; except that the fiscal responsibility for any student currently enrolled in or determined to require a private day or residential school shall remain with the district of residence.

Within 15 days of the signing of the individualized education plan, a charter school shall provide notice to the resident district of any individualized education plan which results in a private day or residential placement. The resident district may challenge the placement within 30 days in accordance with the procedures established by law.

c. A charter school shall comply with applicable State and federal anti-discrimination statutes.

58. Section 12 of P.L.1995, c.426 (C.18A:36A-12) is amended to read as follows:

C.18A:36A-12 Per pupil payments to charter schools.

12. a. (Deleted by amendment, P.L.2007, c.260).

b. The school district of residence shall pay directly to the charter school for each student enrolled in the charter school who resides in the district an amount equal to 90% of the sum of the budget year equalization aid per pupil and the prebudget year general fund tax levy per pupil inflated by the CPI rate most recent to the calculation. In addition, the school district of residence shall pay directly to the charter school the security categorical aid attributable to the student and a percentage of the district's special education categorical aid equal to the percentage of the district's special education students enrolled in the charter school and, if applicable, 100% of preschool education aid. The district of residence shall also pay directly to the charter school any federal funds attributable to the student.

c. (Deleted by amendment, P.L.2007, c.260).

d. Notwithstanding the provisions of subsection b. of this section, in the case of a student who was not included in the district's projected resident enrollment for the school year, the State shall pay 100% of the amount required pursuant to subsection b. of this section for the first year of the student's enrollment in the charter school.

e. The State shall make payments required pursuant to subsection d. of this section directly to the charter school.

59. Section 3 of P.L.1988, c.12 (C.18A:38-7.9) is amended to read as follows:

C.18A:38-7.9 Apportionment of State aid, taxes.

3. a. In the event the designated district is composed of more than one municipality, when allocating equalized valuations or district incomes, pursuant to the provisions of section 3 of P.L.2007, c.260 (C.18A:7F-45), for the purpose of calculating State aid, persons attending schools in the designated district pursuant to section 2 of this act shall be assigned to each municipality comprising the designated district in direct proportion to the number of persons ordinarily attending school from each municipality in the designated district without considering the persons attending pursuant to this act.

b. In the event the designated district is a constituent district of a limited purpose regional district, when allocating equalized valuations or district incomes, pursuant to the provisions of section 3 of P.L.2007, c.260 (C.18A:7F-45), for the purpose of apportioning the amounts to be raised by taxes for the limited purpose regional district of which the designated district is a constituent district, persons attending schools in the designated district pursuant to section 2 of this act shall not be counted.

60. Section 4 of P.L.1988, c.105 (C.18A:38-7.13) is amended to read as follows:

C.18A:38-7.13 Designation of district for pupils residing in multi-district federal enclave.

4. The county superintendent of schools shall, within 120 days of the effective date of this act, certify to the Commissioner of Education which local school district shall be the designated district for persons of school age residing in a multi-district federal enclave. The district certified as the designated district shall count all pupils who reside in a multi-district federal enclave in the resident enrollment of the district for all State aid purposes and shall be designated by the commissioner to receive State aid and all federal funds provided under Pub.L.81-874 (20 U.S.C. s.236 et seq.).

For the purposes of calculating State aid pursuant to P.L.2007, c.260 (C.18A:7F-43 et al.), whenever pupils residing in one district are attending the schools of the designated district, the district income of the resident dis-

trict shall be allocated between the resident district and the designated district in proportion to the number of pupils residing in the resident district attending the schools of the resident district and designated district.

61. N.J.S.18A:38-19 is amended to read as follows:

Tuition of pupils attending schools in another district.

18A:38-19. Whenever the pupils of any school district are attending public school in another district, within or without the State, pursuant to this article, the board of education of the receiving district shall determine a tuition rate to be paid by the board of education of the sending district to an amount not in excess of the actual cost per pupil as determined under rules prescribed by the commissioner and approved by the State board, and such tuition shall be paid by the custodian of school moneys of the sending district out of any moneys in his hands available for current expenses of the district upon order issued by the board of education of the sending district, signed by its president and secretary, in favor of the custodian of school moneys of the receiving district.

62. Section 2 of P.L.1981, c.57 (C.18A:39-1a) is amended to read as follows:

C.18A:39-1a Adjustment of non-public school transportation costs.

2. For the 2002-2003 school year, the maximum amount of nonpublic school transportation costs per pupil provided for in N.J.S.18A:39-1 shall equal \$735 and this amount shall be increased in each subsequent year in direct proportion to the increase in the State transportation aid per pupil in the year prior to the prebudget year compared to the amount for the prebudget year or by the CPI, whichever is greater.

As used in this section, State transportation aid per pupil shall equal the total State transportation aid payments made pursuant to section 15 of P.L.2007, c.260 (C.18A:7F-57) divided by the number of pupils eligible for transportation. "CPI" means the average annual increase, expressed as a decimal, in the consumer price index for the New York City and Philadelphia areas during the fiscal year preceding the prebudget year as reported by the United States Department of Labor.

In the 2002-2003 school year and thereafter, any additional costs incurred by a school district due to the increase in the maximum amount of nonpublic school transportation costs per pupil pursuant to this section shall be borne by the State.

63. N.J.S.18A:39-1.1 is amended to read as follows:

Transportation of other pupils by board.

18A:39-1.1. In addition to the provision of transportation for pupils pursuant to N.J.S.18A:39-1 and N.J.S.18A:46-23, the board of education of any district may provide, by contract or otherwise, in accordance with law and the rules and regulations of the State board, for the transportation of other pupils to and from school.

Districts shall not receive State transportation aid pursuant to section 15 of P.L.2007, c.260 (C.18A:7F-57) for the transportation of pupils pursuant to this section.

64. Section 1 of P.L.1995, c.106 (C.18A:39-1.3) is amended to read as follows:

C.18A:39-1.3 Contract for transportation of certain pupils; costs.

1. Any board of education which transports pupils to and from school pursuant to N.J.S.18A:39-1 or a cooperative transportation services agency may enter into a contract for the transportation of public school pupils who are not eligible for transportation services pursuant to N.J.S.18A:39-1 or any other law, and may require that if the parent, guardian or other person having legal custody of the child elects to have the pupil transported pursuant to the contract, then the parent, guardian or other person having legal custody of the child shall pay all or a part of the costs of that transportation, including, but not limited to, the cost of fuel, driver salaries and insurance. A board of education or a cooperative transportation services agency may also enter into a contract for the transportation of pupils who attend not for profit nonpublic schools and who are not eligible for transportation services pursuant to N.J.S.18A:39-1 or any other law or who receive in-lieu-of transportation payments, and may require that if the parent, guardian or other person having legal custody of the child elects to have the pupil transported pursuant to the contract, then the parent, guardian or other person having legal custody of the child shall pay all or a part of the costs of that transportation, including, but not limited to, the cost of fuel, driver salaries and insurance.

The costs of the transportation shall be paid at the time and in the manner determined by the board of education or the cooperative transportation services agency, provided that the parent, guardian or other person having legal custody of the pupil attending the public or nonpublic school shall pay

no more than the per pupil cost of the route for the transportation provided pursuant to this section.

Boards of education shall not receive State transportation aid pursuant to section 15 of P.L.2007, c.260 (C.18A:7F-57) for the transportation of pupils pursuant to this section; however, the pupils shall be included in the calculation of the district's regular vehicle capacity utilization for purposes of the application of the incentive factor pursuant to that section.

A board of education shall notify the Department of Education when it elects to provide transportation for pupils under the provisions of this act.

65. Section 1 of P.L.2000, c.114 (C.18A:39-1.7) is amended to read as follows:

C.18A:39-1.7 Purchase of transportation by nonpublic school pupils; conditions.

1. A board of education responsible for the transportation of public school pupils to and from school pursuant to N.J.S.18A:39-1 or a cooperative transportation services agency as identified by the Commissioner of Education may permit nonpublic school pupils who live in or outside of the district and who are not eligible for pupil transportation pursuant to N.J.S.18A:39-1 because the distance from the pupil's residence to the nonpublic school is greater than the mileage limit established pursuant to N.J.S.18A:39-1 or any other law to purchase transportation to the nonpublic school from the board of education or the cooperative transportation services agency provided that:

- a. there is available space on the appropriate bus route; and
- b. the parent, guardian or other person having legal custody of the pupil attending the nonpublic school agrees to transport the pupil to an existing bus stop as determined by the board of education or the cooperative transportation services agency.

The parent, guardian or other person having legal custody of the pupil attending the nonpublic school shall pay no more than the per pupil cost of the route for the transportation provided pursuant to this section. The costs of the transportation shall be paid at the time and in the manner determined by the board of education or cooperative transportation services agency.

A board of education or the cooperative transportation services agency shall notify the Department of Education when it elects to provide transportation for pupils under the provisions of this section.

Boards of education shall not receive State transportation aid pursuant to section 15 of P.L.2007, c.260 (C.18A:7F-57) for the transportation of pupils pursuant to this section; however these pupils shall be included in

the calculation of the district's regular vehicle capacity utilization for purposes of the application of the incentive factor pursuant to that section.

Prior to providing transportation pursuant to this section to a nonpublic school pupil who lives within the district, a board of education shall determine if the pupil is eligible for transportation or an in-lieu-of payment pursuant to section 1 of P.L.1999, c.350 (C.18A:39-1.6). If the board of education determines that the pupil is eligible for transportation or an in-lieu-of payment pursuant to section 1 of P.L.1999, c.350 (C.18A:39-1.6), then that provision of law shall govern the transportation services provided to the pupil by the board of education.

66. 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.

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.

67. N.J.S.18A:39-15 is amended to read as follows:

State aid for joint transportation.

18A:39-15. If the executive county superintendent of the county in which the districts are situate shall approve the necessity, the cost, and the method of providing joint transportation and the agreement whereby the same is to be provided, each board of education providing joint transportation shall be entitled to State transportation aid pursuant to section 15 of P.L.2007, c.260 (C.18A:7F-57).

68. Section 11 of P.L.1987, c.387 (C.18A:40A-18) is amended to read as follows:

C.18A:40A-18 Employment of substance awareness coordinators in certain school districts.

11. The Commissioner of Education, in consultation with the Commissioner of Health and Senior Services, shall develop and administer a pro-

gram which provides for the employment of substance awareness coordinators in certain school districts.

a. Within 90 days of the effective date of this act, the Commissioner of Education shall forward to each local school board a request for a proposal for the employment of a substance awareness coordinator. A board which wants to participate in the program shall submit a proposal to the commissioner which outlines the district's plan to provide substance abuse prevention, intervention and treatment referral services to students through the employment of a substance awareness coordinator. Nothing shall preclude a district which employs a substance awareness coordinator at the time of the effective date of this act from participating in this program. The commissioner shall select school districts to participate in the program through a competitive grant process. The participating districts shall include urban, suburban and rural districts from the north, central and southern geographic regions of the State with at least one school district per county. In addition to all other State aid to which the local district is entitled under the provisions of P.L.2007, c.260 (C.18A:7F-43 et al.) and other pertinent statutes, each board of education participating in the program shall receive from the State, for a three-year period, the amount necessary to pay the salary of its substance awareness coordinator.

b. The position of substance awareness coordinator shall be separate and distinct from any other employment position in the district, including, but not limited to district guidance counselors, school social workers and school psychologists. The State Board of Education shall approve the education and experience criteria necessary for employment as a substance awareness coordinator. The criteria shall include a requirement for certification by the State Board of Examiners. In addition to the criteria established by the State board, the Department of Education and the Department of Health and Senior Services shall jointly conduct orientation and training programs for substance awareness coordinators, and shall also provide for continuing education programs for coordinators.

c. It shall be the responsibility of substance awareness coordinators to assist local school districts in the effective implementation of this act. Coordinators shall assist with the in service training of school district staff concerning substance abuse issues and the district program to combat substance abuse; serve as an information resource for substance abuse curriculum development and instruction; assist the district in revising and implementing substance abuse policies and procedures; develop and administer intervention services in the district; provide counseling services to pupils regarding substance abuse problems; and, where necessary and appropriate,

cooperate with juvenile justice officials in the rendering of substance abuse treatment services.

d. The Commissioner of Education, in consultation with the Commissioner of Health and Senior Services, shall implement a plan to collect data on the effectiveness of the program in treating problems associated with substance abuse and in reducing the incidence of substance abuse in local school districts. Six months prior to the expiration of the program authorized pursuant to this section, the Commissioner of Education shall submit to the Governor and the Legislature an evaluation of the program and a recommendation on the advisability of its continuation or expansion to all school districts in the State.

69. N.J.S.18A:44-4 is amended to read as follows:

Expenses; how paid.

18A:44-4. a. Except as otherwise provided pursuant to subsection b. of this section, the expenses of preschool schools or departments and of kindergarten schools or departments shall be paid out of any moneys available for the general fund expenses of the schools, and in the same manner and under the same restrictions as the expenses of other schools or departments are paid, except when wholly or partly subsidized by restricted funding sources or restricted endowments.

b. A district may collect tuition from the parents or guardians of students enrolled in a preschool school or department for whom the district does not receive preschool education aid pursuant to section 12 of P.L.2007, c.260 (C.18A:7F-54). The amount of tuition may not exceed the per pupil cost of the preschool program.

70. Section 2 of P.L.2000, c.139 (C.18A:44-6) is amended to read as follows:

C.18A:44-6 Division of Early Childhood Education.

2. a. There is established a Division of Early Childhood Education in the Department of Education. The administrator and head of the division shall be a person qualified by training and experience to perform the duties of the division and shall devote his entire time to the performance of those duties.

b. The division shall be responsible for:

(1) setting required standards for early childhood education programs in districts that operate preschool programs for three- and four-year olds that emphasize the quality necessary to meet children's needs, including,

but not limited to, standards for teacher qualifications, program design and facilities;

(2) identifying and disseminating information on model early childhood education programs that meet and exceed high standards for program quality;

(3) the coordination of early childhood programs and services in consultation with the Department of Human Services;

(4) identifying the amount of funds necessary to implement successful early childhood education programs based on a comprehensive needs assessment;

(5) providing assistance, as needed, to school districts in implementing early childhood education programs;

(6) implementing the early childhood education orders of the New Jersey Supreme Court;

(7) overseeing the evaluation and monitoring of early childhood education programs in districts that operate preschool programs for three- and four-year olds; and

(8) providing, in consultation with the Department of Human Services, an annual report to the Legislature and public on early childhood education.

71. N.J.S.18A:46-14 is amended to read as follows:

Enumeration of facilities and programs.

18A:46-14. The facilities and programs of education required under this chapter shall be provided by one or more of the following:

a. A special class or classes in the district, including a class or classes in hospitals, convalescent homes, or other institutions;

b. A special class in the public schools of another district in this State or any other state in the United States;

c. Joint facilities including a class or classes in hospitals, convalescent homes or other institutions to be provided by agreement between one or more school districts;

d. A jointure commission program;

e. A State of New Jersey operated program;

f. Instruction at school supplementary to the other programs in the school, whenever, in the judgment of the board of education with the consent of the commissioner, the handicapped pupil will be best served thereby;

g. Sending children capable of benefiting from a day school instructional program to privately operated day classes, in New Jersey or, with the approval of the commissioner to meet particular circumstances, in any other state in the United States, the services of which are nonsectarian whenever

in the judgment of the board of education with the consent of the commissioner it is impractical to provide services pursuant to subsection a., b., c., d., e. or f. otherwise;

h. Individual instruction at home or in school whenever in the judgment of the board of education with the consent of the commissioner it is impracticable to provide a suitable special education program for a child pursuant to subsection a., b., c., d., e., f. or g. otherwise.

Whenever a child study team determines that a suitable special education program for a child cannot be provided pursuant to subsection a., b., c., d., e., f., g. or h. of this section, and that the most appropriate placement for that child is in an academic program in an accredited nonpublic school within the State or, to meet particular circumstances, in any other state in the United States, the services of which are nonsectarian, and which is not specifically approved for the education of handicapped pupils, that child may be placed in that academic program by the board of education, with the consent of the commissioner, or by order of a court of competent jurisdiction. An academic program which meets the requirements of the child's Individual Education Plan as determined by the child study team and which provides the child with a thorough and efficient education, shall be considered an approved placement for the purposes of chapter 46 of this Title, and the board of education shall be entitled to receive State aid for that child as provided pursuant to P.L.2007, c.260 (C.18A:7F-43 et al.), and all other pertinent statutes.

Whenever any child shall be confined to a hospital, convalescent home, or other institution in New Jersey or in any other state in the United States and is enrolled in an education program approved under this article, or shall be placed in any other State facility as defined in section 3 of P.L.2007, c.260 (C.18A:7F-45), the board of education of the district in which the child resides shall pay the tuition of that child. The board of education may also furnish (a) the facilities or programs provided in this article to any person over the age of 20 who does not hold a diploma of a high school approved in this State or in any other state in the United States, (b) suitable approved facilities and programs for children under the age of five.

72. N.J.S.18A:46-23 is amended to read as follows:

Transportation of pupils; special classes; handicapped children; State aid.

18A:46-23. The board of education shall furnish transportation to all children found under this chapter to be handicapped who shall qualify therefor pursuant to law and it shall furnish the transportation for a lesser distance

also to any handicapped child, if it finds upon the advice of the examiner, the handicap to be such as to make transportation necessary or advisable.

The board of education shall furnish transportation to all children being sent by local boards of education to an approved 12-month program pursuant to N.J.S.18A:46-14, or any other program approved pursuant to N.J.S.18A:46-14 and who qualify therefor pursuant to law, during the entire time the child is attending the program. The board shall furnish transportation for a lesser distance also to a handicapped child, if it finds upon the advice of the examiner, his handicap to be such as to make the transportation necessary or advisable.

The school district shall be entitled to State aid for the transportation pursuant to section 15 of P.L.2007, c.260 (C.18A:7F-57) when the necessity for the transportation and the cost and method thereof have been approved by the executive county superintendent of the county in which the district paying the cost of the transportation is situated.

73. Section 3 of P.L.1971, c.271 (C.18A:46-31) is amended to read as follows:

C.18A:46-31 Powers, duties of special services school district board of education.

3. a. Any school established pursuant to P.L.1971, c.271 (C.18A:46-29 et al.) shall accept all eligible pupils within the county, so far as facilities permit. Pupils residing outside the county may be accepted should facilities be available only after provision has been made for all eligible pupils within the county. Any child accepted shall be classified pursuant to chapter 46 of Title 18A of the New Jersey Statutes.

b. The board of education of any county special services school district may receive such funds as may be appropriated by the county pursuant to section 13 of P.L.1971, c.271 (C.18A:46-41) and shall be entitled to collect and receive from the sending districts in which the pupils attending the county special services school reside, for the tuition of those pupils, a sum not to exceed the actual cost per pupil as determined for each special education program or for the special services school district, according to rules prescribed by the commissioner and approved by the State board. Whenever funds have been appropriated by the county, the county special services school district may charge a fee in addition to tuition for any pupils who are not residents of the county. The fee shall not exceed the amount of the county's per pupil appropriation to the county special services school district. For each special education program or for the special services school district, the tuition shall be at the same rate per pupil for each send-

ing district whether within or without the county. Ten percent of the tuition amount and the nonresident fee amount, if any, shall be paid on the first of each month from September to June to the receiving district by each sending district. The annual aggregate amount of all tuition may be anticipated by the board of education of the county special services school district with respect to the annual budget of the county special services school district. The amounts of all annual payments or tuition to be paid by any other school district shall be raised in each year in the annual budget of the other school district and paid to the county special services school district.

Tuition charged to the resident district shall be deducted from the resident district's State aid and transferred directly to the county special services district by the Department of Education according to procedures established by the commissioner. The transfers shall equal 1/20th of the tuition charged and shall occur on the same schedule of State aid payments for the resident districts. Beginning in May of the preceding year the county special services district shall report to the department and the resident districts the current enrollments and tuition rates by district. Enrollment changes reported at least 30 days in advance of a scheduled transfer shall be honored.

Unless specifically designated, county special services school districts shall not receive State aid under the provisions of P.L.2007, c.260 (C.18A:7F-43 et al.). The county special services general fund budget, exclusive of any county contribution, shall not exceed the general fund budget, exclusive of any county contribution, in the prebudget year adjusted by the CPI or three percent, whichever is greater, plus an enrollment factor.

An undesignated general fund balance of 10 percent of the general fund budget exclusive of tuition adjustments of prior years may be maintained. For the years 1997-98 through 2001-2002, State aid shall be provided to fund tuition losses when placements drop by more than five percent between the budget year and prebudget year. State aid shall equal the difference between 95 percent of the prebudget year enrollment on May 1 preceding the prebudget year multiplied by the budget year tuition rate and actual enrollments on May 1 preceding the budget year multiplied by the budget year tuition rate.

c. The board of education of any county special services school district, with the approval of the board of chosen freeholders of the county, may provide for the establishment, maintenance and operation of dormitory and other boarding care facilities for pupils in conjunction with any one or more of its schools for special services, and the board shall provide for the establishment, maintenance and operation of such health care services and facilities for the pupils as the board shall deem necessary.

d. (Deleted by amendment, P.L.1991, c.62).

74. Section 9 of P.L.1977, c.192 (C.18A:46A-9) is amended to read as follows:

C.18A:46A-9 Apportionment of State aid; calculation.

9. The apportionment of State aid among local school districts shall be calculated by the commissioner as follows:

a. The per pupil aid amount for providing the equivalent service to children of limited English-speaking ability enrolled in the public schools, shall be \$1274.03. The appropriate per pupil aid amount for compensatory education shall be \$628.71.

b. The appropriate per pupil aid amount shall then be multiplied by the number of auxiliary services received for each pupil enrolled in the nonpublic schools who were identified as eligible to receive each auxiliary service as of the last school day of June of the prebudget year, to obtain each district's State aid for the next school year.

c. The per pupil aid amount for home instruction shall be determined by multiplying the base per pupil amount by a cost factor of 0.0037 by the number of hours of home instruction actually provided in the prior school year.

75. N.J.S.18A:56-16 is amended to read as follows:

Certification of anticipated default; purchase of bonds, payment of interest by trustees; State aid treatment.

18A:56-16. In the event that a school district or a county or municipality anticipates that it will be unable to meet the payment of principal or interest on any of its bonds issued for school purposes after December 4, 1958, it shall certify such liability to the commissioner and the Director of the Division of Local Finance at least 10 days prior to the date any such payment is due. If the commissioner and director shall approve said certification, they shall immediately certify the same to the trustees of the fund for the support of public schools. Upon the receipt thereof, or in the event any such district, county or municipality fails to certify its anticipated inability to meet any such payments, upon notice and verification of such inability, the trustees shall, within the limits of the school bond guaranty reserve established within the fund purchase any such bonds at a price equivalent to the face amount thereof or pay to the holder of any such bond the interest due or to become due thereon, as the case may be, and such purchases and payments of interest may continue so long as the district,

county or municipality remains unable to make such payments. Upon making any such payment of interest, the trustees of the fund shall be subrogated to all rights of the bondholder against the issuer in respect to the collection of such interest and if such interest is represented by a coupon such coupon shall be delivered to the trustees of the fund.

The State Treasurer shall act as agent of the trustees of the fund in making any such payments or purchases, and he shall prescribe, in consultation with the commissioner, such rules and regulations as may be necessary and proper to effectuate the purposes of this section.

The amount of any payment of interest or purchase price pursuant to this section shall be deducted from the appropriation or apportionment of State aid, other than any State aid which may be otherwise restricted pursuant to the provisions of P.L.2007, c.260 (C.18A:7F-43 et al.), payable to the district, county or municipality and shall not obligate the State to make, nor entitle the district, county or municipality to receive, any additional appropriation or apportionment. Any amount so deducted shall be applied by the State Treasurer to satisfy the obligation of the district, county or municipality arising as a result of the payment of interest or purchase price pursuant to this section.

76. Section 6 of P.L.1974, c.79 (C.18A:58-37.6) is amended to read as follows:

C.18A:58-37.6 Expenditure of aid for textbooks.

6. State aid provided pursuant to P.L.2007, c.260 (C.18A:7F-43 et al.) may be expended for the purchase and loan of textbooks for public school pupils in an amount which shall not exceed the State average budgeted textbook expense for the prebudget year per pupil in resident enrollment. Nothing contained herein shall prohibit a board of education in any district from purchasing textbooks in excess of the amounts provided pursuant to this act.

77. Section 4 of P.L.2000, c.77 (C.30:5B-6.13) is amended to read as follows:

C.30:5B-6.13 Request for criminal history record background check, time limits, restrictions upon employees.

4. a. In the case of a child care center established after the effective date of P.L.2000, c.77 (C.30:5B-6.10 et al.), the owner or sponsor of the center, prior to the center's opening, shall ensure that a request for a criminal history record background check on each staff member is sent to the

Department of Human Services for processing by the Division of State Police in the Department of Law and Public Safety and the Federal Bureau of Investigation.

A staff member shall not be left alone as the only adult caring for a child at the center until the criminal history record background has been reviewed by the department pursuant to P.L.2000, c.77 (C.30:5B-6.10 et al.).

b. In the case of a child care center licensed or granted life-safety approval prior to the effective date of P.L.2000, c.77 (C.30:5B-6.10 et al.), the owner or sponsor of the center, at the time of the center's first renewal of license or life-safety approval next following that effective date, shall ensure that a request for a criminal history record background check for each staff member is sent to the department for processing by the Division of State Police and the Federal Bureau of Investigation.

c. Within two weeks after a new staff member begins employment at a child care center, the owner or sponsor of the center shall ensure that a request for a criminal history record background check is sent to the department for processing by the Division of State Police and the Federal Bureau of Investigation.

A new staff member shall not be left alone as the only adult caring for a child at the center until the criminal history record background has been reviewed by the department pursuant to P.L.2000, c.77 (C.30:5B-6.10 et al.).

d. In the case of child care centers under contract to implement early childhood education programs in school districts, the department shall ensure that a criminal history record background check is conducted on all current staff members as soon as practicable, but no later than six months after the effective date of P.L.2000, c.77 (C.30:5B-6.10 et al.).

78. Section 10 of P.L.2000, c.77 (C.30:5B-6.18) is amended to read as follows:

C.30:5B-6.18 Inapplicability of C.18A:6-7.1 et seq.

10. Notwithstanding the provisions of any other law to the contrary, the provisions of P.L.1986, c.116 (C.18A:6-7.1 et seq.) shall not apply to employees of a child care center licensed or life-safety approved by the Department of Human Services pursuant to P.L.1983, c.492 (C.30:5B-1 et seq.) if the center contracts with a school district to implement an early childhood education program.

79. Section 2 of P.L.1999, c.279 (C.34:15F-2) is amended to read as follows:

C.34:15F-2 Definitions relative to mentoring programs.

2. As used in this act:

"Commissioner" means the Commissioner of Labor and Workforce Development;

"Department" means the Department of Labor and Workforce Development;

"Educational foundation" means a nonprofit organization that may be created by or on behalf of a board of education or a nonprofit organization that has experience in the establishment of mentoring programs or the provision of services to at-risk youth;

"Joint committee" means the Joint Committee on Mentoring;

"Mentor" means a volunteer from the community who agrees to participate in a mentoring program;

"Program" means the At-Risk Youth Mentoring Program established by this act; and

"SDA district" means an SDA district as defined pursuant to section 3 of P.L.2000, c.72 (C.18A:7G-3).

80. Section 2 of P.L.2003, c.113 (C.46:15-7.1) is amended to read as follows:

C.46:15-7.1 Supplemental fee for conveyance, transfer of property.

2. a. For each conveyance or transfer of property, the grantor shall pay a supplemental fee of:

(1) (a) \$0.25 for each \$500.00 of consideration or fractional part thereof not in excess of \$150,000.00 recited in the deed;

(b) \$0.85 for each \$500.00 of consideration or fractional part thereof in excess of \$150,000.00 but not in excess of \$200,000.00 recited in the deed; and

(c) \$1.40 for each \$500.00 of consideration or fractional part thereof in excess of \$200,000.00 recited in the deed, plus

(2) for a transfer described in subsection (b) of section 4 of P.L.1975, c.176 (C.46:15-10.1), an additional \$1.00 for each \$500.00 of consideration or fractional part thereof not in excess of \$150,000.00 recited in the deed which fee shall be collected by the county recording officer at the time the deed is offered for recording, except as provided by subsection b. of this section.

b. The supplemental fee imposed by subsection a. of this section shall not be imposed on a conveyance or transfer that is made by a deed described in section 6 of P.L.1968, c.49 (C.46:15-10) or on a transfer described in paragraph (1) or paragraph (2) of subsection (a) of section 4 of P.L.1975, c.176 (C.46:15-10.1).

c. The proceeds of the supplemental fees collected by the county recording officer pursuant to subsection a. of this section shall be accounted for and remitted to the county treasurer. An amount equal to \$0.25 of the supplemental fee for each \$500.00 of consideration or fractional part thereof recited in the deed so collected pursuant to this section shall be retained by the county treasurer for the purposes set forth in subsection d. of this section, and the balance shall be remitted to the State Treasurer for deposit to the Extraordinary Aid Account, which shall be established as an account in the General Fund. Payments shall be made to the State Treasurer on the tenth day of each month following the month of collection.

d. From the proceeds of the supplemental fees collected by the county recording officer pursuant to subsection a. of this section and retained by the county treasurer pursuant to subsection c. of this section, a county that received funding in State fiscal year 2003 for the support of public health services pursuant to the provisions of the Public Health Priority Funding Act of 1977, P.L.1966, c.36 (C.26:2F-1 et seq.) shall, at a minimum, fund its priority health services under that act in subsequent years at the same level as the level at which those services were funded in State fiscal year 2003 pursuant to the annual appropriations act for that fiscal year as the Commissioner of the Department of Health and Senior Services shall determine. In any county, amounts of supplemental fees retained that are in excess of the amounts required to be used for the funding of the county's priority health services under this subsection shall be used by the county for general county purposes.

e. The Legislature shall annually appropriate the entire balance of the Extraordinary Aid Account for the purposes of providing extraordinary special education aid pursuant to section 13 of P.L.2007, c.260 (C.18A:7F-55) and "Municipal Property Tax Relief Act" extraordinary aid pursuant to section 4 of P.L.1991, c.63 (C.52:27D-118.35).

f. Every deed subject to the supplemental fee required by this section, which is in fact recorded, shall be conclusively deemed to have been entitled to recording, notwithstanding that the amount of the consideration shall have been incorrectly stated, or that the correct amount of the supplemental fee, if any, shall not have been paid, and no such defect shall in any way affect or impair the validity of the title conveyed or render the same unmarketable; but the person or persons required to pay that supplemental fee at the time of recording shall be and remain liable to the county recording officer for the payment of the proper amount thereof.

81. Section 2 of P.L.2001, c.415 (C.52:27D-491) is amended to read as follows:

C.52:27D-491 Definitions relative to the "Neighborhood Revitalization State Tax Credit Act."

2. As used in this act:

"Assistance" means the contribution of moneys to aid in the provision of neighborhood preservation and revitalization services or community services.

"Business entity" means any business firm or individual which is authorized to conduct or operate a trade or business in the State and is subject to taxes on business related income.

"Certificate for neighborhood revitalization State tax credits" means the certificate in the form prescribed by the Treasurer and issued by the commissioner to a business entity that specifies the dollar amount of neighborhood preservation and revitalization State tax credits that business entity may take as an annual credit against certain State taxes pursuant to P.L.2001, c.415 (C.52:27D-490 et seq.).

"Commissioner" means the Commissioner of Community Affairs.

"Department" means the Department of Community Affairs.

"Eligible neighborhood" means a contiguous area located in one or more municipalities that, at the time of the application to the department for approval of a neighborhood preservation and revitalization plan, are either eligible to receive aid under the "Special Municipal Aid Act," P.L.1987, c.75 (C.52:27D-118.24 et seq.) or coextensive with a school district which qualified prior to the effective date of P.L.2007, c.260 (C.18A:7F-43 et al.) for designation as an "Abbott district" pursuant to the "Comprehensive Educational Improvement and Financing Act of 1996," P.L.1996, c.138 (C.18A:7F-1 et al.).

"Housing and economic development activities" means those activities carried out in furtherance of a neighborhood preservation and revitalization plan in an eligible neighborhood approved pursuant to P.L.2001, c.415 (C.52:27D-490 et seq.), to improve the housing and economic conditions of the neighborhood; and shall include, without limitation, measures to foster the rehabilitation and construction of housing affordable to low and moderate income households within the neighborhood, including planning, design, rehabilitation, construction, and management of low and moderate income housing, home buyer counseling, and related activities needed to effectuate the rehabilitation and construction of housing affordable to low and moderate income households; measures to increase business activity within the neighborhood, including the rehabilitation and construction of

commercial facilities and the provision of assistance to small business entities; and measures to increase the income and labor force participation of neighborhood residents, including provision of education, training, child care and transportation assistance to enable low income neighborhood residents to obtain or retain employment.

"Low income household" means a household whose gross household income is less than 50 percent of the median gross household income for the region in which the neighborhood is located for households of similar size as determined by the department.

"Moderate income household" means a household whose gross household income is greater than or equal to 50 percent but less than 80 percent of the median gross household income of the region in which the neighborhood is located for households of similar size as determined by the department.

"Neighborhood preservation and revitalization activities" means housing and economic development activities and other neighborhood preservation and revitalization activities.

"Neighborhood Revitalization Plan" means a plan for the preservation or revitalization of an eligible neighborhood.

"Nonprofit organization" means a private nonprofit corporation that has been determined by the Internal Revenue Service of the United States Department of the Treasury to be exempt from income taxation under 26 U.S.C.s.501(c)(3).

"Other Neighborhood Revitalization Activities" means those activities, other than housing and economic development activities, carried out in furtherance of a State-approved neighborhood preservation and revitalization plan in a qualified low and moderate income neighborhood, and may include, without limitation, improvements to infrastructure, street scape, public open space, and transportation systems; provision of social and community services, health care, crime prevention, recreation activities, community and environmental health services; and community outreach and organizing activities.

"Qualified nonprofit organization" means a nonprofit organization that has demonstrated a commitment to the neighborhood for which it is submitting a plan or project, as reflected in its past activities or proposed activities in a preservation and revitalization plan.

"Qualified project" means one or more housing and economic development activities and which may also include one or more other neighborhood revitalization activities to be carried out in accordance with a neighborhood revitalization plan as approved by the commissioner with funds provided by a business entity eligible to receive a certificate for neighborhood revitalization State tax credits.

82. Section 7 of P.L.2004, c.73 is amended to read as follows:

7. Notwithstanding any provision of P.L.1968, c.410 (C.52:14B-1 et seq.) to the contrary, the commissioner may adopt, immediately upon filing with the Office of Administrative Law, such rules and regulations as the commissioner deems necessary to implement the provisions of P.L.2004, c.73 which shall be effective for a period not to exceed 12 months. Determinations made by the commissioner pursuant to P.L.2004, c.73 and the rules and regulations adopted by the commissioner to implement that act shall be considered to be final agency action and appeal of that action shall be directly to the Appellate Division of the Superior Court. The regulations shall thereafter be amended, adopted or readopted by the Commissioner of Education in accordance with the provisions of P.L.1968, c.410 (C.52:14B-1 et seq.).

83. Notwithstanding any provision of P.L.1968, c.410 (C.52:14B-1 et seq.) to the contrary, the Commissioner of Education may adopt, immediately upon filing with the Office of Administrative Law, such rules and regulations as the commissioner deems necessary to implement the provisions of P.L.2007, c.260 (C.18A:7F-43 et al.) which shall be effective for a period not to exceed 12 months. The regulations shall thereafter be amended, adopted or readopted by the commissioner in accordance with the provisions of P.L.1968, c.410 (C.52:14B-1 et seq.).

Repealer.

84. The following sections are repealed:

Sections 1 through 4, 10 through 23, and 25 through 31 of P.L.1996, c.138 (C.18A:7F-1 through 18A:7F-4, 18A:7F-10 through 18A:7F-23, 18A:7F-25 through 18A:7F-31);

Sections 1 and 2 of P.L.2005, c.122 (C.18A:7F-10.1 and 18A:7F-10.2);

Section 2 of P.L.1999, c.110 (C.18A:7F-13.1);

Section 1 of P.L.1999, c.438 (C.18A:7F-32.1);

P.L.1999, c.142 (C.18A:7F-35 and 18A:7F-36);

Section 1 of P.L.1999, c.167 (C.18A:8-1.1);

P.L.1995, c.95 (C.18A:22-8.6);

Section 10 of P.L.1999, c.279 (C.34:15F-10).

85. This act shall take effect immediately and shall first apply to the 2008-2009 school year.

Approved January 13, 2008.

CHAPTER 261

AN ACT concerning wrongful death actions and amending N.J.S.2A:31-4 and N.J.S.2A:31-5.

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

1. N.J.S.2A:31-4 is amended to read as follows:

Persons entitled to amount recovered.

2A:31-4. Persons entitled to amount recovered

The amount recovered in proceedings under this chapter shall be for the exclusive benefit of the persons entitled to take any intestate personal property of the decedent, and in the proportions in which they are entitled to take the same except if there is a surviving spouse of the decedent and one or more surviving descendants of the decedent they shall be entitled to equal proportions for purposes of recovery under this chapter notwithstanding the provisions of Title 3B of the New Jersey Statutes. If any of the persons so entitled in accordance with this section were dependent on the decedent at his death, they shall take the same as though they were sole persons so entitled, in such proportions, as shall be determined by the court without a jury, and as will result in a fair and equitable apportionment of the amount recovered, among them, taking into account in such determination, but not limited necessarily thereby, the age of the dependents, their physical and mental condition, the necessity or desirability of providing them with educational facilities, their financial condition and the availability to them of other means of support, present and future, and any other relevant factors which will contribute to a fair and equitable apportionment of the amount recovered.

2. N.J.S.2A:31-5 is amended to read as follows:

Assessment of damages by jury.

2A:31-5. Assessment of damages by jury.

In every action brought under the provisions of this chapter the jury may give such damages as they shall deem fair and just with reference to the pecuniary injuries resulting from such death, together with the hospital, medical and funeral expenses incurred for the deceased, to the persons entitled to any intestate personal property of the decedent in accordance with the provisions of N.J.S.2A:31-4.

3. This act shall take effect immediately and shall be retroactive to February 27, 2005.

Approved January 13, 2008.

CHAPTER 262

AN ACT concerning the U.S.S. New Jersey Battleship Commission and the Foundation for the U.S.S. New Jersey Battleship, 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.1995, c.252 (C.39:3-27.67) is amended to read as follows:

C.39:3-27.67 Issuance of Battleship U.S.S. New Jersey license plates.

1. The Chief Administrator of the Motor Vehicle Commission shall, upon proper application therefor, issue Battleship U.S.S. New Jersey license plates for any motor vehicle owned or leased and registered in the State. In addition to the registration number and other markings of identification otherwise prescribed by law, the plate shall display a depiction of a battleship and wording which either recognizes the U.S.S. New Jersey's role in U.S. naval history or indicates support for the restoration, and maintenance of the U.S.S. New Jersey. The wording, design and color scheme of the plate shall be chosen by the chief administrator.

2. Section 3 of P.L.1995, c.252 (C.39:3-27.69) is amended to read as follows:

C.39:3-27.69 "Battleship New Jersey Memorial Fund."

3. There is created in the Department of the Treasury a special non-lapsing fund to be known as the "Battleship New Jersey Memorial Fund." There shall be deposited into the fund the additional application and renewal fees collected pursuant to section 2 of P.L.1995, c.252 (C.39:3-27.68) and any interest earned thereon, less the amounts necessary to reimburse the division for administrative costs pursuant to section 4 of P.L.1995, c.252 (C.39:3-27.70). Monies deposited in the fund shall be an-

nually appropriated to the Home Port Alliance to support the restoration, maintenance and operation of the Battleship U.S.S. New Jersey.

3. Section 5 of P.L.1995, c. 252 (C.39:3-27.71) is amended to read as follows:

C.39:3-27.71 Notification to motorists.

5. The chief administrator shall notify eligible motorists of the opportunity to obtain Battleship U.S.S. New Jersey license plates by including a notice with all motor vehicle registration renewals and by posting appropriate posters or signs in all commission facilities and offices. The notices, posters, and signs shall be designed by the commission.

4. Section 2 of P.L.1995, c.299 (C.54A:9-25.10) is amended to read as follows:

C.54A:9-25.10 U.S.S. New Jersey Educational Museum Fund established.

2. There is established in the Department of the Treasury a special fund to be known as the U.S.S. New Jersey Educational Museum Fund. The State Treasurer shall deposit into the fund net contributions collected pursuant to this act. All moneys deposited in the U.S.S. New Jersey Educational Museum Fund shall be annually appropriated to the Home Port Alliance to support the maintenance and operation of the U.S.S. New Jersey as a memorial and museum.

C.13:15A-15 Funds transferred to Home Port Alliance and Foundation.

5. All funds of the U.S.S. New Jersey Battleship Commission, established pursuant to P.L.1979, c. 440 (C.13:15A-1 et seq.) are transferred to the Home Port Alliance. All funds of the Foundation for the U.S.S. New Jersey Battleship established pursuant to P.L.1997, c.45 (C.13:15A-10 et al.) are transferred to the Foundation for the Battleship New Jersey.

Repealer.

6. P.L.1979, c.440 (C.13:15A-1 et seq.) and P.L.1997, c.45 (C.13:15A-10 et seq.) are repealed.

7. This act shall take effect immediately.

Approved January 13, 2008.

CHAPTER 263

AN ACT concerning the annual reports of the New Jersey Transit Corporation and amending P.L.1979, c.150.

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

1. Section 20 of P.L.1979, c.150 (C.27:25-20) is amended to read as follows:

C.27:25-20 Annual reports; public records; inspection; annual audit; examination of accounts and books by State Auditor.

20. a. The corporation shall, by September 15 of each year, file with the Commissioner of Transportation a report in such format and detail as the Commissioner may require setting forth the actual, operational, capital and financial results of the previous fiscal year, the operational, capital and financial plan for the current fiscal year and a proposed operational, capital and financial plan for the next ensuing fiscal year.

b. On or before October 31 of each year, the corporation shall make an annual report of its activities for the preceding fiscal year to the Governor and to the presiding officers and the Transportation Committees of both Houses of the Legislature. Each such report shall set forth a complete operating and financial statement covering its operations and capital projects during the year. The report shall also include an account of the on-time performance of rail passenger service, including light rail service, operated by, or under contract to, the corporation, including data for each such passenger line. The report shall provide a detailed discussion of the methodology used by the corporation in measuring on-time performance.

c. All records of minutes, accounts, bills, vouchers, contracts or other papers connected with or used or filed with the corporation or with any officer or employee acting for or in its behalf are hereby declared to be public records and shall be open to public inspection in accordance with P.L.1963, c.73 (C.47:1A-1 et seq.) and regulations prescribed by the corporation.

d. The corporation shall cause an audit of its books and accounts to be made at least once each year by certified public accountants and the cost thereof may be treated as a cost of operation. The audit shall be filed within 4 months after the close of the fiscal year of the corporation and a certified duplicate copy thereof shall be filed with the Division of Budget and Accounting in the Department of the Treasury.

e. Notwithstanding the provisions of any law to the contrary, the State Auditor or his legally authorized representative may examine the accounts and books of the corporation.

2. This act shall take effect immediately.

Approved January 13, 2008.

CHAPTER 264

AN ACT concerning the installation of certain renewable energy devices and supplementing Title 48 of the Revised Statutes.

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

C.48:3-107 Program for certification of persons who install renewable energy devices in buildings; fee schedule; rules, regulations.

1. a. The Board of Public Utilities shall within 180 days of the enactment of this act, establish a program for the certification of persons who install Class I renewable energy devices in buildings. Participation in this program shall be voluntary. The board shall require applicants for certification pursuant to this section to comply with all applicable licensing and business permit requirements in the State of New Jersey. As used in this subsection, "Class I renewable energy devices" means any system, mechanism, or series of mechanisms that produce "Class I renewable energy," as that term is defined in section 3 of P.L.1999, c.23 (C.48:3-51), primarily to provide heating, cooling, or to produce electrical power.

b. The board shall establish a fee schedule to cover the costs of the certification program established pursuant to this act.

c. The board shall, pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), adopt rules and regulations necessary to implement the provisions of this act.

2. This act shall take effect immediately.

Approved January 13, 2008.

CHAPTER 265

AN ACT establishing the “New Jersey False Claims Act,” supplementing Title 2A of the New Jersey Statutes and amending P.L.1968, c.413.

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

C.2A:32C-1 Short title.

1. Sections 1 through 15 and sections 17 and 18 of this act shall be known and may be cited as the “New Jersey False Claims Act.”

C.2A:32C-2 Definitions relative to false claims.

2. As used in this act:

“Attorney General” means the Attorney General of the State of New Jersey, or his designee.

“Claim” means a request or demand, under a contract or otherwise, for money, property, or services that is made to any employee, officer, or agent of the State, or to any contractor, grantee, or other recipient if the State provides any portion of the money, property, or services requested or demanded, or if the State will reimburse the contractor, grantee, or other recipient for any portion of the money, property, or services requested or demanded. The term does not include claims, records, or statements made in connection with State tax laws.

“Knowing” or “knowingly” means, with respect to information, that a person:

- (1) has actual knowledge of the information; or
- (2) acts in deliberate ignorance of the truth or falsity of the information; or
- (3) acts in reckless disregard of the truth or falsity of the information.

No proof of specific intent to defraud is required. Acts occurring by innocent mistake or as a result of mere negligence shall be a defense to an action under this act.

“State” means any of the principal departments in the Executive Branch of State government, and any division, board, bureau, office, commission or other instrumentality within or created by such department; and any independent State authority, commission, instrumentality or agency.

C.2A:32C-3 Civil liability for false, fraudulent claim.

3. A person shall be jointly and severally liable to the State for a civil penalty of not less than and not more than the civil penalty allowed under

the federal False Claims Act (31 U.S.C.s.3729 et seq.), as may be adjusted in accordance with the inflation adjustment procedures prescribed in the Federal Civil Penalties Inflation Adjustment Act of 1990, Pub.L.101-410, for each false or fraudulent claim, plus three times the amount of damages which the State sustains, if the person commits any of the following acts:

- a. Knowingly presents or causes to be presented to an employee, officer or agent of the State, or to any contractor, grantee, or other recipient of State funds, a false or fraudulent claim for payment or approval;
- b. Knowingly makes, uses, or causes to be made or used a false record or statement to get a false or fraudulent claim paid or approved by the State;
- c. Conspires to defraud the State by getting a false or fraudulent claim allowed or paid by the State;
- d. Has possession, custody, or control of public property or money used or to be used by the State and knowingly delivers or causes to be delivered less property than the amount for which the person receives a certificate or receipt;
- e. Is authorized to make or deliver a document certifying receipt of property used or to be used by the State and, intending to defraud the entity, makes or delivers a receipt without completely knowing that the information on the receipt is true;
- f. Knowingly buys, or receives as a pledge of an obligation or debt, public property from any person who lawfully may not sell or pledge the property; or
- g. Knowingly makes, uses, or causes to be made or used a false record or statement to conceal, avoid, or decrease an obligation to pay or transmit money or property to the State.

C.2A:32C-4 Reduction of treble damages by court, conditions.

4. The court may reduce the treble damages authorized under section 3 of this act to not less than twice the amount of damages which the State sustains if the court finds all of the following:

- a. The person committing the violation furnished officials of the State responsible for investigating false claims violations with all information known to such person about the violation within 30 days after the date on which the person first obtained the information;
- b. The person fully cooperated with any government investigation of the violation; and
- c. At the time such person furnished the State with information about the violation, no criminal prosecution, civil action, or administrative action

had commenced with respect to such violation, and the person did not have actual knowledge of the existence of an investigation into such violation.

C.2A:32C-5 Investigation of violation; prosecution of actions.

5. a. The Attorney General shall investigate a violation of this act. If the Attorney General finds that a person has violated or is violating this act, the Attorney General may bring a civil action in State or federal court against the person. The Superior Court shall have jurisdiction over a State action brought pursuant to this act.

b. A person may bring a civil action for a violation of this act for the person and for the State. Civil actions instituted under this act shall be brought in the name of the State of New Jersey.

c. A complaint filed by a person under this act shall remain under seal for at least 60 days and shall not be served on the defendant until the court so orders. Once filed, the action may be voluntarily dismissed by the person bringing the action if the Attorney General gives written consent to the dismissal along with the reason for consenting, and the court approves the dismissal.

d. A complaint alleging a false claim filed under this act shall be so designated when filed, in accordance with the Rules Governing the Courts of the State of New Jersey. Immediately upon filing of the complaint, the plaintiff shall serve by registered mail, return receipt requested, the Attorney General with a copy of the complaint and written disclosure of substantially all material evidence and information the person possesses. The Attorney General may elect to intervene and proceed with the action on behalf of the State within 60 days after it receives both the complaint and the material evidence and information.

e. If a person brings an action under this act and the action is based upon the facts underlying a pending investigation by the Attorney General, the Attorney General may take over the action on behalf of the State. In order to take over the action, the Attorney General shall give the person written notification within 30 days after notice of the action is served on the Attorney General that the Attorney General is conducting an investigation of the facts of the action and will take over the action.

f. The Attorney General may, for good cause shown, request that the court extend the time during which the complaint remains under seal. Any such motion may be supported by affidavits or other submissions in camera.

g. Before the expiration of the 60-day period or any extensions obtained under subsection f., the Attorney General shall:

(1) file a pleading with the court that he intends to proceed with the action, in which case the action is conducted by the Attorney General and the seal shall be lifted; or

(2) file a pleading with the court that he declines to proceed with the action, in which case the seal shall be lifted and the person bringing the action shall have the right to conduct the action.

h. The defendant's answer to any complaint filed under this act shall be filed in accordance with the Rules Governing the Courts of the State of New Jersey after the complaint is unsealed and served upon the defendant.

i. When a person files an action under this act, no other person except the State may intervene or bring a related action based on the facts underlying the pending action.

C.2A:32C-6 Primary responsibility for prosecuting action; remedies, supplementary.

6. a. If the Attorney General proceeds with the action, the Attorney General shall have primary responsibility for prosecuting the action, and shall not be bound by any act of the person bringing the action. The person bringing the action has the right to continue as a party to the action, subject to limitations specified in this act. The person bringing the action has an ongoing duty to disclose information related to the action to the Attorney General.

b. The Attorney General may move to dismiss the action for good cause shown, notwithstanding the objections of the person bringing the action, provided that the person bringing the action has been notified by the Attorney General and the court has provided the person bringing the action with the opportunity for a hearing.

c. Nothing in this act shall be construed to limit the authority of the Attorney General or the person bringing the action to settle the action, if the court determines after a hearing that the proposed settlement is fair, adequate, and reasonable under all the circumstances. Upon a showing of good cause, the hearing may be held in camera.

d. Upon a showing by the Attorney General that unrestricted participation during the course of the litigation by the person initiating the action would interfere with or unduly delay the Attorney General's prosecution of the case, or would be repetitious, irrelevant, or for purposes of harassment, the court may, in its discretion, impose limitations on the person's participation, including, but not limited to:

- (1) Limiting the number of witnesses the person may call;
- (2) Limiting the length of the testimony of the person's witnesses;
- (3) Limiting the person's cross-examination of witnesses; or
- (4) Otherwise limiting the participation by the person in the litigation.

e. Upon a showing by the defendant that unrestricted participation during the course of the litigation by the person initiating the action would be for purposes of harassment or would cause the defendant undue burden or unnecessary expense, the court may limit the participation by the person in the litigation.

f. If the Attorney General decides not to proceed with the action, the seal shall be lifted and the person who initiated the action shall have the right to conduct the action. The decision of the Attorney General on whether to proceed with an action shall be deemed final and shall not be subject to review by any court or agency. If the Attorney General so requests, the Attorney General shall be served at the expense of the Attorney General with copies of all pleadings and motions filed in the action and copies of all deposition transcripts. When a person proceeds with the action, the court, without limiting the rights of the person initiating the action, may permit the Attorney General to intervene and take over the action on behalf of the State at a later date upon a showing of good cause.

g. Whether or not the Attorney General proceeds with the action, upon a showing by the Attorney General that certain actions of discovery by the person initiating the action would interfere with an investigation by the State or the prosecution of a criminal or civil matter arising out of the same facts, the court may stay such discovery for a period of not more than 60 days. Such a showing shall be conducted in camera. The court may extend the 60-day period upon a further showing in camera by the Attorney General that the criminal or civil investigation or proceeding has been pursued with reasonable diligence and any proposed discovery in the civil action will interfere with an ongoing criminal or civil investigation or proceeding.

h. The application of one civil remedy under this act shall not preclude the application of any other remedy, civil, administrative or criminal, under this act or any other provision of law. Civil and administrative remedies under this act are supplemental, not mutually exclusive. If after the filing of a complaint under section 5 of this act, the Attorney General decides to pursue an alternate administrative recovery action under subsection (e) of section 17 of P.L.1968, c.413 (C.30:4D-17), the plaintiff shall have the same rights in the administrative recovery action as the plaintiff would have had if the action had continued in Superior Court. Any finding of fact or conclusion of law made in the proceeding under subsection (e) of section 17 of P.L.1968, c.413 (C.30:4D-17) that has become final shall be conclusive on all parties to an action initiated under section 5 of this act. As used in this subsection, the term "final" means that the finding of fact or conclusion of law has been finally determined on appeal to the appropriate court,

all time for filing such an appeal with respect to the finding or conclusion has expired, or the finding or conclusion is not subject to judicial review.

C.2A:32C-7 Distribution of proceeds.

7. a. If the Attorney General proceeds with and prevails in an action brought by a person under this act, except as provided in subsection b., the court shall order the distribution to the person of at least 15% but not more than 25% of the proceeds recovered under any judgment obtained by the Attorney General under this act or of the proceeds of any settlement of the claim, depending upon the extent to which the person substantially contributed to the prosecution of the action.

b. If the Attorney General proceeds with an action which the court finds to be based primarily on disclosures of specific information, other than that provided by the person bringing the action, relating to allegations or transactions in a criminal, civil, or administrative hearing; a legislative, administrative, or inspector general report, hearing, audit, or investigation; or from the news media, the court may award such sums as it considers appropriate, taking into account the significance of the information and the role of the person bringing the action in advancing the case to litigation.

c. The Attorney General shall receive a fixed 10% of the proceeds in any action or settlement of the claim that it brings, which shall be deposited in the "False Claims Prosecution Fund" established in section 13 of this act and shall only be used to support its ongoing investigation and prosecution of false claims pursuant to the provisions of this act.

d. If the Attorney General does not proceed with an action under this section, the person bringing the action or settling the claim shall receive an amount which the court decides is reasonable for collecting the civil penalty and damages. The amount shall be not less than 25% and not more than 30% of the proceeds of the action or settlement of a claim under this act.

e. Following any distributions under subsection a., b., c. or d. of this section the State entity injured by the submission of a false claim shall be awarded an amount not to exceed its compensatory damages. Any remaining proceeds, including civil penalties awarded under this act, shall be deposited in the General Fund.

f. Any payment under this section to the person bringing the action shall be paid only out of the proceeds recovered from the defendant.

g. Whether or not the Attorney General proceeds with the action, if the court finds that the action was brought by a person who knowingly planned and initiated the violation of this act upon which the action was brought, the court may, to the extent the court considers appropriate, reduce

the share of the proceeds of the action which the person would otherwise receive under this section, taking into account the role of the person in advancing the case to litigation and any relevant circumstances pertaining to the violation. If the person bringing the action is convicted of criminal conduct arising from his role in the violation of this act the person shall be dismissed from the civil action and shall not receive any share of the proceeds of the action. Such dismissal shall not prejudice the right of the Attorney General to continue the action.

C.2A:32C-8 Awarding of attorney's fees, expenses and costs.

8. a. If the Attorney General initiates an action under this act or assumes control of an action brought by a person under this act, the Attorney General shall be awarded reasonable attorney's fees, expenses, and costs.

b. If the court awards proceeds to the person bringing the action under this act, the person shall also be awarded an amount for reasonable attorney's fees, expenses, and costs. Payment for reasonable attorney's fees, expenses, and costs shall be made from the recovered proceeds before the distribution of any award.

c. If the Attorney General does not proceed with an action under this act and the defendant is the prevailing party, the court may award the defendant reasonable attorney's fees, expenses, and costs against the person bringing the action if the court finds that the claim of the person bringing the action was clearly frivolous, clearly vexatious, or brought primarily for purposes of harassment.

d. No liability shall be incurred by the State or the Attorney General for any expenses, attorney's fees, or other costs incurred by any person in bringing or defending an action under this act.

C.2A:32C-9 Immunity from civil liability; limitations on bringing an action.

9. a. No member of the Legislature, a member of the Judiciary, a senior Executive branch official, or a member of a county or municipal governing body may be civilly liable if the basis for an action is premised on evidence or information known to the State when the action was brought. For purposes of this subsection, the term "senior Executive branch official" means any person employed in the Executive branch of government holding a position having substantial managerial, policy-influencing or policy-executing responsibilities.

b. A person may not bring an action under this act based upon allegations or transactions that are the subject of a pending action or administrative proceeding in the State.

c. No action brought under this act shall be based upon the public disclosure of allegations or transactions in a criminal, civil, or administrative hearing, in an investigation, report, hearing or audit conducted by or at the request of the Legislature or by the news media, unless the action is brought by the Attorney General, or unless the person bringing the action is an original source of the information. For purposes of this subsection, the term "original source" means an individual who has direct and independent knowledge of the information on which the allegations are based and has voluntarily provided the information to the State before filing an action under this act based on the information.

d. No action may be brought under this act by a present or former employee or agent of the State or any political subdivision thereof when the action is based upon information discovered in any civil, criminal or administrative investigation or audit which investigation or audit was within the scope of the employee's or agent's duties or job description.

C.2A:32C-10 Disclosure of information by employee, employee protections.

10. a. No employer shall make, adopt, or enforce any rule, regulation, or policy preventing an employee from disclosing information to a State or law enforcement agency or from acting to further a false claims action, including investigating, initiating, testifying, or assisting in an action filed or to be filed under this act.

b. No employer shall discharge, demote, suspend, threaten, harass, deny promotion to, or in any other manner discriminate against an employee in the terms and conditions of employment because of lawful acts done by the employee on behalf of the employee or others in disclosing information to a State or law enforcement agency or in furthering a false claims action, including investigation for, initiation of, testimony for, or assistance in an action filed or to be filed under this act.

c. An employer who violates subsection b. of this section shall be liable for all relief necessary to make the employee whole, including reinstatement with the same seniority status such employee would have had but for the discrimination, two times the amount of back pay, interest on the back pay, compensation for any special damage sustained as a result of the discrimination, and, where appropriate, punitive damages. In addition, the defendant shall be required to pay litigation costs and reasonable attorney's fees associated with an action brought under this section. An employee may bring an action in the Superior Court for the relief provided in this subsection.

d. An employee who is discharged, demoted, suspended, harassed, denied promotion, or in any other manner discriminated against in the

terms and conditions of employment by his employer because of participation in conduct which directly or indirectly resulted in a false claim being submitted to the State shall be entitled to the remedies under subsection c. of this section if, and only if, both of the following occurred:

(1) The employee voluntarily disclosed information to a State or law enforcement agency or acts in furtherance of a false claims action, including investigation for, initiation of, testimony for, or assistance in an action filed or to be filed.

(2) The employee had been harassed, threatened with termination or demotion, or otherwise coerced by the employer or its management into engaging in the fraudulent activity in the first place.

C.2A:32C-11 Statute of limitations for bringing civil action.

11. A civil action under this act may not be brought:

a. More than six years after the date on which the violation of the act is committed; or

b. More than three years after the date when facts material to the right of action are known or reasonably should have been known by the State official charged with responsibility to act in the circumstances, but in no event more than 10 years after the date on which the violation is committed, whichever occurs last.

C.2A:32C-12 Evidence required for action, preponderance.

12. In any action brought under this act, the State or the person bringing the action shall be required to prove all essential elements of the cause of action, including damages, by a preponderance of the evidence.

C.2A:32C-13 "False Claims Prosecution Fund."

13. a. There is established in the General Fund the "False Claims Prosecution Fund" as a nonlapsing revolving fund in the Department of the Treasury. Monies deposited in the fund shall be utilized by the Attorney General for the exclusive purpose of investigating and prosecuting false claims. The State Treasurer shall deposit 10% of the proceeds recovered by the Attorney General pursuant to subsection c. of section 7 of P.L.2007, c.265 (C.2A:32C-7) in the False Claims Prosecution Fund.

b. The State Treasurer shall deposit 25% of the State share of monies recovered from actions related to false or fraudulent Medicaid claims brought pursuant to this act in the "Medicaid Fraud Control Fund" established by section 10 of P.L.2007, c.58 (C.30:4D-62).

c. Except as provided in subsections a. and b. of this section, the State share of moneys recovered by the Attorney General in accordance with the

provisions of this act shall be deposited in the General Fund.

C.2A:32C-14 Issuance of subpoenas, warrant for arrest; other power of Attorney General.

14. a. If the Attorney General has reason to believe that a person has engaged in, or is engaging in, an act or practice which violates this act, or any other relevant statute or regulation, the Attorney General or the Attorney General's designee may administer oaths and affirmations, and request or compel the attendance of witnesses or the production of documents. The Attorney General may issue, or designate another to issue, subpoenas to compel the attendance of witnesses and the production of books, records, accounts, papers and documents. Witnesses shall be entitled to receive the same fees and mileage as persons summoned to testify in the courts of the State.

If a person subpoenaed pursuant to this section shall neglect or refuse to obey the command of the subpoena, a judge of the Superior Court may, on proof by affidavit of service of the subpoena, of payment or tender of the fees required and of refusal or neglect by the person to obey the command of the subpoena, issue a warrant for the arrest of said person to bring that person before the judge, who is authorized to proceed against the person as for a contempt of court.

b. If the matter that the Attorney General seeks to obtain by request is located outside the State, the person so required may make it available to the Attorney General or the Attorney General's representative to examine the matter at the place where it is located. The Attorney General may designate representatives, including officials of the state in which the matter is located, to inspect the matter on behalf of the Attorney General, and the Attorney General may respond to similar requests from officials of other states.

c. If a licensed professional or an owner, administrator or employee of a licensed professional, including but not limited to an owner, administrator or employee of any hospital, an insurance company, an insurance producer, solicitor or adjuster, or any other person licensed or certified by a licensing authority of this State, or an agent, representative or employee of any of them is found to have violated any provision of this section, the Attorney General shall notify the appropriate licensing authority of the violation so that the licensing authority may take appropriate administrative action.

d. State investigators shall not be subject to subpoena in civil actions by any court of this State to testify concerning any matter of which they have knowledge pursuant to a pending false claims investigation by the State, or a pending claim for civil penalties initiated by the State.

C.2A:32C-15 Sovereign immunity preserved.

15. This act shall not be construed as waiving the sovereign immunity of the State and its officers and employees as otherwise provided by law.

16. Section 17 of P.L.1968, c.413 (C.30:4D-17) is amended to read as follows:

C.30:4D-17 Penalty.

17. (a) Any person who willfully obtains benefits under this act to which he is not entitled or in a greater amount than that to which he is entitled and any provider who willfully receives medical assistance payments to which he is not entitled or in a greater amount than that to which he is entitled is guilty of a high misdemeanor and, upon conviction thereof, shall be liable to a penalty of not more than \$10,000.00 or to imprisonment for not more than 3 years or both.

(b) Any provider, or any person, firm, partnership, corporation or entity, who:

(1) Knowingly and willfully makes or causes to be made any false statement or representation of a material fact in any cost study, claim form, or any document necessary to apply for or receive any benefit or payment under this act; or

(2) At any time knowingly and willfully makes or causes to be made any false statement, written or oral, of a material fact for use in determining rights to such benefit or payment under this act; or

(3) Conceals or fails to disclose the occurrence of an event which
(i) affects his initial or continued right to any such benefit or payment, or
(ii) affects the initial or continued right to any such benefit or payment of any provider or any person, firm, partnership, corporation or other entity in whose behalf he has applied for or is receiving such benefit or payment

with an intent to fraudulently secure benefits or payments not authorized under this act or in greater amount than that which is authorized under this act; or

(4) Knowingly and willfully converts benefits or payments or any part thereof received for the use and benefit of any provider or any person, firm, partnership, corporation or other entity to a use other than the use and benefit of such provider or such person, firm, partnership, corporation or entity; is guilty of a high misdemeanor and, upon conviction thereof, shall be liable to a penalty of not more than \$10,000.00 for the first and each subsequent offense or to imprisonment for not more than three years or both.

(c) Any provider, or any person, firm, partnership, corporation or entity who solicits, offers, or receives any kickback, rebate or bribe in connection with:

(1) The furnishing of items or services for which payment is or may be made in whole or in part under this act; or

(2) The furnishing of items or services whose cost is or may be reported in whole or in part in order to obtain benefits or payments under this act; or

(3) The receipt of any benefit or payment under this act, is guilty of a high misdemeanor and, upon conviction thereof, shall be liable to a penalty of not more than \$10,000.00 or to imprisonment for not more than 3 years or both.

This subsection shall not apply to (A) a discount or other reduction in price under this act if the reduction in price is properly disclosed and appropriately reflected in the costs claimed or charges made under this act; and (B) any amount paid by an employer to an employee who has a bona fide employment relationship with such employer for employment in the provision of covered items or services.

(d) Whoever knowingly and willfully makes or causes to be made or induces or seeks to induce the making of any false statement or representation of a material fact with respect to the conditions or operations of any institution or facility in order that such institution or facility may qualify either upon initial certification or recertification as a hospital, skilled nursing facility, intermediate care facility, or health agency, thereby entitling them to receive payments under this act, shall be guilty of a high misdemeanor and shall be liable to a penalty of not more than \$3,000.00 or imprisonment for not more than 1 year or both.

(e) Any person, firm, corporation, partnership, or other legal entity who violates the provisions of any of the foregoing subsections of this section or any provisions of section 3 of P.L.2007, c.265 (C.2A:32C-3), shall, in addition to any other penalties provided by law, be liable to civil penalties of (1) payment of interest on the amount of the excess benefits or payments at the maximum legal rate in effect on the date the payment was made to said person, firm, corporation, partnership or other legal entity for the period from the date upon which payment was made to the date upon which repayment is made to the State, (2) payment of an amount not to exceed three-fold the amount of such excess benefits or payments, and (3) payment in the sum of not less than and not more than the civil penalty allowed under the federal False Claims Act (31 U.S.C. s.3729 et seq.), as it may be adjusted for inflation pursuant to the Federal Civil Penalties Inflation Adjustment Act of 1990, Pub.L.101-410 for each excessive claim for assistance, benefits or payments.

(f) Any person, firm, corporation, partnership or other legal entity, other than an individual recipient of medical services reimbursable by the Division of Medical Assistance and Health Services, who, without intent to violate this act, obtains medical assistance or other benefits or payments under this act in excess of the amount to which he is entitled, shall be liable to a civil penalty of payment of interest on the amount of the excess benefits or payments at the maximum legal rate in effect on the date the benefit or payment was made to said person, firm, corporation, partnership, or other legal entity for the period from September 15, 1976 or the date upon which payment was made, whichever is later, to the date upon which repayment is made to the State, provided, however, that no such person, firm, corporation, partnership or other legal entity shall be liable to such civil penalty when excess medical assistance or other benefits or payments under this act are obtained by such person, firm, corporation, partnership or other legal entity as a result of error made by the Division of Medical Assistance and Health Services, as determined by said division; provided, further, that if preliminary notification of an overpayment is not given to a provider by the division within 180 days after completion of the field audit as defined by regulation, no interest shall accrue during the period beginning 180 days after completion of the field audit and ending on the date preliminary notification is given to the provider.

(g) All interest and civil penalties provided for in this act and all medical assistance and other benefits to which a person, firm, corporation, partnership, or other legal entity was not entitled shall be recovered in an administrative proceeding held pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), except that recovery actions against minors or incompetents shall be initiated in a court of competent jurisdiction.

(h) Upon the failure of any person, firm, corporation, partnership or other legal entity to comply within 10 days after service of any order of the director or his designee directing payment of any amount found to be due pursuant to subsection (g) of this section, or at any time prior to any final agency adjudication not involving a recipient or former recipient of benefits under this act, the director may issue a certificate to the clerk of the Superior Court that such person, firm, corporation, partnership or other legal entity is indebted to the State for the payment of such amount. A copy of such certificate shall be served upon the person, firm, corporation, partnership or other legal entity against whom the order was entered. Thereupon the clerk shall immediately enter upon his record of docketed judgments the name of the person, firm, corporation, partnership or other legal entity so

indebted, and of the State, a designation of the statute under which such amount is found to be due, the amount due, and the date of the certification. Such entry shall have the same force and effect as the entry of a docketed judgment in the Superior Court. Such entry, however, shall be without prejudice to the right of appeal to the Appellate Division of the Superior Court from the final order of the director or his designee.

(i) In order to satisfy any recovery claim asserted against a provider under this section, whether or not that claim has been the subject of final agency adjudication, the division or its fiscal agents is authorized to withhold funds otherwise payable under this act to the provider.

(j) The Attorney General may, when requested by the commissioner or his agent, apply ex parte to the Superior Court to compel any party to comply forthwith with a subpoena issued under this act. Any party who, having been served with a subpoena issued pursuant to the provisions of this act, fails either to attend any hearing, or to appear or be examined, to answer any question or to produce any books, records, accounts, papers or documents, shall be liable to a penalty of \$500.00 for each such failure, to be recovered in the name of the State in a summary civil proceeding to be initiated in the Superior Court. The Attorney General shall prosecute the actions for the recovery of the penalty prescribed in this section when requested to do so by the commissioner or his agent and when, in the judgment of the Attorney General, the facts and law warrant such prosecution. Such failure on the part of the party shall be punishable as contempt of court by the court in the same manner as like failure is punishable in an action pending in the court when the matter is brought before the court by motion filed by the Attorney General and supported by affidavit stating the circumstances.

C.2A:32C-16 Existing law, certain, unaffected.

17. This act shall not abrogate or modify any existing statutory or common law privileges or immunities.

C.2A:32C-17 Liberal construction, severability.

18. This act shall be liberally construed to effectuate its remedial and deterrent purposes. If any provision of this act or its application to any particular person or circumstance is held invalid, that provision or its application is severable and does not affect the validity of other provisions or applications of this act.

19. This act shall take effect on the 60th day after enactment.

Approved January 13, 2008.

New Jersey State Library

CHAPTER 266

AN ACT concerning the responsibility of motor vehicle owners in certain cases and amending R.S.39:4-129 and R.S.39:4-130.

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

1. R.S.39:4-129 is amended to read as follows:

Action in case of accident.

39:4-129. (a) The driver of any vehicle, knowingly involved in an accident resulting in injury or death to any person shall immediately stop the vehicle at the scene of the accident or as close thereto as possible but shall then forthwith return to and in every event shall remain at the scene until he has fulfilled the requirements of subsection (c) of this section. Every such stop shall be made without obstructing traffic more than is necessary. Any person who shall violate this subsection shall be fined not less than \$2,500 nor more than \$5,000, or be imprisoned for a period of 180 days, or both. The term of imprisonment required by this subsection shall be imposed only if the accident resulted in death or injury to a person other than the driver convicted of violating this section.

In addition, any person convicted under this subsection shall forfeit his right to operate a motor vehicle over the highways of this State for a period of one year from the date of his conviction for the first offense and for a subsequent offense shall thereafter permanently forfeit his right to operate a motor vehicle over the highways of this State.

(b) The driver of any vehicle knowingly involved in an accident resulting only in damage to a vehicle, including his own vehicle, or other property which is attended by any person shall immediately stop his vehicle at the scene of such accident or as close thereto as possible, but shall then forthwith return to and in every event shall remain at the scene of such accident until he has fulfilled the requirements of subsection (c) of this section. Every such stop shall be made without obstructing traffic more than is necessary. Any person who shall violate this subsection shall be fined not less than \$200 nor more than \$400, or be imprisoned for a period of not more than 30 days, or both, for the first offense, and for a subsequent offense, shall be fined not less than \$400 nor more than \$600, or be imprisoned for a period of not less than 30 days nor more than 90 days or both.

In addition, a person who violates this subsection shall, for a first offense, forfeit the right to operate a motor vehicle in this State for a period of

six months from the date of conviction, and for a period of one year from the date of conviction for any subsequent offense.

(c) The driver of any vehicle knowingly involved in an accident resulting in injury or death to any person or damage to any vehicle or property shall give his name and address and exhibit his operator's license and registration certificate of his vehicle to the person injured or whose vehicle or property was damaged and to any police officer or witness of the accident, and to the driver or occupants of the vehicle collided with and render to a person injured in the accident reasonable assistance, including the carrying of that person to a hospital or a physician for medical or surgical treatment, if it is apparent that the treatment is necessary or is requested by the injured person.

In the event that none of the persons specified are in condition to receive the information to which they otherwise would be entitled under this subsection, and no police officer is present, the driver of any vehicle involved in such accident after fulfilling all other requirements of subsections (a) and (b) of this section, insofar as possible on his part to be performed, shall forthwith report such accident to the nearest office of the local police department or of the county police of the county or of the State Police and submit thereto the information specified in this subsection.

(d) The driver of any vehicle which knowingly collides with or is knowingly involved in an accident with any vehicle or other property which is unattended resulting in any damage to such vehicle or other property shall immediately stop and shall then and there locate and notify the operator or owner of such vehicle or other property of the name and address of the driver and owner of the vehicle striking the unattended vehicle or other property or, in the event an unattended vehicle is struck and the driver or owner thereof cannot be immediately located, shall attach securely in a conspicuous place in or on such vehicle a written notice giving the name and address of the driver and owner of the vehicle doing the striking or, in the event other property is struck and the owner thereof cannot be immediately located, shall notify the nearest office of the local police department or of the county police of the county or of the State Police and in addition shall notify the owner of the property as soon as the owner can be identified and located. Any person who violates this subsection shall be punished as provided in subsection (b) of this section.

(e) There shall be a permissive inference that the driver of any motor vehicle involved in an accident resulting in injury or death to any person or damage in the amount of \$250.00 or more to any vehicle or property has knowledge that he was involved in such accident.

For purposes of this section, it shall not be a defense that the operator

of the motor vehicle was unaware of the existence or extent of personal injury or property damage caused by the accident as long as the operator was aware that he was involved in an accident.

There shall be a permissive inference that the registered owner of the vehicle which was involved in an accident subject to the provisions of this section was the person involved in the accident; provided, however, if that vehicle is owned by a rental car company or is a leased vehicle, there shall be a permissive inference that the renter or authorized driver pursuant to a rental car contract or the lessee, and not the owner of the vehicle, was involved in the accident, and the requirements and penalties imposed pursuant to this section shall be applicable to that renter or authorized driver or lessee and not the owner of the vehicle.

Any person who suppresses, by way of concealment or destruction, any evidence of a violation of this section or who suppresses the identity of the violator shall be subject to a fine of not less than \$250 or more than \$1,000.

2. R.S.39:4-130 is amended to read as follows:

Immediate notice of accident; written report.

39:4-130. The driver of a vehicle or street car involved in an accident resulting in injury to or death of any person, or damage to property of any one person in excess of \$500.00 shall by the quickest means of communication give notice of such accident to the local police department or to the nearest office of the county police of the county or of the State Police, and in addition shall within 10 days after such accident forward a written report of such accident to the commission on forms furnished by it. Such written reports shall contain sufficiently detailed information with reference to a motor vehicle accident, including the cause, the conditions then existing, the persons and vehicles involved and such information as may be necessary to enable the chief administrator to determine whether the requirements for the deposit of security required by law are inapplicable by reason of the existence of insurance or other circumstances. The chief administrator may rely upon the accuracy of the information contained in any such report, unless he has reason to believe that the report is erroneous. The commission may require operators involved in accidents to file supplemental reports of accidents upon forms furnished by it when in the opinion of the commission, the original report is insufficient. The reports shall be without prejudice, shall be for the information of the commission, and shall not be open to public inspection. The fact that the reports have been so made shall be admissible in evidence solely to prove a compliance with this

section, but no report or any part thereof or statement contained therein shall be admissible in evidence for any other purpose in any proceeding or action arising out of the accident.

Whenever the driver of a vehicle is physically incapable of giving immediate notice or making a written report of an accident as required in this section and there was another occupant in the vehicle at the time of the accident capable of giving notice or making a report, such occupant shall make or cause to be made said notice or report not made by the driver.

Whenever the driver is physically incapable of making a written report of an accident as required by this section and such driver is not the owner of the vehicle, then the owner of the vehicle involved in such accident shall make such report not made by the driver.

In those cases where a driver knowingly violates the provisions of this section by failing to make a written report of an accident, there shall be a permissive inference that the registered owner of the vehicle which was involved in that accident was the person involved in the accident; provided, however, if that vehicle is owned by a rental car company or is a leased vehicle, there shall be a permissive inference that the renter or authorized driver pursuant to a rental car contract or the lessee, and not the owner of the vehicle, was the person involved in the accident, and the requirements and penalties imposed pursuant to this section shall be applicable to that renter or authorized driver or lessee and not the owner of the vehicle.

Any person who suppresses, by way of concealment or destruction, any evidence of a violation of this section or who suppresses the identity of the violator shall be subject to a fine of not less than \$250 or more than \$1,000.

A written report of an accident shall not be required by this section if a law enforcement officer submits a written report of the accident to the commission pursuant to R.S.39:4-131.

Except as otherwise provided in this section, a person who knowingly violates this section shall be fined not less than \$30 or more than \$100.

The chief administrator may revoke or suspend the operator's license privilege and registration privilege of a person who violates this section.

For purposes of this section, it shall not be a defense that the operator of the motor vehicle was unaware of the existence or extent of personal injury or property damage caused by the accident as long as the operator was aware that he was involved in an accident.

3. This act shall take effect immediately.

Approved January 13, 2008.

CHAPTER 267

AN ACT concerning implied consent in certain cases and amending P.L.1966, c.142 and P.L.1981, c.512.

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

1. Section 2 of P.L.1966, c.142 (C.39:4-50.2) is amended to read as follows:

C.39:4-50.2 Consent to taking of samples of breath; record of test; independent test; prohibition of use of force; informing accused.

2. (a) Any person who operates a motor vehicle on any public road, street or highway or quasi-public area in this State shall be deemed to have given his consent to the taking of samples of his breath for the purpose of making chemical tests to determine the content of alcohol in his blood; provided, however, that the taking of samples is made in accordance with the provisions of this act and at the request of a police officer who has reasonable grounds to believe that such person has been operating a motor vehicle in violation of the provisions of R.S.39:4-50 or section 1 of P.L.1992, c.189 (C.39:4-50.14).

(b) A record of the taking of any such sample, disclosing the date and time thereof, as well as the result of any chemical test, shall be made and a copy thereof, upon his request, shall be furnished or made available to the person so tested.

(c) In addition to the samples taken and tests made at the direction of a police officer hereunder, the person tested shall be permitted to have such samples taken and chemical tests of his breath, urine or blood made by a person or physician of his own selection.

(d) The police officer shall inform the person tested of his rights under subsections (b) and (c) of this section.

(e) No chemical test, as provided in this section, or specimen necessary thereto, may be made or taken forcibly and against physical resistance thereto by the defendant. The police officer shall, however, inform the person arrested of the consequences of refusing to submit to such test in accordance with section 2 of this amendatory and supplementary act. A standard statement, prepared by the chief administrator, shall be read by the police officer to the person under arrest.

2. Section 2 of P.L.1981, c.512 (C.39:4-50.4a) is amended to read as follows:

C.39:4-50.4a Revocation for refusal to submit to breath test; penalties.

2. a. Except as provided in subsection b. of this section, the municipal court shall revoke the right to operate a motor vehicle of any operator who, after being arrested for a violation of R.S.39:4-50 or section 1 of P.L.1992, c.189 (C.39:4-50.14), shall refuse to submit to a test provided for in section 2 of P.L.1966, c.142 (C.39:4-50.2) when requested to do so, for not less than seven months or more than one year unless the refusal was in connection with a second offense under this section, in which case the revocation period shall be for two years or unless the refusal was in connection with a third or subsequent offense under this section in which case the revocation shall be for ten years. A conviction or administrative determination of a violation of a law of a substantially similar nature in another jurisdiction, regardless of whether that jurisdiction is a signatory to the Interstate Driver License Compact pursuant to P.L.1966, c.73 (C.39:5D-1 et seq.), shall constitute a prior conviction under this section.

The municipal court shall determine by a preponderance of the evidence whether the arresting officer had probable cause to believe that the person had been driving or was in actual physical control of a motor vehicle on the public highways or quasi-public areas of this State while the person was under the influence of intoxicating liquor or a narcotic, hallucinogenic, or habit-producing drug or marijuana; whether the person was placed under arrest, if appropriate, and whether he refused to submit to the test upon request of the officer; and if these elements of the violation are not established, no conviction shall issue. In addition to any other requirements provided by law, a person whose operator's license is revoked for refusing to submit to a test shall be referred to an Intoxicated Driver Resource Center established by subsection (f) of R.S.39:4-50 and shall satisfy the same requirements of the center for refusal to submit to a test as provided for in section 2 of P.L.1966, c.142 (C.39:4-50.2) in connection with a first, second, third or subsequent offense under this section that must be satisfied by a person convicted of a commensurate violation of this section, or be subject to the same penalties as such a person for failure to do so. For a first offense, the revocation may be concurrent with or consecutive to any revocation imposed for a conviction under the provisions of R.S.39:4-50 arising out of the same incident. For a second or subsequent offense, the revocation shall be consecutive to any revocation imposed for a conviction under the provisions of R.S.39:4-50. In addition to issuing a revocation, except as

provided in subsection b. of this section, the municipal court shall fine a person convicted under this section, a fine of not less than \$300 or more than \$500 for a first offense; a fine of not less than \$500 or more than \$1,000 for a second offense; and a fine of \$1,000 for a third or subsequent offense.

b. For a first offense, the fine imposed upon the convicted person shall be not less than \$600 or more than \$1,000 and the period of license suspension shall be not less than one year or more than two years; for a second offense, a fine of not less than \$1,000 or more than \$2,000 and a license suspension for a period of four years; and for a third or subsequent offense, a fine of \$2,000 and a license suspension for a period of 20 years when a violation of this section occurs while:

(1) 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;

(2) 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

(3) 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.

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 paragraph (1) of this subsection.

It shall not be relevant to the imposition of sentence pursuant to paragraph (1) or (2) 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 relevant to the imposition of sentence 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.

3. This act shall take effect on the first day of the second month following enactment.

Approved January 13, 2008.

CHAPTER 268

AN ACT concerning the commencement of certain short term tax exemptions and abatements and amending P.L.1991, c.441.

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

1. Section 3 of P.L.1991, c.441 (C.40A:21-3) is amended to read as follows:

C.40A:21-3 Definitions.

3. As used in this act:

a. "Abatement" means that portion of the assessed value of a property as it existed prior to construction, improvement or conversion of a building or structure thereon, which is exempted from taxation pursuant to this act.

b. "Area in need of rehabilitation" means a portion or all of a municipality which has been determined to be an area in need of rehabilitation or redevelopment pursuant to the "Local Redevelopment and Housing Law," P.L.1992, c.79 (C.40A:12A-1 et al.), a "blighted area" as determined pursuant to the "Blighted Areas Act," P.L.1949, c.187 (C.40:55-21.1 et seq.), or which has been determined to be in need of rehabilitation pursuant to P.L.1975, c.104 (C.54:4-3.72 et seq.), P.L.1977, c.12 (C.54:4-3.95 et seq.), or P.L.1979, c.233 (C.54:4-3.121 et al.).

c. "Assessor" means the officer of a taxing district charged with the duty of assessing real property for the purpose of general taxation.

d. "Commercial or industrial structure" means a structure or part thereof used for the manufacturing, processing or assembling of material or manufactured products, or for research, office, industrial, commercial, retail, recreational, hotel or motel facilities, or warehousing purposes, or for any combination thereof, which the governing body determines will tend to maintain or provide gainful employment within the municipality, assist in the economic development of the municipality, maintain or increase the tax base of the municipality and maintain or diversify and expand commerce within the municipality. It shall not include any structure or part thereof used or to be used by any business relocated from another qualifying municipality unless: the total square footage of the floor area of the structure or part thereof used or to be used by the business at the new site together with the total square footage of the land used or to be used by the business at the new site exceeds the total square footage of that utilized by the busi-

ness at its current site of operations by at least 10%; and the property that the business is relocating to has been the subject of a remedial action plan costing in excess of \$250,000 performed pursuant to an administrative consent order entered into pursuant to authority vested in the Commissioner of Environmental Protection under P.L.1970, c.33 (C.13:1D-1 et al.), the "Water Pollution Control Act," P.L.1977, c.74 (C.58:10A-1 et seq.), the "Solid Waste Management Act," P.L.1970, c.39 (C.13:1E-1 et seq.), and the "Spill Compensation and Control Act," P.L.1976, c.141 (C.58:10-23.11 et seq.).

e. "Completion" means substantially ready for the intended use for which a building or structure is constructed, improved or converted.

f. "Condominium" means a property created or recorded as a condominium pursuant to the "Condominium Act," P.L.1969, c.257 (C.46:8B-1 et seq.).

g. "Construction" means the provision of a new dwelling, multiple dwelling or commercial or industrial structure, or the enlargement of the volume of an existing multiple dwelling or commercial or industrial structure by more than 30%, but shall not mean the conversion of an existing building or structure to another use.

h. "Conversion" or "conversion alteration" means the alteration or renovation of a nonresidential building or structure, or hotel, motel, motor hotel or guesthouse, in such manner as to convert the building or structure from its previous use to use as a dwelling or multiple dwelling.

i. "Cooperative" means a housing corporation or association, wherein the holder of a share or membership interest thereof is entitled to possess and occupy for dwelling purposes a house, apartment, or other unit of housing owned by the corporation or association, or to purchase a unit of housing owned by the corporation or association.

j. "Cost" means, when used with respect to abatements for dwellings or multiple dwellings, only the cost or fair market value of direct labor and materials used in improving a multiple dwelling, or of converting another building or structure to a multiple dwelling, or of constructing a dwelling, or of converting another building or structure to a dwelling, including any architectural, engineering, and contractor's fees associated therewith, as the owner of the property shall cause to be certified to the governing body by an independent and qualified architect, following the completion of the project.

k. "Dwelling" means a building or part of a building used, to be used or held for use as a home or residence, including accessory buildings located on the same premises, together with the land upon which such building or buildings are erected and which may be necessary for the fair enjoyment thereof, but shall not mean any building or part of a building, defined as a "multiple dwelling" pursuant to the "Hotel and Multiple Dwelling

Law," P.L.1967, c.76 (C.55:13A-1 et seq.). A dwelling shall include, as they are separately conveyed to individual owners, individual residences within a cooperative, if purchased separately by the occupants thereof, and individual residences within a horizontal property regime or a condominium, but shall not include "general common elements" or "common elements" of such horizontal property regime or condominium as defined pursuant to the "Horizontal Property Act," P.L.1963, c.168 (C.46:8A-1 et seq.), or the "Condominium Act," P.L.1969, c.257 (C.46:8B-1 et seq.), or of a cooperative, if the residential units are owned separately.

l. "Exemption" means that portion of the assessor's full and true value of any improvement, conversion alteration, or construction not regarded as increasing the taxable value of a property pursuant to this act.

m. "Horizontal property regime" means a property submitted to a horizontal property regime pursuant to the "Horizontal Property Act," P.L.1963, c.168 (C.46:8A-1 et seq.).

n. "Improvement" means a modernization, rehabilitation, renovation, alteration or repair which produces a physical change in an existing building or structure that improves the safety, sanitation, decency or attractiveness of the building or structure as a place for human habitation or work, and which does not change its permitted use. In the case of a multiple dwelling, it includes only improvements which affect common areas or elements, or three or more dwelling units within the multiple dwelling. In the case of a multiple dwelling or commercial or industrial structure, it shall not include ordinary painting, repairs and replacement of maintenance items, or an enlargement of the volume of an existing structure by more than 30%. In no case shall it include the repair of fire or other damage to a property for which payment of a claim was received by any person from an insurance company at any time during the three year period immediately preceding the filing of an application pursuant to this act.

o. "Multiple dwelling" means a building or structure meeting the definition of "multiple dwelling" set forth in the "Hotel and Multiple Dwelling Law," P.L.1967, c.76 (C.55:13A-1 et seq.), and means for the purpose of improvement or construction the "general common elements" and "common elements" of a condominium, a cooperative, or a horizontal property regime.

p. "Project" means the construction, improvement or conversion of a structure in an area in need of rehabilitation that would qualify for an exemption, or an exemption and abatement, pursuant to P.L.1991, c.441 (C.40A:21-1 et seq.).

q. "Annual period" means a duration of time comprising 365 days, or 366 days when the included month of February has 29 days, that com-

mences on the date that an exemption or abatement for a project becomes effective pursuant to section 16 of P.L.1991, c.441 (C.40A:21-16).

2. Section 4 of P.L.1991, c.441 (C.40A:21-4) is amended to read as follows:

C.40A:21-4 Municipal ordinance granting exemptions or abatements.

4. The governing body of a municipality may determine to utilize the authority granted under Article VIII, Section I, paragraph 6 of the New Jersey Constitution, and adopt an ordinance setting forth the eligibility or noneligibility of dwellings, multiple dwellings, or commercial and industrial structures, or all of these, for exemptions or abatements, or both, from taxation in areas in need of rehabilitation. The ordinance may differentiate among these types of structures as to whether the property shall be eligible for exemptions or abatements, or both, within the limitations set forth in P.L.1991, c.441 (C.40A:21-1 et seq.). With respect to a type of structure, the ordinance shall specify the eligibility of improvements, conversions, or construction, or all of these, for each type of structure. The ordinance may differentiate for the purposes of determining eligibility pursuant to this section among the various neighborhoods, zones, areas or portions of the designated area in need of rehabilitation.

An ordinance adopted pursuant to this section may be amended from time to time. An amendment to an ordinance shall not affect any exemption, abatement, or tax agreement previously granted and in force prior to the amendment.

Application for exemptions and abatements from taxation may be filed pursuant to an ordinance so adopted to take initial effect in the tax year in which the ordinance is adopted, and for tax years thereafter as set forth in P.L.1991, c.441 (C.40A:21-1 et seq.), but no application for exemptions or abatements shall be filed for exemptions or abatements to take initial effect in the eleventh tax year or any tax year occurring thereafter, unless the ordinance is readopted by the governing body pursuant to this section.

3. Section 10 of P.L.1991, c.441 (C.40A:21-10) is amended to read as follows:

C.40A:21-10 Formula for payments under tax agreements.

10. Upon adoption of an ordinance authorizing a tax agreement or agreements for a particular project or projects, the governing body may enter into written agreements with the applicants for the exemption and

abatement of local real property taxes. An agreement shall provide for the applicant to pay to the municipality in lieu of full property tax payments an amount annually to be computed by one, but in no case a combination, of the following formulas:

a. Cost basis: the agreement may provide for the applicant to pay to the municipality in lieu of full property tax payments an amount equal to 2% of the cost of the project. For the purposes of the agreement, "the cost of the project" means only the cost or fair market value of direct labor and all materials used in the construction, expansion, or rehabilitation of all buildings, structures, and facilities at the project site, including the costs, if any, of land acquisition and land preparation, provision of access roads, utilities, drainage facilities, and parking facilities, together with architectural, engineering, legal, surveying, testing, and contractors' fees associated with the project; which the applicant shall cause to be certified and verified to the governing body by an independent and qualified architect, following the completion of the project.

b. Gross revenue basis: the agreement may provide for the applicant to pay to the municipality in lieu of full property tax payments an amount annually equal to 15% of the annual gross revenues from the project. For the purposes of the agreement, "annual gross revenues" means the total annual gross rental and other income payable to the owner of the project from the project. If in any leasing, any real estate taxes or assessments on property included in the project, any premiums for fire or other insurance on or concerning property included in the project, or any operating or maintenance expenses ordinarily paid by the landlord, are to be paid by the tenant, then those payments shall be computed and deemed to be part of the rent and shall be included in the annual gross revenue. The tax agreement shall establish the method of computing the revenues and may establish a method of arbitration by which either the landlord or tenant may dispute the amount of payments so included in the annual gross revenue.

c. Tax phase-in basis: the agreement may provide for the applicant to 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 first full year after completion, no payment in lieu of taxes otherwise due;

(2) In the second full year after completion, an amount not less than 20% of taxes otherwise due;

(3) In the third full year after completion, an amount not less than 40% of taxes otherwise due;

(4) In the fourth full year after completion, an amount not less than 60% of taxes otherwise due;

(5) In the fifth full year after completion, an amount not less than 80% of taxes otherwise due.

4. Section 11 of P.L.1991, c.441 (C.40A:21-11) is amended to read as follows:

C.40A:21-11 Tax agreements, duration, other law, valuation of ratables, copy to DCA.

11. a. All tax agreements entered into by municipalities pursuant to sections 9 through 12 of P.L.1991, c.441 shall be in effect for no more than the five full years next following the date of completion of the project.

b. All projects subject to tax agreement as provided herein shall be subject to all applicable federal, State and local laws and regulations on pollution control, worker safety, discrimination in employment, housing provision, zoning, planning and building code requirements.

c. That percentage which the payment in lieu of taxes for a property bears to the property tax which would have been paid had an exemption and abatement not been granted for the property under the agreement shall be applied to the valuation of the property to determine the reduced valuation of the property to be included in the valuation of the municipality for determining equalization for county tax apportionment and school aid during the term of the tax agreements covering the properties, and at the termination of an agreement for a property the reduced valuation procedure required under this section shall no longer apply.

d. Within 30 days after the execution of a tax agreement, a municipality shall forward a copy of the agreement to the Director of the Division of Local Government Services in the Department of Community Affairs.

5. Section 13 of P.L.1991, c.441 (C.40A:21-13) is amended to read as follows:

C.40A:21-13 Assessed value of property under abatement or exemption.

13. The assessor shall determine, on October 1 of the year following the date of the completion of an improvement, conversion or construction, the true taxable value thereof. Except for projects subject to tax agreement, pursuant to sections 9 through 12 of P.L.1991, c.441, the amount of tax to be paid for the tax year in which the project is completed shall be based on the assessed valuation of the property for the current tax year, minus the amount of the abatement, if any, allowed pursuant to this act and pro rated, plus any

portion of the assessed valuation of the improvement, conversion or construction not allowed an exemption pursuant to this act, also pro rated. Subject to the provisions of the adopting ordinance, the property shall continue to be treated in the appropriate manner for each of the four tax years subsequent to the original determination by the assessor and shall be pro rated for the final tax year in which the exemption or abatement expires.

6. Section 16 of P.L.1991, c.441 (C.40A:21-16) is amended to read as follows:

C.40A:21-16 Applications, forms, records.

16. No exemption or abatement shall be granted pursuant to this act except upon written application therefor filed with and approved by the assessor of the taxing district wherein the improvement, conversion alteration or construction is made. Every application shall be on a form prescribed by the Director of the Division of Taxation in the Department of the Treasury, and provided for the use of claimants by the governing body of the municipality constituting the taxing district, and shall be filed with the assessor within 30 days, including Saturdays and Sundays, following the completion of the improvement, conversion alteration or construction. Every application for exemption, or exemption and abatement, within a municipality adopting the provisions of this act which is filed within the time specified, shall be approved and allowed by the assessor to the degree that the application is consistent with the provisions of the adopting ordinance or the tax agreement, provided that the improvement, conversion alteration or construction for which the application is made qualifies as an improvement, a conversion alteration or construction pursuant to the provisions of this act and the tax agreement, if any. The granting of an exemption, or exemption and abatement, shall relate back to, and take effect as of, the date of completion of the project, or portion or stage of the project for which the exemption, or exemption and abatement, is granted, and shall continue for five annual periods from that date. The grant of the exemption, or exemption and abatement, or tax agreement shall be recorded and made a permanent part of the official tax records of the taxing district, which record shall contain a notice of the termination date thereof.

7. This act shall take effect immediately.

Approved January 13, 2008.

CHAPTER 269

AN ACT concerning the construction of certain State buildings and supplementing Title 52 of the Revised Statutes.

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

C.52:32-5.3 Definitions relative to energy savings for construction of certain State buildings.

1. As used in this act:

“High performance green building” means a building that is designed and constructed in a manner that achieves at least:

a. a silver rating according to the Leadership in Energy and Environmental Design Green Building Rating System as adopted by the United States Green Building Council;

b. a two globe rating according to the Green Globes Program as adopted by the Green Building Initiative; or

c. a comparable numeric rating according to a nationally recognized, accepted, and appropriate numeric sustainable development rating system, guideline, or standard as the Commissioner of Community Affairs, in consultation with the Commissioner of Environmental Protection, the Director of Energy Savings established pursuant to Executive Order No.11 of 2006, and the Board of Public Utilities, may designate by regulation.

A “high performance green building” shall not mean any free-standing parking facility, multiple use maintenance facility or storage facility.

“State governmental entity” means the Executive, Legislative and Judicial branches of the State government, any agency or instrumentality of the State, including any board, bureau, commission, corporation, department, or division, any independent State authority, and any State institution of higher education. A county, municipality, or school district, or any agency or instrumentality thereof, shall not be deemed a State governmental entity.

C.52:32-5.4 Standards for certain energy savings for new State buildings.

2. Any new building having at least 15,000 square feet in total floor area that is to be constructed for the sole use of a State governmental entity after the effective date of this act shall be designed and managed to meet standards for a high performance green building. The Director of the Division of Property Management and Construction in the Department of the Treasury, in cooperation with the New Jersey Building Authority where

appropriate, shall enforce the provisions of this act. All plans, specifications and bid proposal documents for any building to which the provisions of this section apply shall identify all the requirements for meeting the appropriate certification level standard as provided in subsection a., b. or c. of section 1 of this act, as appropriate. The requirements of this act shall not apply to any building for which a request for proposal for entering into a contract to design the building has been issued prior to the effective date of this act.

3. This act shall take effect immediately.

Approved January 13, 2008.

CHAPTER 270

AN ACT concerning requirements for primary stroke centers and amending P.L.2004, c.136.

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

1. Section 3 of P.L.2004, c.136 (C.26:2H-12.29) is amended to read as follows:

C.26:2H-12.29 Minimum criteria for primary stroke centers.

3. A hospital designated as a primary stroke center shall, at a minimum, meet the following criteria:

a. With respect to patient care, the hospital shall:

(1) maintain acute stroke team availability to see an emergency department patient within 15 minutes of arrival at the emergency department, 24 hours a day, seven days a week;

(2) maintain written care protocols and standing orders for emergency care of stroke patients;

(3) maintain neurology and emergency department personnel trained in the diagnosis and treatment of acute stroke;

(4) maintain telemetry or critical care beds staffed by physicians and nurses who are trained and experienced in caring for acute stroke patients;

(5) provide for neurosurgical services, including operating room availability either at the hospital or under agreement with a comprehensive

stroke center, within two hours, 24 hours a day, seven days a week;

(6) provide acute care rehabilitation services; and

(7) enter into and maintain a written transfer agreement with a comprehensive stroke center so that patients with complex strokes can be transported to the comprehensive center for care when clinically warranted.

b. With respect to support services, the hospital shall:

(1) demonstrate an institutional commitment and support of a stroke center, including having a designated physician stroke center director with special training and experience in caring for patients with stroke;

(2) maintain neuro-imaging services capability that is available 24 hours a day, seven days a week, which shall include computerized tomography scanning or magnetic resonance imaging that can be performed within 25 minutes of order entry and interpreted within 20 minutes of completion of the scan or image;

(3) maintain laboratory services capability, which shall include blood testing, electrocardiography and X-ray services that are available 24 hours a day, seven days a week, within 45 minutes of order entry;

(4) develop and maintain outcomes and quality improvement activities, which include a database or registry to track patient outcomes. These data shall include, at a minimum: (a) the number of patients evaluated; (b) the number of patients receiving acute interventional therapy; (c) the amount of time from patient presentation to delivery of acute interventional therapy; (d) patient length of stay; (e) patient functional outcome; and (f) patient morbidity. A primary stroke center may share these data with its affiliated comprehensive stroke center for the purposes of quality improvement and research;

(5) provide annual continuing education on stroke to support and emergency services personnel regarding stroke diagnosis and treatment, which will be the responsibility of the stroke center director;

(6) require the stroke center director to obtain a minimum of eight hours of continuing education on stroke each year; and

(7) demonstrate a continuing commitment to ongoing education to the general public about stroke, which includes conducting at least two programs annually for the general public on the prevention, recognition, diagnosis and treatment of stroke.

2. This act shall take effect immediately.

Approved January 13, 2008.

CHAPTER 271

AN ACT concerning the preservation of honey bee colonies and supplementing Title 4 of the Revised Statutes.

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

C.4:6-21 Rules, regulations relative to preservation of honey bee colonies.

1. The Secretary of Agriculture in conjunction with the Commissioner of Environmental Protection, and in cooperation with the New Jersey Beekeepers Association, the New Jersey Pest Management Association, and the New Jersey Cooperative Extension of Rutgers, The State University, shall, within 18 months after the effective date of this act, develop and adopt, pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), rules and regulations to require certified commercial pesticide applicators and licensed commercial pesticide operators in the State to contact identified county, regional or State agricultural agencies to either obtain assistance in relocating specific honey bee colonies, or to seek approval to destroy the colonies, prior to extermination. The provisions of this section shall not apply to honey bee colonies found residing within buildings or other indoor structures. These rules and regulations shall establish the provisions necessary to effectuate the purpose of this section, and shall include any appropriate emergency health and safety exceptions, minimum response times for agricultural agencies or designated responders, as well as enforcement and penalty provisions for violations.

C.4:6-22 Violations; penalties, use.

2. Any person who intentionally destroys a man-made honey bee hive without the approval required pursuant to R.S.4:6-1 et seq. or section 1 of P.L.2007, c.271 (C.4:6-21) shall be liable to a civil penalty of up to \$1,000 for each offense, 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.) or in any case before a court of competent jurisdiction wherein injunctive relief has been requested. The Superior Court and municipal court shall have jurisdiction to enforce the "Penalty Enforcement Law of 1999" in connection with this act. If the violation is of a continuing nature, each day during which it continues shall constitute an additional, separate and distinct offense. Penalties recovered for violations of this section shall be remitted to the Department of Agriculture and expended on programs to revive honey bee populations in the State.

3. This act shall take effect immediately.

Approved January 13, 2008.

CHAPTER 272

AN ACT concerning Internet dating safety and supplementing Title 56 of the Revised Statutes.

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

C.56:8-168 Short title.

1. This act shall be known and may be cited as the "Internet Dating Safety Act."

C.56:8-169 Findings, declarations relative to Internet dating safety.

2. The Legislature finds and declares:

a. Residents of this State need to be informed of the potential risks of participating in Internet dating services. There is a public safety need to disclose whether criminal history background screenings have been performed and to increase public awareness of the possible risks associated with Internet dating activities. The primary purpose of this act is to enhance the safety of individuals who use Internet service to facilitate dating.

b. The offer of Internet dating services to residents of this State, and the acceptance of membership fees from residents of this State means that an Internet dating service is conducting business in this State and is subject to regulation by this State and the jurisdiction of the State's courts.

C.56:8-170 Definitions relative to Internet dating safety.

3. As used in this act:

a. "Criminal background screening" means a name search for a person's criminal convictions initiated by an on-line dating service provider and conducted by one of the following means:

(1) By searching available and regularly updated government public record databases for criminal convictions so long as such databases, in the aggregate, provide substantial national coverage; or

(2) By searching a database maintained by a private vendor that is regularly updated and is maintained in the United States with substantial national coverage of criminal history records and sexual offender registries.

b. "Director" means the Director of the Division of Consumer Affairs in the Department of Law and Public Safety.

c. "Division" means the Division of Consumer Affairs in the Department of Law and Public Safety.

d. "Internet dating service" means a person or entity directly or indirectly in the business, for profit, of offering, promoting or providing access to dating, relationship, compatibility, matrimonial or social referral services principally on or through the Internet.

e. "Internet service provider" means any person, business or organization qualified to do business in this State that provides individuals, corporations, or other entities with the ability to connect to the Internet through equipment that is located in this State.

f. "Member" means a customer, client or participant who submits to an Internet dating service information required to access the service for the purpose of engaging in dating, relationship, compatibility, matrimonial or social referral.

g. "New Jersey member" means a member who provides a New Jersey billing address or zip code when registering with the service.

h. "Criminal conviction" means a conviction for any crime including but not limited to any sex offense that would qualify the offender for registration pursuant to section 2 of P.L.1994, c.133 (C.2C:7-2) or under another jurisdiction's equivalent statute.

C.56:8-171 Requirements for Internet dating services.

4. An Internet dating service offering services to New Jersey members shall:

a. Provide safety awareness notification that includes, at minimum, a list and description of safety measures reasonably designed to increase awareness of safer dating practices as determined by the service. Examples of such notifications include:

(1) "Anyone who is able to commit identity theft can also falsify a dating profile."

(2) "There is no substitute for acting with caution when communicating with any stranger who wants to meet you."

(3) "Never include your last name, e-mail address, home address, phone number, place of work, or any other identifying information in your Internet profile or initial e-mail messages. Stop communicating with anyone who pressures you for personal or financial information or attempts in any way to trick you into revealing it."

(4) "If you choose to have a face-to-face meeting with another member, always tell someone in your family or a friend where you are going and when you will return. Never agree to be picked up at your home. Always provide your own transportation to and from your date and meet in a public place with many people around."

b. If an Internet dating service does not conduct criminal background screenings on its members, the service shall disclose, clearly and conspicuously, to all New Jersey members that the Internet dating service does not conduct criminal background screenings. The disclosure shall be provided in two or more of the following forms: when an electronic mail message is sent or received by a New Jersey member, in a "click-through" or other similar presentation requiring a member from this State to acknowledge that they have received the information required by this act, on the profile describing a member to a New Jersey member, and on the web-site pages or homepage of the Internet dating service used when a New Jersey member signs up. A disclosure under this subsection shall be in bold, capital letters in at least 12-point type.

c. If an Internet dating service conducts criminal background screenings on all of its communicating members, then the service shall disclose, clearly and conspicuously, to all New Jersey members that the Internet dating service conducts a criminal background screening on each member prior to permitting a New Jersey member to communicate with another member. The disclosure shall be provided on the website pages used when a New Jersey member signs up. A disclosure under this subsection shall be in bold, capital letters in at least 12-point type.

d. If an Internet dating service conducts criminal background screenings, then the service shall disclose whether it has a policy allowing a member who has been identified as having a criminal conviction to have access to its service to communicate with any New Jersey member; shall state that criminal background screenings are not foolproof; that they may give members a false sense of security; that they are not a perfect safety solution; that criminals may circumvent even the most sophisticated search technology; that not all criminal records are public in all states and not all databases are up to date; that only publicly available convictions are included in the screening; and that screenings do not cover other types of convictions or arrests or any convictions from foreign countries.

C.56:8-172 Unlawful practices for Internet dating services.

5. It shall be an unlawful practice and a violation of P.L.1960, c.39 (C.56:8-1 et seq.) for an Internet dating service to fail to provide notice or

falsely indicate that it has performed criminal background screenings in accordance with this act.

C.56:8-173 No violation to serve solely as intermediary.

6. An Internet service provider does not violate this act solely as a result of serving as an intermediary for the transmission of electronic messages between members of an Internet dating service.

C.56:8-174 Rules, regulations.

7. The director, in consultation with the Attorney General and pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), shall adopt rules and regulations to effectuate the purposes of this act

8. This act shall take effect on the 120th day after enactment, except the director may take such anticipatory administrative action in advance as shall be necessary for the implementation of this act.

Approved January 13, 2008.

CHAPTER 273

AN ACT concerning luring and enticing and amending P.L. 1993, c. 291 and P.L. 2005, c. 1.

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

1. Section 1 of P.L. 1993, c. 291 (C.2C:13-6) is amended to read as follows:

C.2C:13-6. Luring, enticing child by various means, attempts; crime of second degree; subsequent offense, mandatory imprisonment; definitions.

1. Luring, enticing child by various means, attempts; crime of second degree; subsequent offense, mandatory imprisonment; definitions.

a. A person commits a crime of the second degree if he attempts, via electronic or any other means, to lure or entice a child or one who he reasonably believes to be a child into a motor vehicle, structure or isolated area, or to meet or appear at any other place, with a purpose to commit a criminal offense with or against the child.

b. As used in this section:

"Child" means a person less than 18 years old.

"Electronic means" includes, but is not limited to, the Internet, which shall have the meaning set forth in N.J.S.2C:24-4.

"Structure" means any building, room, ship, vessel or airplane and also means any place adapted for overnight accommodation of persons, or for carrying on business therein, whether or not a person is actually present.

c. Nothing herein shall be deemed to preclude, if the evidence so warrants, an indictment and conviction for attempted kidnapping under the provisions of N.J.S.2C:13-1.

d. A person convicted of a second or subsequent offense under this section shall be sentenced to a term of imprisonment. Notwithstanding the provisions of subsection a. of N.J.S.2C:43-6, the term of imprisonment shall include, unless the person is sentenced pursuant to the provisions of N.J.S.2C:43-7, a mandatory minimum term of one-third to one-half of the sentence imposed, or three years, whichever is greater, during which time the defendant shall not be eligible for parole. If the person is sentenced pursuant to N.J.S.2C:43-7, the court shall impose a minimum term of one-third to one-half of the sentence imposed, or five years, whichever is greater. The court may not suspend or make any other non-custodial disposition of any person sentenced as a second or subsequent offender pursuant to this section.

For the purposes of this section, an offense is considered a second or subsequent offense if the actor has at any time been convicted pursuant to this section, or under any similar statute of the United States, this State or any other state for an offense that is substantially equivalent to this section.

e. A person convicted of an offense under this section who has previously been convicted of a violation of N.J.S.2C:14-2, subsection a. of N.J.S.2C:14-3 or N.J.S.2C:24-4 shall be sentenced to a term of imprisonment. Notwithstanding the provisions of subsection a. of N.J.S.2C:43-6, the term of imprisonment shall include, unless the person is sentenced pursuant to the provisions of N.J.S.2C:43-7, a mandatory minimum term of five years, during which time the defendant shall not be eligible for parole. The court may not suspend or make any other non-custodial disposition of any person sentenced pursuant to this section.

For the purposes of this subsection, an offense is considered a previous conviction of N.J.S.2C:14-2, subsection a. of N.J.S.2C:14-3 or N.J.S.2C:24-4 if the actor has at any time been convicted under any of these sections or under any similar statute of the United States, this State or any other state for an offense that is substantially equivalent to any of these sections.

f. Notwithstanding the provisions of N.J.S.2C:1-8 or any other law, a conviction under this section shall not merge with a conviction of any other criminal offense, nor shall such other conviction merge with a conviction

under this section, and the court shall impose separate sentences upon each violation of this section and any other criminal offense. The court may not suspend or make any other non-custodial disposition of any person sentenced pursuant to this section.

2. Section 1 of P.L. 2005, c. 1 (C.2C:13-7) is amended to read as follows:

C.2C:13-7 Luring, enticing an adult, certain circumstances, third degree crime; definitions.

1. a. A person commits a crime of the third degree if he attempts, via electronic or any other means, to lure or entice a person into a motor vehicle, structure or isolated area, or to meet or appear at any place, with a purpose to commit a criminal offense with or against the person lured or enticed or against any other person.

b. As used in this section:

"Electronic means" includes, but is not limited to, the Internet, which shall have the meaning set forth in N.J.S.2C:24-4.

"Structure" shall have the meaning set forth in P.L.1993, c.291 (C.2C:13-6).

c. Nothing herein shall be deemed to preclude, if the evidence so warrants, an indictment and conviction for attempted kidnapping under the provisions of N.J.S.2C:13-1 or for any other crime or offense.

d. A person convicted of a second or subsequent offense under this section shall be sentenced to a term of imprisonment. Notwithstanding the provisions of subsection a. of N.J.S.2C:43-6, the term of imprisonment shall include, unless the person is sentenced pursuant to the provisions of N.J.S.2C:43-7, a mandatory minimum term of one-third to one-half of the sentence imposed, or one year, whichever is greater, during which time the defendant shall not be eligible for parole. If the person is sentenced pursuant to N.J.S.2C:43-7, the court shall impose a minimum term of one-third to one-half of the sentence imposed, or five years, whichever is greater. The court may not suspend or make any other non-custodial disposition of any person sentenced as a second or subsequent offender pursuant to this section.

For the purposes of this section, an offense is considered a second or subsequent offense if the actor has at any time been convicted pursuant to this section, or under any similar statute of the United States, this State or any other state for an offense that is substantially equivalent to this section.

e. A person convicted of an offense under this section who has previously been convicted of a violation of N.J.S.2C:14-2, subsection a. of N.J.S.2C:14-3 or N.J.S.2C:24-4 shall be sentenced to a term of imprison-

ment. Notwithstanding the provisions of subsection a. of N.J.S.2C:43-6, the term of imprisonment shall include, unless the person is sentenced pursuant to the provisions of N.J.S.2C:43-7, a mandatory minimum term of three years, during which time the defendant shall not be eligible for parole. The court may not suspend or make any other non-custodial disposition of any person sentenced pursuant to this section.

For the purposes of this subsection, an offense is considered a previous conviction of N.J.S.2C:14-2, subsection a. of N.J.S.2C:14-3 or N.J.S.2C:24-4 if the actor has at any time been convicted under any of these sections or under any similar statute of the United States, this State or any other state for an offense that is substantially equivalent to any of these sections.

f. Notwithstanding the provisions of N.J.S.2C:1-8 or any other law, a conviction under this section shall not merge with a conviction of any other criminal offense, nor shall such other conviction merge with a conviction under this section, and the court shall impose separate sentences upon each violation of this section and any other criminal offense. The court may not suspend or make any other non-custodial disposition of any person sentenced pursuant to this section.

3. This act shall take effect immediately.

Approved January 13, 2008.

CHAPTER 274

AN ACT increasing fees and penalties with respect to the handling of explosives and amending P.L.1960, c.55.

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

1. Section 7 of P.L.1960, c.55 (C.21:1A-134) is amended to read as follows:

C.21:1A-134 Investigation of applicant; permit issued, subject to amendment; information furnished; qualifications; expiration; fees.

7. Upon receipt of an application for a permit to manufacture, store, sell, transport or use explosives, and before the permit is issued, the commissioner shall make or cause to be made an investigation for the purpose

of ascertaining if all applicable requirements of this act have been met. The commissioner shall not issue a permit to manufacture, sell, store, transport or use explosives unless all the requirements of this act have been met. All permits issued in accordance with the provisions of this act shall be subject to any amendments hereafter made to this act.

A. An applicant for a permit shall, at his own expense, furnish whatever pertinent information the commissioner may require in addition to that specified herein. Application forms shall be furnished by the Department of Labor and Workforce Development.

B. An applicant for a permit to manufacture, sell, transport, store or use explosives must:

- (a) be at least 21 years of age;
- (b) have a reasonable understanding of the English language;
- (c) present satisfactory evidence of experience in the manufacture, sale, transportation, storage or use of explosives;
- (d) demonstrate by written, oral or field examination, as the commissioner may direct, adequate knowledge of the safe manufacture, sale, transportation, storage or use of explosives and of the provisions of this act; and
- (e) be of good moral character and must never have been disloyal to the United States; and

it shall be within the sole discretion of the commissioner to determine whether an applicant who has been convicted of a crime involving moral turpitude has the good moral character necessary for a permit. It shall also be within the reasonable discretion of the commissioner to deny the issuance of a permit where he concludes, after a full examination of the qualifications of an applicant, that to grant a permit would be dangerous to the health, safety and welfare of the people of the State of New Jersey. The failure of a holder of a permit to maintain the qualifications stated herein shall be good cause for the revocation of the permit.

C. When the applicant for a permit to manufacture, sell, transport, store or use explosives is a firm, association or corporation, the applicant must demonstrate that such activities with regard to explosives will be under the direct supervision of a person who meets the qualifications stated above.

D. Permits shall be valid for one year unless sooner revoked. Permits which expire on July 1, 1960 may be renewed by the commissioner at his discretion for a period of not less than three months nor more than 15 months, and permits renewed after such a period shall thereafter be valid for one year unless sooner revoked. The fee for all permits shall be fixed by the commissioner on a yearly basis or, for periods of less than a year, in amounts proportionately less than the annual fee.

E. The application for any permit must be accompanied by a fee established by regulation in accordance with the following schedule:

- (a) To manufacture--not less than \$200 nor more than \$2,000;
- (b) To sell--not less than \$25 nor more than \$600;
- (c) (Deleted by amendment, P.L.1991, c.205).
- (d) To store--not less than \$25 nor more than \$300; but if the explosives are in excess of 30,000 pounds, then the fee shall be not less than \$150 nor more than \$1,500;
- (e) To use--not more than \$400;
- (f) For storage, transportation, and use of smokeless powder in amounts in excess of 36 pounds, but not in excess of 100 pounds and black powder in amounts in excess of 5 pounds but not in excess of 100 pounds which is used by private persons for the hand loading of small arms ammunition and which is not for resale--not less than \$2 nor more than \$20; where any such smokeless and black powder is in excess of 100 pounds, the fee shall be increased \$20 for each additional 100 pounds, or fraction thereof.

All fees derived from the operation of this act shall be applied toward enforcement and administration costs of the Division of Workplace Standards in the Department of Labor and Workforce Development.

2. Section 13 of P.L.1960, c.55 (C.21:1A-140) is amended to read as follows:

C.21:1A-140 Violations; penalties; revocation of permits; nonconforming uses.

13. It shall be unlawful for any person, partnership, firm, association or corporation, and any officer, agent or employee thereof, to violate or proximately contribute to the violation of any of the provisions of this act or of the regulations made hereunder. The violation of this act by an employee, acting within the scope of his authority, of any person, partnership, firm, association, or corporation shall be deemed also to be the violation of such person, partnership, firm, association or corporation. Violations of the provisions of this act or rules and regulations made hereunder shall be punishable for the first offense by a penalty of not less than \$100 nor more than \$5,000, for the second offense by a penalty of not less than \$300 nor more than \$10,000 and for the third and each succeeding offense by a penalty of not less than \$500 nor more than \$20,000. The penalties shall be collected by a summary proceeding pursuant to the "Penalty Enforcement Law of 1999," P.L.1999, c.274 (C.2A:58-10 et seq.). Where the violation consists of a refusal to obey an order of the commissioner made under this act, each day during which the

violation continues shall constitute a separate and distinct offense except during the time an appeal from said order may be taken or is pending.

Any sum collected as a penalty pursuant to this section shall be applied toward enforcement and administration costs of the Division of Workplace Standards in the Department of Labor and Workforce Development.

A. The Commissioner of Labor and Workforce Development, in his discretion, is hereby authorized and empowered to compromise and settle any claim for a penalty under this section for an amount that appears appropriate and equitable under all of the circumstances.

B. Permits to sell, transport, store or use explosives are revocable for cause by the commissioner. In any case where the commissioner revokes a permit, he shall notify the permittee of the revocation and shall provide, upon written request, for a hearing within 10 days of the date of the revocation. Within 30 days from the termination of the hearing, the commissioner shall issue an order approving, disapproving or modifying the revocation. Permits to manufacture are exempt from revocation, but the holders of such permits shall be subject in every other respect to the provisions of this act and the rules and regulations promulgated hereunder.

C. The requirements of this act concerning the distances of explosives manufacturing buildings and magazines from each other shall not be construed to apply to permanent buildings or magazines that exist at the time that this act becomes effective and which buildings and magazines have been used under authority of the laws formerly governing the manufacture and storage of explosives. This provision designating such explosives manufacturing buildings and magazines already existing at the effective date of this act as nonconforming uses shall not apply to any explosives manufacturing buildings or magazines constructed subsequent to the passage of this act nor to extensions or additions to such buildings and magazines that are made subsequent to the passage of this act.

3. This act shall take effect immediately.

Approved January 13, 2008.

CHAPTER 275

AN ACT concerning admission of veterans to State parks and forests and use of State park and forest facilities by veterans' organizations, and supplementing P.L.1983, c.324 (C.13:1L-1 et seq.).

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

C.13:1L-12.1 Free admission for veterans to State parks, forests, certain circumstances; definitions.

1. a. The department shall not charge an admission fee for entrance into a State park or forest by any veteran during an event held by a veterans' organization. In addition, the department shall not charge a facilities fee of any kind to any veterans' organization using a State park or forest for an event.

b. As used in this section:

"Veteran" means any resident of the State who has been honorably discharged or released under honorable circumstances from active service in any branch of the armed forces of the United States, or any honorably discharged member of the American Merchant Marine who served during World War II and is declared by the United States Department of Defense to be eligible for federal veterans' benefits; and

"Veterans' organization" means the American Legion, Veterans of Foreign Wars, or other veterans' organizations chartered under federal law, or any service foundation of such an organization recognized in its bylaws.

2. This act shall take effect immediately.

Approved January 13, 2008.

CHAPTER 276

AN ACT concerning contaminated sites, and amending P.L.2006, c.65.

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

1. Section 1 of P.L.2006, c.65 (C.58:10B-24.1) is amended to read as follows:

C.58:10B-24.1 Written notification of contaminated site remediation.

1. a. Prior to the initiation of the remedial action phase of the remediation of a contaminated site, any person who is responsible for conducting a remediation of the contaminated site, including the Department of Environmental Protection when it conducts a remediation of a contaminated site

using public monies, shall provide written notification describing the activities that are to take place at the contaminated site to the clerk of the municipality and to the county health department and the local health agency wherein the site is located. The written notice shall include notice of the location of the contaminated site, including address and the lot and block number of the contaminated site. The written notice shall also inform the municipality, county health department, and local health agency that they may receive a copy of the remedial action workplan and any updates or status reports, and a copy of the site health and safety plan, from the responsible party, upon request. For any remediation of a contaminated site that will take longer than two years to complete, notification shall be provided every two years until remediation is complete.

b. Notice required pursuant to this section shall not be required when the remediation of a contaminated site is caused by a leaking residential underground storage tank used to store heating oil for on-site consumption in a one to four family residential building or an emergency response action.

2. Section 2 of P.L.2006, c.65 (C.58:10B-24.2) is amended to read as follows:

C.58:10B-24.2 Copy of remedial action plan, site health and safety plan to municipality.

2. Upon request of a municipality, any person who is responsible for conducting a remediation of a contaminated site shall submit a copy of a remedial action workplan and any updates or status reports pursuant to the “Industrial Site Recovery Act,” P.L.1983, c.330 (C.13:1K-6 et al.), the “Brownfield and Contaminated Site Remediation Act,” P.L.1997, c.278 (C.58:10B-1.1 et al.), or the “Spill Compensation and Control Act,” P.L.1976, c.141 (C.58:10-23.11 et seq.), and a copy of the site health and safety plan, to the clerk of the municipality wherein the contaminated site is located at the same time as the workplan is submitted to the Department of Environmental Protection. Upon request of a county health department or a local health agency, the person who is responsible for conducting a remediation of a contaminated site shall also submit a copy of the remedial action workplan and any updates or status reports, and a copy of the site health and safety plan, to the county health department or local health agency, respectively.

3. Section 4 of P.L.2006, c.65 (C.58:10B-24.4) is amended to read as follows:

C.58:10B-24.4 Definitions relative to remediation of contaminated sites.

4. For the purposes of P.L.2006, c.65 (C.58:10B-24.1 et seq.):

"Local health agency" means a "local health agency" as defined in section 3 of P.L.1966, c.36 (C.26:2F-3).

"Oversight document" means any document the Department of Environmental Protection or a court issues to define the role of a person participating in the remediation of a contaminated site or is of concern, and may include, without limitation, an administrative order, administrative consent order, court order, memorandum of understanding, memorandum of agreement, or remediation agreement.

"Person who is responsible for conducting a remediation" means any person who executes or is otherwise subject to an oversight document.

"Site health and safety plan" means a plan designed to protect the health and safety of persons working on a contaminated site and required pursuant to the rules and regulations establishing the technical requirements for site remediation adopted pursuant to P.L.1993, c.139 (C.58:10B-1 et seq.).

4. Section 5 of P.L.2006, c.65 (C.58:10B-24.5) is amended to read as follows:

C.58:10B-24.5 Notification of master list of known hazardous discharge sites; DEP website.

5. Within 30 days after the date of enactment of this act, the Department of Environmental Protection shall notify the governing body of each municipality in the State and each county health department and local health agency of the existence of the New Jersey master list of known hazardous discharge sites prepared pursuant to P.L.1982, c.202 (C.58:10-23.15 et seq.). The department shall notify the governing body of each municipality in the State and each county health department and local health agency that this list is also made available to the public on the Internet website maintained by the Department of Environmental Protection.

5. This act shall take effect immediately.

Approved January 13, 2008.

CHAPTER 277

AN ACT concerning the "New Jersey Disease Management Study Commission" and amending P.L.2005, c.200.

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

1. Section 3 of P.L.2005, c.200 is amended to read as follows:

3. The commission shall:

a. assess disease management programs to determine their potential to improve individual health, promote quality health care and contain health care costs generally, and more specifically to assess how disease management programs can reduce costs for, and improve the health of persons receiving benefits under, the Medicaid program established pursuant to P.L.1968, c.413 (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.);

b. identify technologies that it deems are most effective in supporting disease management programs and review, at a minimum, the following: factors which prevent the adoption of, or participation in, disease management programs; financial and non-financial incentives which may encourage employers, insurers and individuals to use disease management programs; specific incentives offered by other states to encourage the use of disease management programs, and their results; and disease management programs implemented by other states, and their results;

c. identify methods to improve public awareness of the effects of indoor pollutants on the health of individuals, and how they are to be identified and eliminated using proper environmental controls;

d. study insurance products that are designed to promote health wellness and methods to promote the wider acceptance of wellness physical and preventive examinations within the medical community; and

e. study various aspects of demand management with respect to health care consumers in order to better understand the reasons that people choose to access the health care system.

2. This act shall take effect immediately.

Approved January 13, 2008.

CHAPTER 278

AN ACT concerning shore protection projects, and supplementing Title 13 of the Revised Statutes.

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

C.13:19-16.3 Public hearings for shore protection projects, certain.

1. Whenever the State enters into an agreement, on or after the date of enactment of this act, with the United States Army Corps of Engineers for the State to assume responsibility as the non-federal sponsor of a shore protection project, the Department of Environmental Protection shall conduct a public hearing and provide the opportunity for public comment at the conclusion of the feasibility study phase for the proposed shore protection project.

2. This act shall take effect immediately.

Approved January 13, 2008.

CHAPTER 279

AN ACT concerning missing persons, designating the act as “Patricia’s Law,” and supplementing Title 52 of the Revised Statutes.

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

C.52:17B-212 Definitions relative to missing persons.

1. As used in this act:

“High risk missing person” means a person whose whereabouts are not currently known and the circumstances of the person’s disappearance suggest that the person may be at imminent or likely risk of injury or death. The circumstances that indicate that a person is a high risk missing person shall include, but not be limited to:

- a. the person is missing as a result of a confirmed abduction or under circumstances that indicate that the person’s disappearance was not voluntary;
- b. the person is missing under known dangerous circumstances;
- c. the person is missing more than 30 days;
- d. there is evidence that the person is at risk because:

(1) the person missing is in need of medical attention or prescription medication such that it will have a serious adverse effect on the person’s health if he or she does not receive the needed care or medication;

(2) the person missing does not have a pattern of running away or disappearing;

- (3) the person missing may have been abducted by a non-custodial parent;
- (4) the person missing is mentally impaired;
- (5) the person missing is a person over the age of 13 and under the age of 21 years and any other risk factor is known; or

(6) the person missing has been the subject of past threats or acts of violence; and

e. any other factor that may indicate, in the judgment of the lead law enforcement agency, that the missing person may be at risk.

“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.

“Lead law enforcement agency” means the law enforcement agency with primary responsibility for investigating a missing person case.

“Missing child” means a person 13 years of age or younger whose whereabouts are not currently known.

“Missing Persons Unit” means the Missing Persons Unit in the Division of State Police in the Department of Law and Public Safety established pursuant to section 2 of P.L.1983, c.467 (C.52:17B-9.7).

C.52:17B-213 Acceptance of report of missing person without delay.

2. a. A law enforcement agency shall accept without delay any report of a missing person. No law enforcement agency may refuse to accept a missing person report on the basis that:

- (1) The missing person is an adult;
- (2) The circumstances do not indicate foul play;
- (3) The person has been missing for a short period of time;
- (4) The person has been missing for a long period of time;
- (5) There is no indication that the missing person was in the jurisdiction served by the law enforcement agency at the time of the disappearance;
- (6) The circumstances suggest that the disappearance may be voluntary;
- (7) The reporting person does not have personal knowledge of the facts;
- (8) The reporting person cannot provide all of the information requested by the law enforcement agency;
- (9) The reporting person lacks a familial or other relationship with the missing person; or
- (10) For any other reason, except in cases where the law enforcement agency has direct knowledge that the person is, in fact, not missing and the

exact whereabouts and welfare of the person are known to the agency at the time the report is being made.

b. The law enforcement agency that receives a report of a missing person shall be the lead law enforcement agency in charge of the missing person investigation, and shall continue in that capacity unless another law enforcement agency assumes primary responsibility over the investigation.

c. The lead law enforcement agency shall be entitled to the cooperation of any other law enforcement agency in the State.

C.52:17B-214 Information about the missing person for record.

3. At the time a missing person report is filed, the law enforcement agency shall seek to ascertain and record the following information about the missing person:

- a. The name of the missing person, including any aliases;
- b. Date of birth;
- c. Identifying marks, such as birthmarks, moles, tattoos, and scars;
- d. Height and weight;
- e. Gender;
- f. Race;
- g. Current hair color and true or natural hair color;
- h. Eye color;
- i. Prosthetics, surgical implants, or cosmetic implants;
- j. Physical anomalies;
- k. Blood type, if known;
- l. Any medications the missing person is taking or needs to take;
- m. Driver's license number, if known;
- n. Social security number, if known;
- o. A recent photograph of the missing person, if available;
- p. A description of the clothing the missing person was believed to be wearing at the time of disappearance;
- q. A description of notable items that the missing person may be carrying and wearing;
- r. Information regarding the missing person's electronic communications devices, such as a cell phone number or e-mail address;
- s. The reasons why the reporting person believes that the person is missing;
- t. The name and location of the missing person's school or employer, if known;
- u. The name and location of the missing person's dentist and primary care physician, if known;

- v. Any circumstances that may indicate that the disappearance was not voluntary;
- w. Any circumstances that indicate that the missing person may be at risk of injury or death;
- x. A description of the possible means of transportation of the missing person, such as the make, model, color, license, and Vehicle Identification Number (VIN) of a motor vehicle;
- y. Any identifying information about a known or possible abductor or the person last seen with the missing person including:
 - (1) name;
 - (2) physical description;
 - (3) date of birth;
 - (4) identifying marks;
 - (5) description of possible means of transportation, such as the make, model, color, license, and Vehicle Identification Number (VIN) of a motor vehicle; and
 - (6) known associates;
- z. Any other information that can aid in locating the missing person; and
- aa. Date of last contact.

C.52:17B-215 Information provided to person making report or family member.

4. a. The law enforcement agency shall notify the person making the report, a family member, or any other person in a position to assist the law enforcement agency in its efforts to locate the missing person by providing to that person or family member:

(1) general information about the handling of the missing person case or about intended efforts in the case to the extent that the law enforcement agency determines that disclosure would not adversely affect its ability to locate or protect the missing person, to apprehend or to prosecute any persons criminally involved in the disappearance;

(2) information advising the person making the report and other involved persons that if the missing person remains missing, they should contact the law enforcement agency to provide additional information and materials that will aid in locating the missing person, such as any credit or debit cards the missing person has access to, other banking or financial information and any records of cell phone use;

(3) in those cases where DNA samples are requested, the law enforcement agency shall notify the person or family member that all such DNA samples are provided on a voluntary basis and shall be used solely to help locate or identify the missing person and shall not be used for any other purpose; and

(4) the law enforcement agency, upon acceptance of a missing person report, shall inform the person filing the report that there are two clearing houses for missing person's information. If the person reported missing is age 17 or under, the person filing the report shall be provided with contact information for the National Center for Missing and Exploited Children. If the person reported missing is age 18 or older, the person filing the report shall be provided with contact information for the National Center for Missing Adults.

b. If the person identified in the missing person report remains missing for 30 days, and the additional information and materials specified below have not been received, the law enforcement agency shall attempt to obtain:

(1) DNA samples from family members and, if possible, from the missing person along with any needed documentation, including any consent forms, required for the use of State or federal DNA databases;

(2) dental information and x-rays, and an authorization to release dental or skeletal x-rays of the missing person;

(3) any additional photographs of the missing person that may aid the investigation or an identification. The law enforcement agency shall not be required to obtain written authorization before it releases publicly any photograph that would aid in the investigation or identification of the missing person; and

(4) fingerprints.

c. All DNA samples obtained in missing persons cases shall be immediately forwarded to the New Jersey Forensic DNA Laboratory for analysis. The laboratory shall establish procedures for determining how to prioritize analysis of the samples relating to missing persons cases.

d. Information relevant to the Federal Bureau of Investigation's Violent Criminal Apprehension Program shall be entered as soon as possible.

e. Nothing in this section shall be construed to preclude a law enforcement agency from obtaining any of the materials identified in this section before the 30th day following the filing of the missing person report.

C.52:17B-216 Determination of designation as high risk missing person.

5. a. Upon the initial receipt of a missing person report, a law enforcement agency shall seek to determine whether the person reported missing is to be designated a high risk missing person.

b. If the initial determination of a person reported missing does not warrant designation of that person as high risk, it shall not preclude a later determination, based on further investigation or the discovery of additional information, that the missing person is high risk.

C.52:17B-217 Actions relative to high risk missing person or child.

6. a. Upon a determination that a missing person investigation involves a high risk missing person or a missing child, the lead law enforcement agency shall take such actions as are specified in the uniform investigative standards for a high risk missing person or a missing child, as the case may be, as set forth in the protocol developed pursuant to section 10 of P.L.2007, c.279 (C.52:17B-221), and also may contact the Missing Persons Unit and request assistance. The Missing Persons Unit, in consultation with the lead law enforcement agency, shall determine whether the circumstances warrant a cooperative investigative effort. If the determination is made that a cooperative effort is warranted, then the Missing Persons Unit shall coordinate the deployment of additional State Police resources in support of the investigation.

b. The lead law enforcement agency shall promptly notify all law enforcement agencies within the State and, if deemed appropriate, law enforcement agencies in adjacent states or jurisdictions of the information that may aid in the prompt location and safe return of the high risk missing person.

c. Local law enforcement agencies that receive notification from the lead law enforcement agency pursuant to subsection b. of this section shall forward that information immediately to their officers and members.

d. The lead law enforcement agency shall, as expeditiously as possible, prepare and disseminate a photographic information bulletin utilizing the Missing Child Alert System, or any successor law enforcement notification system the State may employ.

e. The lead law enforcement agency shall, as appropriate, enter all collected information relating to the missing person case to applicable federal databases. The information shall be provided in accordance with applicable guidelines relating to the databases, as follows:

(1) a missing person report, and relevant information, in a high risk missing person case shall be entered in the National Crime Information Center database immediately, but in no case no more than two hours after the determination that the missing person is a high risk missing person;

(2) a missing person report, and relevant information, in a case not involving a high risk missing person shall be entered within 24 hours of the initial filing of the missing person report;

(3) all DNA profiles shall be uploaded into the missing persons databases of the New Jersey Forensic DNA Laboratory and all appropriate and suitable federal database systems;

(4) information relevant to the Federal Bureau of Investigation's Violent Criminal Apprehension Program shall be entered as soon as practicable;

(5) all due care shall be given to insure that the data, particularly medical and dental records, entered in State and federal database systems is accurate and, to the greatest extent possible, complete; and

(6) the State Police shall, when deemed appropriate and likely to facilitate a resolution to a particular missing person report, activate the Amber Alert program for the State.

f. If, after the dissemination of a photographic information bulletin utilizing the Missing Child Alert System information, the missing person is found, the lead law enforcement agency shall promptly disseminate an additional bulletin on the Missing Child Alert System indicating that the person was found.

C.52:17B-218 Practices, protocol for death scene investigations.

7. a. The Attorney General shall provide information to local law enforcement agencies about best practices and protocols for handling death scene investigations.

b. The Attorney General shall identify any publications or training opportunities that may be available to local law enforcement officers concerning the handling of death scene investigations.

C.52:17B-219 Custody of human remains, notification if remains unidentified.

8. a. After performing any death scene investigation, as deemed appropriate under the circumstances, the official with custody of the human remains shall ensure that the human remains are delivered to the appropriate county medical examiner.

b. Any county medical examiner with custody of human remains that are not identified within 24 hours of discovery shall promptly notify the Missing Persons Unit of the location of those remains.

c. If the county medical examiner with custody of remains cannot determine whether or not the remains found are human, the medical examiner shall so notify the Missing Persons Unit.

C.52:17B-220 Responsibilities of county medical examiner.

9. a. If the official with custody of the human remains is not a medical examiner, the official shall promptly transfer the unidentified remains to the appropriate county medical examiner.

b. The county medical examiner shall make reasonable attempts to promptly identify human remains. These actions may include but are not limited to obtaining:

(1) photographs of the human remains;

- (2) dental or skeletal X-rays;
- (3) photographs of items found with the human remains;
- (4) fingerprints from the remains, if possible;
- (5) samples of tissue suitable for DNA typing, if possible;
- (6) samples of whole bone or hair suitable for DNA typing; and
- (7) any other information that may support identification efforts.

c. No medical examiner or any other person shall dispose of, or engage in actions that will materially affect the unidentified human remains before the county medical examiner obtains:

- (1) samples suitable for DNA identification archiving;
- (2) photographs of the unidentified human remains; and
- (3) all other appropriate steps for identification have been exhausted.

d. Unidentified human remains shall not be cremated.

e. The county medical examiner shall make reasonable efforts to obtain prompt DNA analysis of biological samples if the human remains have not been identified by other means within 30 days.

f. The medical examiner shall seek support from appropriate State and federal agencies to assist in the identification of unidentified human remains. Such assistance may include, but not be limited to, available mitochondrial or nuclear DNA testing, federal grants for DNA testing, or federal grants for crime laboratory or medical examiner office improvement.

g. The county medical examiner shall seek support from appropriate federal and State agency representatives to have information promptly entered in federal and State databases by those representatives that can aid in the identification of a missing person. Information shall be entered into federal databases as follows:

(1) information for the National Crime Information Center within 24 hours;

(2) DNA profiles and information shall be entered into the National DNA Index System (NDIS) within five business days after the completion of the DNA analysis and procedures necessary for the entry of the DNA profile; and

(3) information sought by the Violent Criminal Apprehension Program database as soon as practicable.

h. Nothing in this act shall be construed to preclude any medical examiner office, the State Police or any local law enforcement agency from other actions to facilitate the identification of unidentified human remains including efforts to publicize information, descriptions, or photographs that may aid in the identification of the unidentified remains, including allowing family members to identify a missing person; provided that in taking these

actions, all due consideration is given to protect the dignity and well-being of the missing person and the family of the missing person.

i. Agencies handling the remains of a missing person who is deceased shall notify the law enforcement agency handling the missing person's case. Documented efforts shall be made to locate family members of the deceased person to inform them of the death and location of the remains of their family member.

C.52:17B-221 Development, dissemination of best practices protocol to law enforcement.

10. In implementing the provisions of this act and prior to the effective date, the Superintendent of State Police shall develop and disseminate to all law enforcement agencies in the State a best practices protocol for State and local law enforcement agencies to follow when addressing reports of missing persons, which protocol shall set forth uniform investigative standards for missing persons cases and any other procedures, practices and standards that the superintendent deems appropriate for handling missing person cases. The protocol shall include specific procedures, practices and standards applicable to cases involving high risk missing persons or missing children. The Superintendent of State Police shall develop and make available to each law enforcement agency in this State a training program on the procedures, practices and standards for the handling of high risk missing persons, missing children and missing persons cases set forth in the protocol adopted pursuant to and consistent with this act and section. Each law enforcement agency in this State shall comply with this protocol when the agency is notified of a missing person.

To assess the effectiveness of this protocol, the Missing Persons Unit annually shall review a sample of open missing persons cases from the immediately preceding year. Based upon its assessment, the Missing Persons Unit may recommend to the superintendent that the protocol be revised or amended and whether the training programs currently available to law enforcement agencies are adequate.

11. This act shall take effect on the first day of the seventh month following enactment, but the Attorney General may take such anticipatory administrative action in advance as shall be necessary for the implementation of this act.

Approved January 13, 2008.

CHAPTER 280

AN ACT concerning motor vehicle registration and amending P.L.1985, c.14.

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

1. Section 9 of P.L.1985, c.14 (C.39:4-139.10) is amended to read as follows:

C.39:4-139.10 Failure to respond, pay parking judgment, penalties.

9. a. If a person has failed to respond to a failure to appear notice or has failed to pay a parking judgment, the municipal court may give notice of that fact to the commission in a manner prescribed by the chief administrator. If notice has been given under this section of a person's failure to respond to a failure to appear notice or to pay a parking judgment and if the fines and penalties are paid or if the case is dismissed or otherwise disposed of, the municipal court shall promptly give notice to that effect to the commission.

b. The judge or the commission may suspend the driver's license, or the registration of the motor vehicle of an owner, lessee, or operator who has not answered or appeared in response to a failure to appear notice or has not paid or otherwise satisfied outstanding parking fines or penalties. If an owner, lessee or operator has been found guilty of a parking offense, the court shall provide notice and an opportunity to appear before a judge prior to suspending that person's driver's license or motor vehicle registration. In determining whether to suspend the person's driver's license or the motor vehicle registration, the judge and the commission shall take into consideration the area where the person resides and whether or not the person has access to off-street parking. If the owner, lessee or operator is found by the court to be indigent or is participating in a government-based income maintenance program, that person shall be permitted to pay the parking fine and other penalties in installments in accordance with section 1 of P.L.1981, c.365 (C.39:4-203.1).

c. The commission shall keep a record of a suspension ordered by the court pursuant to subsection b. of this section.

2. Section 10 of P.L.1985, c.14 (C.39:4-139.11) is amended to read as follows:

C.39:4-139.11 Restoration of driver's license, registration after satisfaction of fines and penalties; recordation.

10. a. When a person whose license or motor vehicle registration has been suspended pursuant to subsection b. of section 9 of P.L.1985, c.14 (C.39:4-139.10) satisfies the fines and any penalties imposed by the court, the court shall forward to the commission a notice to restore the person's driver's license or motor vehicle registration.

b. Upon receiving a notice to restore pursuant to subsection a. of this section, the commission shall record the restoration and notify the person of the restoration.

3. This act shall take effect on the first day of the sixth month after enactment.

Approved January 13, 2008.

CHAPTER 281

AN ACT establishing a public awareness campaign concerning the importance of keeping a current address with the Motor Vehicle Commission and amending P.L.1973, c.307 and R.S.39:3-36.

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

1. Section 10 of P.L.1973, c.307 (C.39:3C-10) is amended to read as follows:

C.39:3C-10 Notice of change of address, public awareness campaign.

10. a. It shall be the duty of every owner holding a certificate of registration to notify the commission, in writing, of any change of residence of such person within seven days after the change occurs.

b. The chief administrator shall establish a public awareness campaign to inform the general public about the importance of maintaining a current address with the commission.

2. R.S.39:3-36 is amended to read as follows:

Notification of change of residence; fees, penalties; public awareness campaign.

39:3-36. a. A licensed operator shall notify the chief administrator of any change in residence within one week after the change is made. Notice

shall be in such form and shall contain such information as the chief administrator may require. Upon notification, and payment of a fee of \$5 for the license in addition to the digitized picture fee, the chief administrator shall provide the licensed operator with a new license.

The registered owner of a motor vehicle or a motorized bicycle shall notify the chief administrator of any change in residence within one week after the change is made. Notice shall be in such form and shall contain such information as the chief administrator may require. Upon notification, and payment of a fee of \$5, the chief administrator shall provide the registered owner with a new registration certificate.

A person who violates this section shall be subject to a penalty of not more than \$25.

b. The chief administrator shall establish a public awareness campaign to inform the general public about the importance of maintaining a current address with the commission.

3. This act shall take effect on the first day of the sixth month after enactment.

Approved January 13, 2008.

CHAPTER 282

AN ACT renaming the New Jersey Merit Rating Plan, changing procedures for payment of outstanding surcharges, and amending P.L.1983, c.65.

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

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

C.17:29A-35 Motor Vehicle Violations Surcharge System.

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

b. There is created a Motor Vehicle Violations Surcharge System which shall apply to all drivers and shall include, but not be limited to, the following provisions:

(1) (a) Surcharges shall be levied, beginning on or after January 1, 1984, by the New Jersey Motor Vehicle Commission (hereinafter the

"commission") established by section 4 of P.L.2003, c.13 (C.39:2A-4) on any driver who, in the preceding 36-month period, has accumulated six or more motor vehicle points, as provided in Title 39 of the Revised Statutes; except that the allowance for a reduction of points in Title 39 of the Revised Statutes shall not apply for the purpose of determining surcharges under this paragraph. The accumulation of points shall be calculated as of the date the point violation is posted to the driver history record and shall be levied pursuant to rules promulgated by the commission. Surcharges assessed pursuant to this paragraph shall be \$150.00 for six points, and \$25.00 for each additional point. No offense shall be selected for billing which occurred prior to February 10, 1983. No offense shall be considered for billing in more than three annual assessments.

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

(2) (a) Surcharges shall be levied pursuant to subsection f. of section 1 of P.L.2000, c.75 (C.39:4-97.2) for each offense of unsafe driving under subsection a. of that section.

(b) Surcharges shall be levied for convictions (i) under R.S.39:4-50 for violations occurring on or after February 10, 1983, and (ii) under section 2 of P.L.1981, c.512 (C.39:4-50.4a), or for offenses committed in other jurisdictions of a substantially similar nature to those under R.S.39:4-50 or section 2 of P.L.1981, c.512 (C.39:4-50.4a), for violations occurring on or after January 26, 1984. Except as hereinafter provided, surcharges under this subparagraph (b) shall be levied annually for a three-year period, and shall be \$1,000.00 per year for each of the first two convictions, for a total surcharge of \$3,000 for each conviction, and \$1,500.00 per year for the third conviction occurring within a three-year period, for a total surcharge of \$4,500 for the third conviction. If a driver is convicted under both R.S.39:4-50 and section 2 of P.L.1981, c.512 (C.39:4-50.4a) for offenses arising out of the same incident, the driver shall be assessed only one surcharge for the two offenses.

If, upon written notification from the commission or its designee, mailed to the last address of record with the commission, a driver fails to pay a surcharge levied under this section and collectible by the commission, the driving privilege of the driver shall be suspended forthwith until at least five percent of each outstanding surcharge assessment that has resulted in suspension is paid to the commission; except that the commission may authorize payment of the surcharge on an installment basis over a period of 12 months for assessments under \$2,300 or 24 months for assessments of \$2,300 or more. The commission, for good cause, may authorize payment of any surcharge on an installment basis over a period not to exceed 36

months. If a driver fails to pay the surcharge or any installments on the surcharge, the total surcharge shall become due immediately, except as otherwise prescribed by rule of the commission.

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

In addition to any other remedy provided by law, the commission is authorized to utilize the provisions of the SOIL (Set off of Individual Liability) program established pursuant to P.L.1981, c.239 (C.54A:9-8.1 et seq.) to collect any surcharge levied under this section and collectible by the commission that is unpaid on or after the effective date of this act. As an additional remedy, the commission may issue a certificate to the Clerk of the Superior Court stating that the person identified in the certificate is indebted under this surcharge law in such amount as shall be stated in the certificate. The certificate shall reference the statute under which the indebtedness arises. Thereupon the clerk to whom such certificate shall have been issued shall immediately enter upon the record of docketed judgments the name of such person as debtor; the State as creditor; the address of such person, if shown in the certificate; the amount of the debt so certified; a reference to the statute under which the surcharge is assessed, and the date of making such entries. The docketing of the entries shall have the same force and effect as a civil judgment docketed in the Superior Court, and the commission shall have all the remedies and may take all of the proceedings for the collection thereof which may be had or taken upon the recovery of a judgment in an action, but without prejudice to any right of appeal. Upon entry by the clerk of the certificate in the record of docketed judgments in accordance with this provision, interest in the amount specified by the court rules for post-judgment interest shall accrue from the date of the docketing of the certificate, however payment of the interest may be waived by the commission or its designee. In the event that the surcharge remains unpaid following the issuance of the certificate of debt and the commission takes any further collection action including referral of the matter to the Attorney

General or his designee, the fee imposed, in lieu of the actual cost of collection, may be 20 percent of surcharges of \$1,000 or more. The administrator or his designee may establish a sliding scale, not to exceed a maximum amount of \$200, for surcharge principal amounts of less than \$1,000 at the time the certificate of debt is forwarded to the Superior Court for filing. The commission shall provide written notification to a driver of the proposed filing of the certificate of debt at least 10 days prior to the proposed filing; such notice shall be mailed to the driver's last address of record with the commission. Upon the filing of a certificate of debt with the Clerk of the Superior Court, the surcharged driver shall not be eligible for the restoration of his driving privilege until at least five percent of each outstanding surcharge assessment that has resulted in the suspension, including interest and costs, if any, is paid to the commission. If a certificate of debt is satisfied following a credit card payment, debit card payment or payment by other electronic payment device and that payment is reversed, a new certificate of debt shall be filed against the surcharged driver unless the original is reinstated.

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

All moneys collectible by the commission under subparagraph (b) of paragraph (2) of this subsection b. shall be billed and collected by the commission except as provided in P.L.1997, c.280 (C.2B:19-10 et al.) for the collection of unpaid surcharges. Commencing on September 1, 1996, or such earlier time as the Commissioner of Banking and Insurance shall certify to the State Treasurer that amounts on deposit in the New Jersey Automobile Insurance Guaranty Fund are sufficient to satisfy the current and anticipated financial obligations of the New Jersey Automobile Full Insurance Underwriting Association, all surcharges collected by the commission under subparagraph (b) of paragraph (2) of this subsection b. shall be remitted to the Division of Motor Vehicles Surcharge Fund:

(i) for transfer to the Market Transition Facility Revenue Fund, as provided in section 12 of P.L.1994, c.57 (C.34:1B-21.12), for the purposes of section 4 of P.L.1994, c.57 (C.34:1B-21.4) until such a time as all the Market Transition Facility bonds, notes and obligations and all Motor Vehicle Commission bonds, notes and obligations issued pursuant to that section 4 of P.L.1994, c.57 (C.34:1B-21.4) and the costs thereof are discharged and no longer outstanding; and

(ii) from and after the date of certification by the Commissioner of Banking and Insurance that the moneys collectible under subparagraph (b) of paragraph (2) of this subsection b. are no longer needed to fund the association or at such time as all Market Transition Facility bonds, notes and obligations and all Motor Vehicle Commission bonds, notes and obligations issued pursuant to section 4 of P.L.1994, c.57 (C.34:1B-21.4) and the costs thereof are discharged and no longer outstanding, for transfer to the Motor Vehicle Surcharges Revenue Fund established pursuant to section 6 of the "Motor Vehicle Surcharges Securitization Act of 2004," P.L.2004, c.70 (C.34:1B-21.28) to be applied as set forth in section 6 that act. From and after such time as all bonds issued under section 4 of the "Motor Vehicle Surcharges Securitization Act of 2004," P.L.2004, c.70 (C.34:1B-21.26) and the costs thereof are discharged and no longer outstanding, all surcharges collected by the commission under subparagraph (b) of paragraph (2) of this subsection b. shall, subject to appropriation, be remitted to the New Jersey Property-Liability Insurance Guaranty Association created pursuant to section 6 of P.L.1974, c.17 (C.17:30A-6) to be used for payment of any loans made by that association to the New Jersey Automobile Insurance Guaranty Fund pursuant to paragraph (10) of subsection a. of section 8 of P.L.1974, c.17 (C.17:30A-8); provided that all such payments shall be subject to and dependent upon appropriation by the State Legislature.

All surcharges collected by the courts pursuant to subparagraph (a) of paragraph (2) of this subsection b. shall be forwarded not less frequently than monthly to the Division of Revenue. The Division of Revenue shall transfer: all such surcharges received prior to July 1, 2006, to the General Fund, and commencing July 1, 2006, all such surcharges to the Unsafe Driving Surcharge Revenue Fund established pursuant to section 5 of the "Motor Vehicle Surcharges Securitization Act of 2004," P.L.2004, c.70 (C.34:1B-21.27) to be applied as set forth in section 5 of that act. From and after such time as all bonds (including refunding bonds), notes and other obligations issued under section 4 of the "Motor Vehicle Surcharges Securitization Act of 2004," P.L.2004, c.70 (C.34:1B-21.26), and the costs thereof are discharged and no longer outstanding, all such surcharges collected by the courts pursuant to subparagraph (a) of paragraph (2) of this subsection b. and forwarded to the Division of Revenue shall be transferred to the General Fund.

Upon request, the Administrative Office of the Courts shall provide a monthly report to the Division of Revenue containing information on the number of convictions for the offense of unsafe driving pursuant to section 1 of P.L.2000, c.75 (C.39:4-97.2) that were entered during such month, the amount of the surcharges that were assessed by the courts pursuant to sub-

section f. of section 1 of P.L.2000, c.75 (C.39:4-97.2) for such month, and the amount of the surcharges collected by the courts pursuant to subsection f. of section 1 of P.L.2000, c.75 (C.39:4-97.2) during such month.

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

c. No motor vehicle violation surcharges shall be levied on an automobile insurance policy issued or renewed on or after January 1, 1984, except in accordance with the Motor Vehicle Violations Surcharge System, and all surcharges levied thereunder shall be assessed, collected and distributed in accordance with subsection b. of this section.

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

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

2. This act shall take effect on the first day of the sixth month after enactment.

Approved January 13, 2008.

CHAPTER 283

AN ACT concerning payment options for certain motor vehicle fines and fees and amending P.L.1981, c.365 and P.L.1975, c.180.

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

1. Section 1 of P.L.1981, c.365 (C.39:4-203.1) is amended to read as follows:

C.39:4-203.1 Indigents permitted to pay fines in installments, waiver, certain; guideline for indigency.

1. Any defendant convicted of a traffic offense pursuant to Title 39 of the Revised Statutes or a parking offense, shall, upon a satisfactory showing of a condition of indigency or participation in a government-based income maintenance program, be permitted by the court to pay the fine in installments. The court shall set the amount and frequency of each installment. In addition, the court may waive an unpaid portion, up to \$200, of any court-imposed time-payment order, as a result of a conviction for a motor vehicle traffic violation or a parking offense, except for a violation of R.S.39:4-50 or section 2 of P.L.1981, c.512 (C.39:4-50.4a), for a defendant who is indigent or is participating in a government-based income maintenance program and who has demonstrated an inability to comply with the time-payment order, and in lieu of the remaining unpaid amount, require the defendant to perform community service for a period of time to be determined by the court, or participate in any program authorized by law, or satisfy any other aspect of a sentence imposed. For the purposes of this section, the guideline for the court to determine indigency is an income up to 250 percent of the poverty level, as defined in section 4 of P.L.2005, c.156 (C.30:4J-11).

2. Section 23 of P.L.1975, c.180 (C.39:3-10a) is amended to read as follows:

C.39:3-10a Fee for restoration of suspended or revoked licenses, vehicle registrations.

23. The chief administrator shall charge a fee of \$100 for the restoration of any license which has been suspended or revoked by reason of the licensee's violation of any law or regulation and for the restoration of vehicle registrations that have been suspended pursuant to any law. The chief administrator may promulgate such regulations hereunder as he may deem necessary.

3. This act shall take effect on the first day of the sixth month after enactment.

Approved January 13, 2008.

CHAPTER 284

AN ACT concerning the unlawful possession of firearms and amending N.J.S.2C:39-5.

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

1. N.J.S.2C:39-5 is amended to read as follows:

Unlawful possession of weapons.

2C:39-5. Unlawful Possession of Weapons.

a. Machine guns. Any person who knowingly has in his possession a machine gun or any instrument or device adaptable for use as a machine gun, without being licensed to do so as provided in N.J.S.2C:58-5, is guilty of a crime of the third degree.

b. Handguns. Any person who knowingly has in his possession any handgun, including any antique handgun without first having obtained a permit to carry the same as provided in N.J.S.2C:58-4, is guilty of a crime of the third degree if the handgun is in the nature of an air gun, spring gun or pistol or other weapon of a similar nature in which the propelling force is a spring, elastic band, carbon dioxide, compressed or other gas or vapor, air or compressed air, or is ignited by compressed air, and ejecting a bullet or missile smaller than three-eighths of an inch in diameter, with sufficient force to injure a person. Otherwise it is a crime of the second degree.

c. Rifles and shotguns. (1) Any person who knowingly has in his possession any rifle or shotgun without having first obtained a firearms purchaser identification card in accordance with the provisions of N.J.S.2C:58-3, is guilty of a crime of the third degree.

(2) Unless otherwise permitted by law, any person who knowingly has in his possession any loaded rifle or shotgun is guilty of a crime of the third degree.

d. Other weapons. Any person who knowingly has in his possession any other weapon under circumstances not manifestly appropriate for such lawful uses as it may have is guilty of a crime of the fourth degree.

e. Firearms or other weapons in educational institutions.

(1) Any person who knowingly has in his possession any firearm in or upon any part of the buildings or grounds of any school, college, university or other educational institution, without the written authorization of the governing officer of the institution, is guilty of a crime of the third degree,

irrespective of whether he possesses a valid permit to carry the firearm or a valid firearms purchaser identification card.

(2) Any person who knowingly possesses any weapon enumerated in paragraphs (3) and (4) of subsection r. of N.J.S.2C:39-1 or any components which can readily be assembled into a firearm or other weapon enumerated in subsection r. of N.J.S.2C:39-1 or any other weapon under circumstances not manifestly appropriate for such lawful use as it may have, while in or upon any part of the buildings or grounds of any school, college, university or other educational institution without the written authorization of the governing officer of the institution is guilty of a crime of the fourth degree.

(3) Any person who knowingly has in his possession any imitation firearm in or upon any part of the buildings or grounds of any school, college, university or other educational institution, without the written authorization of the governing officer of the institution, or while on any school bus is a disorderly person, irrespective of whether he possesses a valid permit to carry a firearm or a valid firearms purchaser identification card.

f. Assault firearms. Any person who knowingly has in his possession an assault firearm is guilty of a crime of the third degree except if the assault firearm is licensed pursuant to N.J.S.2C:58-5; registered pursuant to section 11 of P.L.1990, c.32 (C.2C:58-12) or rendered inoperable pursuant to section 12 of P.L.1990, c.32 (C.2C:58-13).

g. (1) The temporary possession of a handgun, rifle or shotgun by a person receiving, possessing, carrying or using the handgun, rifle, or shotgun under the provisions of section 1 of P.L.1992, c.74 (C.2C:58-3.1) shall not be considered unlawful possession under the provisions of subsection b. or c. of this section.

(2) The temporary possession of a firearm by a person receiving, possessing, carrying or using the firearm under the provisions of section 1 of P.L.1997, c.375 (C.2C:58-3.2) shall not be considered unlawful possession under the provisions of this section.

h. A person who is convicted of a crime under subsection a., b. or f. of this section shall be ineligible for participation in any program of intensive supervision; provided, however, that this provision shall not apply to a crime under subsection b. involving only a handgun which is in the nature of an air gun, spring gun or pistol or other weapon of a similar nature in which the propelling force is a spring, elastic band, carbon dioxide, compressed or other gas or vapor, air or compressed air, or is ignited by compressed air, and ejecting a bullet or missile smaller than three-eighths of an inch in diameter, with sufficient force to injure a person.

i. A person convicted of violating subsection a., b. or f. of this section shall be sentenced by the court to a term of imprisonment, which shall include the imposition of a minimum term during which the defendant shall be ineligible for parole, if the court finds that the aggravating circumstance set forth in paragraph (5) of subsection a. of N.J.S.2C:44-1 applies. The minimum term of parole ineligibility shall be fixed at five years. The sentencing court shall make a finding on the record as to whether the aggravating circumstance set forth in paragraph (5) of subsection a. of N.J.S.2C:44-1 applies, and the court shall presume that there is a substantial likelihood that the defendant is involved in organized criminal activity if there is a substantial likelihood that the defendant is a member of an organization or group that engages in criminal activity. The prosecution at the sentencing hearing shall have the initial burden of producing evidence or information concerning the defendant's membership in such an organization or group.

2. This act shall take effect immediately.

Approved January 13, 2008.

CHAPTER 285

AN ACT concerning motor vehicles and supplementing Title 39 of the Revised Statutes.

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

C.39:3-13b Provision of minor's motor vehicle record to parent, guardian.

1. Upon request, the Motor Vehicle Commission shall provide the parent or guardian of a special learner's permit holder, an examination permit holder, or a provisional license holder under 18 years of age with information pertaining to the driving privilege status and any vehicular accident or violation information on the minor's driving record. When requesting this information about the minor's driving record, the parent or guardian shall be required to provide the parent or guardian's name, date of birth, address, and driver's license number as well as the name, date of birth, address, and driver's license number of the permit or provisional license holder.

2. This act shall take effect immediately.

Approved January 13, 2008.

CHAPTER 286

AN ACT concerning child placements in out-of-State residential schools and programs and supplementing Titles 9 and 30 of the Revised Statutes.

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

1. This act shall be known and may be cited as “Billy’s Law.”

C.9:3A-7.3 Rules, regulations prescribed by Commissioner of Children and Families concerning out-of-State placement for children.

2. a. The Commissioner of Children and Families, pursuant to the “Administrative Procedure Act,” P.L.1968, c.410 (C.52:14B-1 et seq.) and within 180 days after the effective date of this act, shall adopt rules and regulations that prescribe standards for the placement of children from this State in out-of-State residential schools and programs, and shall include the following:

(1) Except as provided in paragraph (2) of this subsection, prior to entering into a contract with or licensing an out-of-State residential school or program, the Department of Children and Families shall conduct an evaluation and inspection of the school or program, which shall include a site visit and such other means, as established by the rules and regulations, to evaluate the school or program. The department may conduct its own inspection or contract with another entity to perform the inspection;

(2) In the case of the need for an emergency placement in an out-of-State residential school or program, the department shall ensure that the school or program meets the applicable rules and regulations within 30 days after the placement. If the school or program does not meet the rules and regulations within the 30-day period, the department shall find an alternate school or program that does meet them;

(3) The department shall include in its contract with an out-of-State residential school or program the authority to conduct unannounced inspections of the school or program;

(4) The department shall include on its official website a list of out-of-State residential schools and programs that the department licenses or contracts with; and

(5) The department shall share with the Department of Human Services reports it receives concerning any accidents, unusual incidents as defined by applicable rules and regulations, or incidents involving suspected abuse or neglect at an out-of-State residential school or program.

b. The department, within 18 months after the adoption of rules and regulations pursuant to subsection a. of this section, shall report to the Governor, and to the Legislature pursuant to section 2 of P.L.1991, c.164 (C.52:14-19.1), on the implementation of the provisions of this section and the department's efforts to expand the State's capacity to provide in-State residential schools and programs and reduce out-of-State placements.

C.30:1-15.3 Rules, regulations prescribed by the Commissioner of Human Services concerning out-of-State placements for children.

3. a. The Commissioner of Human Services, pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.) and within 180 days after the effective date of this act, shall adopt rules and regulations that prescribe standards for the placement of children from this State in out-of-State residential schools and programs, and shall include the following:

(1) Except as provided in paragraph (2) of this subsection, prior to entering into a contract with or licensing an out-of-State residential school or program, the Department of Human Services shall conduct an evaluation and inspection of the school or program, which shall include a site visit and such other means, as established by the rules and regulations, to evaluate the school or program. The department may conduct its own inspection or contract with another entity to perform the inspection;

(2) In the case of the need for an emergency placement in an out-of-State residential school or program, the department shall ensure that the school or program meets the applicable rules and regulations within 30 days after the placement. If the school or program does not meet the rules and regulations within the 30-day period, the department shall find an alternate school or program that does meet them;

(3) The department shall include in its contract with an out-of-State residential school or program the authority to conduct unannounced inspections of the school or program;

(4) The department shall include on its official website a list of out-of-State residential schools and programs that the department licenses or contracts with; and

(5) The department shall share with the Department of Children and Families reports it receives concerning any accidents, unusual incidents as defined by applicable rules and regulations, or incidents involving suspected abuse or neglect at an out-of-State residential school or program.

b. The department, within 18 months after the adoption of rules and regulations pursuant to subsection a. of this section, shall report to the Governor, and to the Legislature pursuant to section 2 of P.L.1991, c.164

(C.52:14-19.1), on the implementation of the provisions of this section and the department's efforts to expand the State's capacity to provide in-State residential schools and programs and reduce out-of-State placements.

4. This act shall take effect immediately.

Approved January 13, 2008.

CHAPTER 287

AN ACT concerning handicapped parking and amending P.L.1999, c.182.

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

1. Section 1 of P.L.1999, c.182 (C.39:4-207.9) is amended to read as follows:

C.39:4-207.9 Parking spaces for handicapped; requirements for snow removal; penalty.

1. a. A person who owns or controls a parking area which is open to the public or to which the public is invited and which contains special parking spaces for the use of persons who have been issued a placard or wheelchair symbol license plates pursuant to P.L.1949, c.280 (C.39:4-204 et seq.) shall be responsible for assuring that access to these special parking spaces and to curb cuts or other improvements designed to provide accessibility for handicapped persons is not obstructed.

b. If snow or ice is obstructing the special parking space, curb cut or other improvement designed to provide accessibility for the handicapped, it shall be removed within 24 hours after the weather condition causing the snow or ice ceases.

c. A person who violates this act shall be liable for a penalty of not less than \$500 or more than \$1,000 for each space that is obstructed.

2. This act shall take effect immediately.

Approved January 13, 2008.

CHAPTER 288

AN ACT concerning coastal and ocean resources, amending and supplementing Title 13 of the Revised Statutes, and making an appropriation.

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

C.13:19-34 Findings, declarations relative to coastal, ocean resources.

1. The Legislature finds and declares that:
 - a. The quality of life and strength of the economy in New Jersey are challenged by persistent threats to the health and vitality of one of the State's most cherished and fragile assets, its ocean resources;
 - b. Coastal tourism is extremely important to the State economy, generating billions of dollars annually and providing thousands of jobs throughout the region;
 - c. Good water quality, healthy beaches, and abundant recreational opportunities are essential to attracting visitors and sustaining coastal tourism;
 - d. Despite regulatory efforts by the State to date, New Jersey residents continue to face beach closings, seafood health advisories, and prohibitions on shellfishing in some areas due to pollution;
 - e. Reports such as the 2003 Pew Oceans Commission Report, entitled "America's Living Oceans: Charting a Course for Sea Change," and the 2004 Report of the United States Commission on Ocean Policy, both document degraded ocean values, due to coastal and ocean development, onshore and offshore pollution, certain fishing and aquaculture practices, and invasive species, among other things;
 - f. The ocean is a public trust and in order to ensure the protection of the public trust, the governance of these ocean resources should be guided by principles of sustainability, ecosystem health, precaution, recognition of the interconnectedness between land and ocean, and public participation in the decision-making process;
 - g. The Pew Oceans Commission and the United States Commission on Ocean Policy both recommend that government agencies move toward an ecosystem-based management approach and should be required to protect, maintain, and restore coastal and ocean ecosystems;
 - h. Good governance and stewardship of coastal and ocean resources necessitate more efficient and effective use of public funds; and
 - i. Since many different State and local agencies are responsible for governing or protecting New Jersey's coastal and ocean resources, there is a

critical need for these agencies to work together in a coordinated manner to ensure effective, comprehensive, and consistent protection of coastal and ocean resources and ecosystems.

C.13:19-35 “Ecosystem-based management” defined.

2. As used in this act, “ecosystem-based management” means an integrated approach to management that integrates biological, social, and economic factors into a comprehensive strategy aimed at protecting, restoring, and enhancing the sustainability, diversity, and productivity of ecosystems.

C.13:19-36 New Jersey Coastal and Ocean Protection Council established.

3. a. There is established in the Department of Environmental Protection the New Jersey Coastal and Ocean Protection Council.

b. The council shall consist of nine members as follows:

(1) the Commissioner of Environmental Protection, or the commissioner’s designee, who shall serve ex officio;

(2) the Chief Executive Officer of the New Jersey Economic Development Authority, or the chief executive officer’s designee, who shall serve ex officio;

(3) the Executive Director of the Division of Travel and Tourism in the New Jersey Commerce Commission, or the executive director’s designee, who shall serve ex officio; and

(4) six public members to be appointed by the Governor with the advice and consent of the Senate for four-year terms, except that of those first appointed, one shall be appointed for a term of one year, one for a term of two years, two for a term of three years and two for a term of four years. Of the public members: one shall be a representative of the commercial fishing industry, representing the range of commercial fisheries in the State, including shellfish and finfish fisheries and fisheries in State and federal waters; one shall be a representative of the recreational fishing industry, representing the range of recreational fisheries in the State, including the hook and line and the party and charter boat fishing industry; one shall be a representative of the academic community with expertise, knowledge, or experience in coastal or ocean ecosystems and habitat; one shall be a representative of an environmental organization with expertise, knowledge, or experience in coastal or ocean ecosystems and habitat; one shall be a representative of a public interest group with expertise, knowledge, or experience in coastal or ocean ecosystems and habitat; and one shall be a representative of a non-profit organization with expertise, knowledge, or experience in habitat protection and land preservation.

c. Any vacancy in the membership shall be filled in the same manner as the original appointment.

d. The members of the council shall serve without compensation, but may be reimbursed for necessary expenses incurred in the performance of their duties, within the limits of funds appropriated or otherwise made available to the council for its purposes.

e. The council shall be entitled to the assistance and service of the employees of any State, county or municipal department, board, bureau, commission, authority, or agency as it may require and as may be available to it for its purposes, and to employ stenographic and clerical assistance and to incur traveling or other miscellaneous expenses as may be necessary in order to perform its duties, within the limits of funds appropriated or otherwise made available to it for its purposes. The department shall provide primary staff support to the council.

f. The council shall organize as soon as possible after the appointment of its members and shall annually elect a chairperson from among its members, and a secretary who need not be a member of the council. The council shall meet at the call of the chairperson or the Commissioner of Environmental Protection or when requested by any four members of the council.

g. A majority of the membership of the council shall constitute a quorum for the transaction of council business.

h. The members of the council shall be subject to the "New Jersey Conflicts of Interest Law," P.L.1971, c.182 (C.52:13D-12 et seq.).

i. The council shall be subject to the provisions of the "Senator Byron M. Baer Open Public Meetings Act," P.L.1975, c.231 (C.10:4-6 et seq.).

j. A true copy of the minutes of every meeting of the council shall be prepared and made available to the public. The minutes shall also be made available on the department's Internet website.

C.13:19-37 Powers, duties, responsibilities of council.

4. a. The council shall have the following powers, duties, and responsibilities:

(1) to request from the commissioner any information concerning ecosystem-based management as it may deem necessary;

(2) to consider any matter relating to the protection, maintenance, and restoration of coastal and ocean resources;

(3) to submit, from time to time, to the commissioner any recommendations which the council deems necessary that will protect, maintain and restore coastal and ocean resources;

(4) to study ecosystem-based management approaches;

(5) to study any policies, plans, and rules and regulations adopted by the department that impact coastal and ocean resources;

(6) to study and investigate coastal and habitat protection;

(7) to coordinate and develop plans for a research agenda on ecosystem-based management;

(8) to consider data and any other relevant information on the overall health of New Jersey's coastal and ocean resources in order to document how the State is meeting the goal of protecting, maintaining and restoring healthy coastal and ocean ecosystems; and

(9) to hold public hearings at least once a year to take testimony from the public concerning ecosystem-based management approaches.

b. The council shall present a report of its activities, findings, and recommendations to the commissioner within one year after its organizational meeting, and biennially thereafter. Copies of the report shall also be submitted to the Governor and, pursuant to section 2 of P.L.1991, c.164 (C.52:14-19.1), to the Legislature.

5. There is appropriated from the General Fund to the Department of Environmental Protection the sum of \$75,000 for the purposes of the council as set forth pursuant to this act.

6. Section 12 of P.L.1970, c.33 (C.13:1D-9) is amended to read as follows:

C.13:1D-9 Powers of department.

12. The department shall formulate comprehensive policies for the conservation of the natural resources of the State, the promotion of environmental protection and the prevention of pollution of the environment of the State. The department shall in addition to the powers and duties vested in it by this act or by any other law have the power to:

a. Conduct and supervise research programs for the purpose of determining the causes, effects and hazards to the environment and its ecology;

b. Conduct and supervise Statewide programs of education, including the preparation and distribution of information relating to conservation, environmental protection and ecology;

c. Require the registration of persons engaged in operations which may result in pollution of the environment and the filing of reports by them containing such information as the department may prescribe to be filed relative to pollution of the environment, all in accordance with applicable codes, rules or regulations established by the department;

d. Enter and inspect any property, facility, building, premises, site or place for the purpose of investigating an actual or suspected source of pollution of the environment and conducting inspections, collecting samples, copying or photocopying documents or records, and for otherwise ascertaining compliance or noncompliance with any laws, permits, orders, codes, rules and regulations of the department. Any information relating to secret processes concerning methods of manufacture or production, obtained in the course of such inspection, investigation or determination, shall be kept confidential, except this information shall be available to the department for use, when relevant, in any administrative or judicial proceedings undertaken to administer, implement, and enforce State environmental law, but shall remain subject only to those confidentiality protections otherwise afforded by federal law and by the specific State environmental laws and regulations that the department is administering, implementing and enforcing in that particular case or instance. In addition, this information shall be available upon request to the United States Government for use in administering, implementing, and enforcing federal environmental law, but shall remain subject to the confidentiality protection afforded by federal law. If samples are taken for analysis, a duplicate of the analytical report shall be furnished promptly to the person suspected of causing pollution of the environment;

e. Receive or initiate complaints of pollution of the environment, including thermal pollution, hold hearings in connection therewith and institute legal proceedings for the prevention of pollution of the environment and abatement of nuisances in connection therewith and shall have the authority to seek and obtain injunctive relief and the recovery of fines and penalties in a court of competent jurisdiction;

f. Prepare, administer and supervise Statewide, regional and local programs of conservation and environmental protection, giving due regard for the ecology of the varied areas of the State and the relationship thereof to the environment, and in connection therewith prepare and make available to appropriate agencies in the State technical information concerning conservation and environmental protection, cooperate with the Commissioner of Health and Senior Services in the preparation and distribution of environmental protection and health bulletins for the purpose of educating the public, and cooperate with the Commissioner of Health and Senior Services in the preparation of a program of environmental protection;

g. Encourage, direct and aid in coordinating State, regional and local plans and programs concerning conservation and environmental protection in accordance with a unified Statewide plan which shall be formulated, approved and supervised by the department. In reviewing such plans and

programs and in determining conditions under which such plans may be approved, the department shall give due consideration to the development of a comprehensive ecological and environmental plan in order to be assured insofar as is practicable that all proposed plans and programs shall conform to reasonably contemplated conservation and environmental protection plans for the State and the varied areas thereof;

h. Administer or supervise programs of conservation and environmental protection, prescribe the minimum qualifications of all persons engaged in official environmental protection work, and encourage and aid in coordinating local environmental protection services;

i. Establish and maintain adequate bacteriological, radiological and chemical laboratories with such expert assistance and such facilities as are necessary for routine examinations and analyses, and for original investigations and research in matters affecting the environment and ecology;

j. Administer or supervise a program of industrial planning for environmental protection; encourage industrial plants in the State to undertake environmental and ecological engineering programs; and cooperate with the State Departments of Health and Senior Services, and Labor and Workforce Development, and the New Jersey Commerce Commission in formulating rules and regulations concerning industrial sanitary conditions;

k. Supervise sanitary engineering facilities and projects within the State, authority for which is now or may hereafter be vested by law in the department, and shall, in the exercise of such supervision, make and enforce rules and regulations concerning plans and specifications, or either, for the construction, improvement, alteration or operation of all public water supplies, all public bathing places, landfill operations and of sewerage systems and disposal plants for treatment of sewage, wastes and other deleterious matter, liquid, solid or gaseous, require all such plans or specifications, or either, to be first approved by it before any work thereunder shall be commenced, inspect all such projects during the progress thereof and enforce compliance with such approved plans and specifications;

l. Undertake programs of research and development for the purpose of determining the most efficient, sanitary and economical ways of collecting, disposing, recycling or utilizing of solid waste;

m. Construct and operate, on an experimental basis, incinerators or other facilities for the disposal of solid waste, provide the various municipalities and counties of this State, and the Division of Local Government Services in the Department of Community Affairs with statistical data on costs and methods of solid waste collection, disposal and utilization;

n. Enforce the State air pollution, water pollution, conservation, environmental protection, solid and hazardous waste management laws, rules and regulations, including the making and signing of a complaint and summons for their violation by serving the summons upon the violator and thereafter filing the complaint promptly with a court having jurisdiction;

o. Acquire by purchase, grant, contract or condemnation, title to real property, for the purpose of demonstrating new methods and techniques for the collection or disposal of solid waste;

p. Purchase, operate and maintain, pursuant to the provisions of this act, any facility, site, laboratory, equipment or machinery necessary to the performance of its duties pursuant to this act;

q. Contract with any other public agency or corporation incorporated under the laws of this or any other state for the performance of any function under this act;

r. With the approval of the Governor, cooperate with, apply for, receive and expend funds from, the federal government, the State Government, or any county or municipal government or from any public or private sources for any of the objects of this act;

s. Make annual and such other reports as it may deem proper to the Governor and the Legislature, evaluating the demonstrations conducted during each calendar year;

t. Keep complete and accurate minutes of all hearings held before the commissioner or any member of the department pursuant to the provisions of this act. All such minutes shall be retained in a permanent record, and shall be available for public inspection at all times during the office hours of the department;

u. Require any person subject to a lawful order of the department, which provides for a period of time during which such person subject to the order is permitted to correct a violation, to post a performance bond or other security with the department in such form and amount as shall be determined by the department. Such bond need not be for the full amount of the estimated cost to correct the violation but may be in such amount as will tend to insure good faith compliance with said order. The department shall not require such a bond or security from any public body, agency or authority. In the event of a failure to meet the schedule prescribed by the department, the sum named in the bond or other security shall be forfeited unless the department shall find that the failure is excusable in whole or in part for good cause shown, in which case the department shall determine what amount of said bond or security, if any, is a reasonable forfeiture under the circumstances. Any amount so forfeited shall be utilized by the de-

partment for the correction of the violation or violations, or for any other action required to insure compliance with the order;

v. Encourage and aid in coordinating State, regional and local plans, efforts and programs concerning the remediation and reuse of former industrial or commercial properties that are currently underutilized or abandoned and at which there has been, or is perceived to have been, a discharge, or threat of a discharge, of a contaminant. For the purposes of this subsection, "underutilized property" shall not include properties undergoing a reasonably timely remediation or redevelopment process; and

w. Conduct research and implement plans and programs to promote ecosystem-based management.

7. This act shall take effect immediately.

Approved January 13, 2008.

CHAPTER 289

AN ACT concerning sales representatives and amending and supplementing P.L.1990, c.93.

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

1. Section 1 of P.L.1990, c.93 (C.2A:61A-1) is amended to read as follows:

C.2A:61A-1 Definitions.

1. As used in this act:

a. "Commission" means compensation accruing to a sales representative for payment by a principal, earned through the last day on which services were performed by the sales representative, the rate of which is expressed as a percentage of the dollar amount of orders or sales or as a specified amount per order or per sale.

b. "Principal" means a person, including a person who does not have a permanent or fixed place of business in this State, who manufactures, produces, imports or distributes a product or offers a service; contracts with an independent sales company or other person to solicit orders for the product

or service; and compensates those companies or other persons who solicit orders, in whole or in part, by commission.

c. "Sales representative" means an independent sales company or other person, other than an employee, who contracts with a principal to solicit orders and who is compensated, in whole or in part, by commission but shall not include one who places orders or purchases exclusively for his own account for resale.

d. "Day" means a calendar day including Saturdays, Sundays and legal holidays.

e. "Termination" means the end of services performed by the sales representative for the principal by any means.

f. (Deleted by amendment, P.L.2007, c.289.)

2. Section 2 of P.L.1990, c.93 (C.2A:61A-2) is amended to read as follows:

C.2A:61A-2 Payment to sales representative after termination of contract.

2. When a contract between a principal and a sales representative to solicit orders is terminated, the commissions and other compensation earned as a result of the representative relationship and unpaid shall become due and payable within 30 days of the date the contract is terminated or within 30 days of the date commissions are due, whichever is later.

A sales representative shall receive commissions on goods ordered up to and including the last day of the contract even if accepted by the principal, delivered, and paid for after the end of the agreement. The commissions shall become due and payable within 30 days after payment would have been due under the contract if the contract had not been terminated.

3. Section 3 of P.L.1990, c.93 (C.2A:61A-3) is amended to read as follows:

C.2A:61A-3 Liability to sales representative for violation; liability for frivolous court action.

3. a. A principal who violates or fails to comply with the provisions of section 2 of this act shall be liable to the sales representative for all amounts due the sales representative, exemplary damages in an amount of three times the amount of commissions owed to the sales representative and all attorney's fees actually and reasonably incurred by the sales representative in the action and court costs.

b. Where the court determines that an action brought by a sales representative against a principal pursuant to this section is frivolous, pursuant to

P.L.1988, c.46 (C.2A:15-59.1), the sales representative shall be liable to the principal for attorney's fees actually and reasonably incurred by the principal in defending the action and court costs.

C.2A:61A-8 Inapplicability of C.2A:61A-1 et seq.

4. The provisions of P.L.1990, c.93 (C.2A:61A-1 et seq.) shall not apply to:

a. any real estate sales person licensed or regulated pursuant to chapter 15 of Title 45 of the Revised Statutes;

b. any person licensed or regulated pursuant to subtitle 3 of Title 17 of the Revised Statutes, Title 17B of the New Jersey Statutes or P.L.1973, c.337 (C.26:2J-1 et seq.); or

c. any person registered or regulated by the New Jersey Bureau of Securities pursuant to the "Uniform Securities Law (1997)," P.L.1967, c.93 (C.49:3-47 et seq.), or registered or regulated by the Securities and Exchange Commission pursuant to the provisions of the Securities Act of 1933, 15 U.S.C. s.77a et seq., the Securities Exchange Act of 1934, 15 U.S.C. s.78a et seq., the Investment Company Act of 1940, 15 U.S.C. s.80a-1 et seq., or the Investment Advisers Act of 1940, 15 U.S.C. s.80b-1 et seq.

5. This act shall take effect immediately.

Approved January 13, 2008.

CHAPTER 290

AN ACT concerning the powers of condemnation and eminent domain, and amending P.L.1962, c.198.

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

1. Section 60 of P.L.1962, c.198 (C.48:12-35.1) is amended to read as follows:

C.48:12-35.1 Authority and extent of condemnation.

60. Any railroad utility incorporated in this State or in any other state and operating in New Jersey may exercise the power of eminent domain as provided herein in taking: (a) any land and property required for the right-

of-way of its main line and branches, not exceeding 200 feet in width, unless more shall be required for slopes of cuts or embankments or retaining walls; (b) all such other land and property adjoining such right-of-way as exigencies of business may demand for the erection or expansion of freight and passenger depots and all other railroad purposes, provided, however, that any railroad utility exercising condemnation for this purpose must demonstrate to the Department of Transportation that alternative property suitable for the specific proposed use of the property to be taken is unavailable, either through on-site accommodation or through voluntary sale of alternative, reasonably situated property, and that the interest in the property to be taken does not exceed what is necessary for the proposed use, and shall also demonstrate to the Department of Transportation at an informal hearing the specific use to be made of the land or other property or interest to be acquired and that such proposed use is necessary and consistent with the purposes enumerated for such railroad utility and with the extent of the land or other property or interest to be condemned; and (c) any land and property necessary to comply with any order, determination, rule or regulation of the Department of Transportation.

Thereafter, the application for approval shall be considered a contested case pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.). A hearing, upon the written request by the railroad utility to condemn and challenge thereto, shall be heard by the Office of Administrative Law pursuant to section 9 of P.L.1968, c.410 (C.52:14B-9), after the informal hearing is completed before the Department of Transportation. Timely notice by the railroad utility must be provided to a prospective condemnee holding a fee interest, easement, or leasehold in the property sought to be condemned by the railroad utility.

At the hearing held before the Office of Administrative Law, the railroad utility shall make the same demonstrations of satisfying the prescribed conditions as set forth above. The burden of proof shall be upon the railroad utility no matter who makes the request for a formal hearing. The Office of Administrative Law shall then make a recommendation to the Commissioner of Transportation as to whether the railroad utility has met its statutory obligations to enable it to file a condemnation proceeding to acquire real property and that a determination of necessity should be issued. The determination shall become final on the 45th day after the release of the initial determination of necessity by the Department of Transportation, unless the railroad utility or any other interested party whose real property, lease, or easement may be impacted by the condemnation seeks, in writing, from the Department of Transportation a formal hearing before the Office

of Administrative Law within that 45-day period. Any appeal of a final determination made by the Department of Transportation or by the Commissioner of Transportation shall be made to the Superior Court, Appellate Division based upon the record below. No informal or formal hearing shall be held until written notice by certified mail or by private courier has been demonstrated as being sent by the railroad utility to anyone holding an interest in the real estate to be acquired whether in fee, easement, or by lease at their current known address, and if not known by publication based upon production of a certification of inquiry, as well as to the municipality, municipal planning board and the county and county planning board where the property is located.

In addition, any railroad utility shall have the right to take and acquire, by the exercise of the power of eminent domain as provided in this section and the "Eminent Domain Act of 1971," P.L.1971, c.361 (C.20:3-1 et seq.), any land, property or private road as shall be necessary for any branch line or lines, spur or sidetrack to the premises of a horse race track as provided in P.L.1947, c.17 (C.48:12-32.1), but not in excess of 200 feet in width, for such branch line or lines, spur or sidetrack of railroad; provided that additional land may be so acquired where necessary for the slopes of cuts or embankments or for retaining walls.

When the line of any railroad utility of the State is constructed to the Delaware river and extension of such line is to be undertaken pursuant to R.S.48:12-44, the utility may acquire, by the exercise of the power of eminent domain as provided in this section, such lands as may be necessary upon filing and recording the survey of the route with the Secretary of State and in the office of the clerk of the county wherein the lands are situate, and making the deposit required by R.S.48:12-25.

No railroad utility shall take, use or occupy by condemnation any franchise, land or located route of any other railroad or any utility chartered for the purpose of facilitating transportation, except for the purpose of crossing such land or route and except the land of any such utility not necessary for the purpose of its franchise. No railroad utility shall take or acquire by condemnation any land, property, easements, or other interest belonging to the State of New Jersey, or any authority, corporation, or other instrumentality of the State.

The Department of Transportation and its commissioner are hereby authorized and empowered to determine the necessity as aforesaid for the use of the land, easements, or other property or interests therein so sought to be condemned, to establish the form and method of any application for such condemnation and the time and the manner of notice of the application

and scheduling of the initial informal hearing or any hearing before the Office of Administrative Law, and to enforce the provisions of this section the commissioner may designate a division or office of the department to make the determination of necessity. The Commissioner of Transportation may prescribe any rules, regulation, or procedure applicable to an application by a railroad utility to commence a condemnation proceeding including, but not limited to, how the railroad utility shall demonstrate its satisfaction of the above stated conditions for commencing a condemnation proceeding; to any challenge made by a prospective condemnee holding a fee interest, easement, or lease in the property sought to be condemned by the railroad utility; and to the provision of notice to interested parties. The New Jersey Transit Corporation shall not be considered a railroad utility for the purposes of this section.

The powers of condemnation vested in railroads under this section shall govern over any provisions of Title 48 as amended and supplemented by this act and which have not been repealed.

2. This act shall take effect immediately.

Approved January 13, 2008.

CHAPTER 291

AN ACT authorizes tenure in office for certain county road supervisors and amending P.L.1975, c.214.

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

1. Section 1 of P.L.1975, c.214 (C.27:14-24.2) is amended to read as follows:

C.27:14-24.2 Tenure in office for certain county road supervisors.

1. The board of chosen freeholders of any county of the first class may, by resolution, provide that the county road supervisor of the county shall continue to be the county road supervisor of the county during good behavior, and that he shall not be removed as the county road supervisor except for cause on notice and after a hearing before the board of chosen

freeholders; provided that the county road supervisor holds a valid public works manager certificate issued pursuant to the provisions of P.L.1991, c.258 (C.40A:9-154.6a et seq.) and has previously acquired tenure as a municipal superintendent of public works under the provisions of section 2 of P.L.1981, c.383 (C.40A:9-154.6).

2. This act shall take effect immediately.

Approved January 13, 2008.

CHAPTER 292

AN ACT concerning certain real estate offerings and amending and supplementing P.L.1989, c.239.

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

1. Section 6 of P.L.1989, c.239 (C.45:15-16.32) shall be amended to read as follows:

C.45:15-16.32 Inapplicability to offers, dispositions of an interest in a subdivision.

6. a. Unless the method of disposition is adopted for the purpose of evasion of this act, the provisions of this act are not applicable to offers or dispositions of an interest in a subdivision:

- (1) By an owner for his own account in a single or isolated transaction;
- (2) Wholly for industrial or commercial purposes;
- (3) Pursuant to court order;
- (4) By any governmental agency;
- (5) As cemetery lots or interests;
- (6) Of less than 100 lots, parcels, units or interests;
- (7) Where the common elements or interests, which would otherwise subject the offering to this act, are limited to the provision of unimproved, unencumbered open space, except where registration is required by the "Interstate Land Sales Full Disclosure Act," Pub.L.90-448 (15 U.S.C. s.1701 et seq.) with the Office of Interstate Land Sales Registration, in the Department of Housing and Urban Development; or
- (8) In a development comprised wholly of rental units, where the relationship created is one of landlord and tenant.

b. Unless the method of disposition is adopted for the purpose of evasion of this act, the provisions of this act are not applicable to:

(1) Offers or dispositions of evidences of indebtedness secured by a mortgage or deed of trust of real estate;

(2) Offers or dispositions of securities or units of interest issued by a real estate investment trust regulated under any State or federal statute;

(3) Offers or dispositions of securities currently registered with the Bureau of Securities in the Department of Law and Public Safety; or

(4) Offers or dispositions of any interest in oil, gas or other minerals or any royalty interest therein if the offers or dispositions of such interests are regulated as securities by federal law or by the State Bureau of Securities.

c. The commission may, from time to time, pursuant to any rules and regulations promulgated pursuant to this act, exempt from any of the provisions of this act any subdivision or any lots in a subdivision, if it finds that the enforcement of this act with respect to that subdivision or the lots therein, is not necessary in the public interest, or required for the protection of purchasers, by reason of the small amount involved or the limited character of the offering.

d. A subdivider or developer who qualifies for and completes secondary registration pursuant to section 2 of P.L.2007, c.292 (C.45:15-16.30a) shall be exempt from the registration requirements of section 4 of P.L.1989, c.239 (C.45:15-16.30).

C.45:15-16.30a Registration as secondary registration subdivider.

2. a. A subdivider or developer who owns subdivided land upon which there is a completed residential unit, or for which there is a contract to construct and deliver a completed residential unit by the subdivider or developer or an affiliated or related entity within two years from the date of the offer or disposition, may register as a secondary registration subdivider under this section provided that:

(1) the registration is made prior to execution of a contract with, or acceptance of any deposit from, a purchaser of an interest in those lands who is a New Jersey resident;

(2) the subdivider is not already registered pursuant to P.L.1989, c.239 (C.45:15-16.27 et seq.); and

(3) the subdivision does not qualify for an exemption pursuant to subsection a. of section 6 of P.L.1989, c.239 (C.45:15-16.32).

b. The commission shall establish the format and forms for registration pursuant to this section. The application form shall require at a minimum:

(1) the name and address of the property;

- (2) the name and address of the secondary registration subdivider;
- (3) a description of the particulars of the offering, and a certification by the secondary registration subdivider that: (a) the offering is in compliance with all applicable requirements of governmental agencies having jurisdiction over the offering; (b) the deposit moneys of purchasers who are New Jersey residents will be held in an escrow account, or protected in some other manner acceptable to the commission, until closing of title and delivery of the residential unit; and (c) the secondary registration subdivider can convey, or cause to be conveyed, title to the interest in the offering;
- (4) copies of all forms of conveyance to be used in selling the property to the purchaser, which forms shall include a seven day right of rescission as required by subsection g. of this section;
- (5) unless included as part of the forms of conveyance provided pursuant to paragraph (4) of this subsection, a disclosure statement detailing the common property, if any, of the community, obligations of the owners and the assessments of a homeowners' association formed to manage common property, if any, mandatory club membership, and special taxing district affecting the property being offered. The commission may accept disclosure statements approved for use in the jurisdiction where the property is located;
- (6) a certification that the secondary registration subdivider has not, or if a corporation, its officers, directors, and principals have not, been convicted of a crime or civil offense involving land dispositions or any aspect of the land sales business in this State, the United States, or any other state or foreign country; and that the secondary registration subdivider has not been subject to any permanent injunction or final administrative order restraining a false and misleading promotional plan involving real property dispositions, the seriousness of which in the opinion of the commission warrants the denial of secondary registration;
- (7) a consent to service of process and jurisdiction of the Courts of the State of New Jersey as provided in section 19 of P.L.1989, c.239 (C.45:15-16.45); and
- (8) a filing fee as prescribed in section 8 of P.L.1989, c.239 (C.45:15-16.34).

c. The commission shall, within 30 days of receipt of a substantially completed application, including all filing fees, provide the secondary registration subdivider with a notice of completion of the secondary registration or a notice of deficiency. If the commission does not provide a notice of completion or deficiency within 30 days, the secondary registration shall be deemed complete.

d. A secondary registration subdivider who files an application for secondary registration under this section shall immediately report any material changes in the application or the offering, but shall be exempt from the annual reporting requirements under section 14 of P.L.1989, c.239 (C.45:15-16.40).

e. Prior to filing an application for secondary registration under this section and up to the time of the issuance of a notice of completion or the secondary registration is deemed complete pursuant to subsection c. of this section, a secondary registration subdivider with an interest in subdivided lands described in subsection a. of this section, may respond to inquiries initiated by New Jersey residents in response to the secondary registration subdivider's website or multi-state advertising by providing general information about the subdivided lands being offered, including sales prices, and by forwarding advertising materials. However, until a notice of completion for the subdivided land is issued, or the secondary registration is deemed complete pursuant to subsection c. of this section, a secondary registration subdivider shall not engage in the following acts in this State concerning the subdivided lands: (1) offer a contract; (2) collect deposit moneys; or (3) subsidize travel to the subdivided property. Except as permitted by this section, a secondary registration subdivider shall not otherwise offer, dispose, or participate in this State in the disposition, of subdivided land or of any interest in subdivided land and shall not direct such an offer or disposition into the State.

f. Prior to the execution of a contract for sale of subdivided lands described in subsection a. of this section, a secondary registration subdivider shall, unless included as part of the forms of conveyance provided pursuant to paragraph (4) of subsection b. of this section, provide to a purchaser a copy of the disclosure statement described in paragraph (5) of subsection b. of this section, and obtain a signed receipt from the purchaser stating that the disclosure statement has been received.

g. A contract for the purchase of subdivided lands described in subsection a. of this section may be rescinded by the purchaser without cause of any kind by sending or delivering written notice of cancellation by midnight of the seventh calendar day following the day on which the purchaser has executed the contract, or the day the purchaser receives notification from the secondary registration subdivider that the secondary registration subdivider has completed secondary registration in accordance with this section, whichever is later.

h. Any person who violates any provision of this section or who, in the application for secondary registration, makes any untrue statement of a

material fact or omits to state a material fact, shall be fined as provided in section 20 of P.L.1989, c.239 (C.45:15-16.46).

i. The provisions of this section shall not apply to the offering of subdivided lands in situations in which registration is required by the "Interstate Land Sales Full Disclosure Act," Pub.L.90-448 (15 U.S.C. s.1701 et seq.) with the Office of Interstate Land Sales Registration, in the Department of Housing and Urban Development.

3. This act shall take effect immediately.

Approved January 13, 2008.

CHAPTER 293

AN ACT concerning prepaid telephone calling cards and services and supplementing P.L.1960, c.39 (C.56:8-1 et seq.).

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

C.56:8-175 Definitions relative to prepaid telephone calling cards and services.

1. As used in this act:

"Advertisement" means the attempt, directly or indirectly by publication, dissemination, solicitation, endorsement or circulation or in any other way, to induce directly or indirectly any person to purchase any prepaid calling card or service, appearing in any newspaper, magazine, periodical, circular, in-store or out-of-store sign or other written matter placed before the consuming public, or in any radio broadcast, television broadcast, electronic medium or delivered to or through any computer.

"Company" means any entity, corporation, company, association, firm, partnership or other business entity, or individual engaged in the business of a prepaid calling service provider or prepaid calling card distributor in this State.

"Director" means the Director of the Division of Consumer Affairs.

"Division" means the Division of Consumer Affairs in the Department of Law and Public Safety.

"Government fees" means and includes any and all fees, taxes and charges assessed pursuant to State or federal law, regulation or other mandate or requirement, including universal service fees and charges.

"Payphone surcharge" means the surcharge that a provider may charge a customer when that customer places a call with a card from a payphone

using a toll-free access number. The payphone surcharge shall be deducted from a card's balance.

"Permitted fee" means the fees and surcharges that a provider may charge to, or deduct from, a card's balance for the use of that card, in addition to the rate per minute to the particular destination called, which includes and is limited to any payphone surcharge, any recharge convenience fee, any directory assistance fee, and any government fees.

"Prepaid calling card" or "card" means any right of use purchased for a sum certain that contains an access number and authorization code that enables a consumer to use a prepaid calling service. Such rights of use may be embodied on a card or other physical object or may be purchased by an electronic or telephonic means through which the purchaser obtains access numbers and authorization codes that are not physically located on a card or other object. "Prepaid calling card" shall not be construed to include cards or other rights of use that provide access to:

(1) telecommunications service if the card or other rights of use and telecommunications service are provided:

(a) for free or at no additional charge as a promotional item accompanying a product or service purchased by a customer; or

(b) pursuant to an awards, loyalty, rebate or promotional program without any separate monetary consideration being given by the customer solely in exchange therefor; or

(2) a wireless telecommunications service account if the purchaser has a pre-existing relationship with the wireless service provider or establishes a carrier-customer relationship via the purchase of the object.

"Prepaid calling card distributor" or "distributor" means and includes: (1) any company that purchases or receives prepaid calling cards from a prepaid calling service provider or distributor and sells or distributes those cards to one or more distributors of prepaid calling cards or to one or more prepaid calling card retailers; and (2) any company that otherwise actively engages in the promotion, advertising or dissemination of prepaid calling cards and which is not a provider. "Prepaid calling card distributor" shall not include any prepaid calling card retailers engaged exclusively in point-of-sale transactions with customers.

"Prepaid calling card retailer" means any company that sells or offers to sell prepaid calling cards directly to customers.

"Prepaid calling service" or "service" means any prepaid telecommunications service that allows customers to originate calls through a local, long distance or toll-free access number and authorization code, whether manually or electronically dialed. "Prepaid calling service" shall not include any

service that provides access to a wireless telecommunications service account wherein the purchaser has a pre-existing relationship with the wireless service provider or establishes a carrier-customer relationship via the purchase of the object.

“Prepaid calling service provider” or “provider” means any company, providing prepaid calling service to the public using its own, or a resold telecommunications network, or voice over Internet technology.

“Toll-free number” means an 800 number, or other telephone number widely understood to be toll-free, which, when called as the destination number or as an access number, shall not result in the calling party being assessed, by virtue of completing the call, any fee, charge or higher rate for the call unless such fee, charge or higher rate is disclosed pursuant to subsection a. of section 2 of this act.

C.56:8-176 Disclosure of certain information required.

2. a. Prepaid calling service providers and prepaid calling card distributors shall disclose the following information on cards or their packaging, as prescribed by the director by regulation, and in any advertising for the service or cards, including any Internet web site used to promote or distribute the service or cards:

- (1) The name of the prepaid calling service provider;
- (2) The provider’s 24 hour customer service telephone number;
- (3) The amount and frequency of any permitted fee that may be applicable to the use of the card or service for calls originating within the United States;
- (4) Notice that additional or different per minute rates, charges or fees may apply to use of the card or the service for calls to or from international telephone numbers, international cellular and international wireless telephone numbers;
- (5) Notice that per minute rates may be higher for calls made via toll-free numbers;
- (6) The value of the card or service, in dollars or minutes;
- (7) Any applicable policies relating to refund, recharge, decrement and expiration; and
- (8) Such additional information as the director may prescribe by regulation, including, but not limited to, information concerning the notice and disclosure of any rates, charges or fees for the use of the card or the service for calls.

b. Prepaid calling service providers and prepaid calling card distributors shall make available through the customer service number, a website or other electronic medium, packaging, if any, or in a clear and conspicuous

poster or other writing in plain language at the point of sale such information as the director may prescribe by regulation.

c. All minutes or rates, or both, promoted or advertised on any prepaid calling card, any point of sale material relating to that card or otherwise relating to any prepaid calling service, shall be available and achievable by the customer, and there shall be no limitations on the period of time for which the promoted or advertised minutes or rates, or both, will be available to the customer unless those limitations are clearly and conspicuously disclosed in the same location on the card, advertising or point of sale material where the minutes or rates, or both, are promoted or advertised. All minutes promoted, advertised or disclosed on any voice prompt given to a customer at the time the customer places a call with the card, whether or not required by regulation to be given to the customer, shall be immediately available and achievable by the customer on that call. The customer shall not be charged for any busy signal or unanswered call.

d. A provider may not charge, apply or deduct from a card's balance any fees, taxes, surcharges or other amounts for use of the card, except: (1) the rate per minute for the particular destination called; (2) any permitted fees; and (3) any rate per minute, fee or charge permitted pursuant to paragraph (4) or (5) of subsection a. of this section.

e. If a language other than English is predominantly used on a prepaid calling card, its packaging, or in point of sale advertising or promotion for the prepaid calling card or prepaid calling service, then the disclosures required by this section shall be disclosed in that language on that card, packaging, advertisement or promotion.

f. In the case of a prepaid calling service provider, the company's 24 hour customer service telephone number shall enable the customer to obtain, at no charge, any and all applicable information regarding the rates, any permitted fees, charges and minutes available and remaining on the card for use in a single, uninterrupted call to a single, requested destination through the card and prepaid calling service. Customer service may be provided by a combination of a live operator, interactive voice response, and electronic voice recording of customer inquiries and complaints, but live operator service shall be available 24 hours a day, seven days a week. If an electronic voice recorder is used, the provider shall attempt to contact the customer no later than the next day following the date of the recording.

g. Providers and distributors shall conspicuously display the applicable access numbers for the use of the card on the body of the card itself or on its packaging.

h. A company shall not impose any fee or surcharge that is not disclosed as required by this section or that exceeds the amount disclosed by the company.

C.56:8-177 Certain cards not to be offered for sale.

3. Prepaid calling card retailers shall not sell or offer for sale any prepaid calling card that the retailer knows provides fewer minutes than the number of minutes promoted or advertised for that card, including the number of minutes listed on the card, any advertising or point of sale material related to the card or any voice prompt indicating the number of minutes available for a call with the card.

C.56:8-178 Violation deemed unlawful practice; remedies, penalties.

4. A violation of any provision of this act shall be an unlawful practice pursuant to P.L.1960, c.39 (C.56:8-1 et seq.) and shall be subject to all remedies and penalties available pursuant to P.L.1960, c.39 (C.56:8-1 et seq.).

C.56:8-179 Report to Governor, Legislature.

5. Not later than 18 months after the date of adoption of regulations implementing this act, the division shall issue a report to the Governor and the Legislature, pursuant to section 2 of P.L.1991, c.164 (C.52:14-19.1), on the activities of the division, including their quantitative results, in enforcing this act and any recommendations for additional legislation regulating the industry.

C.56:8-180 Rules, regulations.

6. The Director of the Division of Consumer Affairs shall adopt, pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), any rules and regulations necessary to effectuate the purposes of this act.

C.56:8-181 Effective date; applicability of act.

7. This act shall take effect on the first day of the seventh month next following enactment, but the director may take such anticipatory action in advance of that date as may be necessary for the timely implementation of this act. This act shall not apply to prepaid calling cards and point-of-sale materials related to those prepaid calling cards printed prior to the effective date. The act shall apply to any prepaid calling card printed after the effective date and to any advertisement, promotion, point-of-sale material or voice prompt that is created, aired, printed, distributed, or otherwise disseminated on or after the effective date.

Approved January 13, 2008.

CHAPTER 294

AN ACT authorizing the imposition of interest on employers for delinquent payroll taxes imposed under the "Local Tax Authorization Act" and amending P.L.1970, c.326, R.S.54:50-8 and R.S.54:50-9.

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

1. Section 16 of P.L.1970, c.326 (C.40:48C-16) is amended to read as follows:

C.40:48C-16 Ordinance; contents.

16. Any ordinance adopted pursuant to this article shall:

- a. Require each employer to report his payroll for the preceding calendar quarter to an officer of the municipality designated therein to receive the same and to collect the tax together with such other related information as shall be required by the ordinance and regulations issued pursuant thereto;
- b. Require the report and payment of the tax imposed for the preceding calendar quarter on or before the last day of April, July, October and January, respectively;
- c. Provide methods for enforcement of, and for the imposition of penalties for failure to report and pay, the tax imposed;
- d. Provide a procedure for claims for refunds, and repayment of overpayment of taxes;
- e. Prohibit any employer from deducting or withholding any amount from remuneration payable to an employee on account of the tax imposed by the ordinance;
- f. Provide that information contained in any employer's report or received by the municipality or any of its officers or employees as a result of any investigation, hearing or verification of a report shall be confidential except for official purposes and shall not be disclosed except in accordance with an order of court or as otherwise provided by law.

Any ordinance adopted pursuant to this article (C.40:48C-14 through 40:48C-19) also may require the payment of interest by an employer on delinquent payroll taxes. Payroll taxes shall be considered delinquent when the amount due to the municipality is not paid by the employer on or before the dates specified in subsection b. of this section. Any ordinance so adopted may fix the rate of interest to be charged on the delinquent payroll

taxes; however, the rate so fixed shall not exceed 8% per annum on the first \$1,500 of the delinquency and 18% per annum on any amount in excess of \$1,500, to be calculated from the date the tax was payable until the date that actual payment to the municipality is made.

2. 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 Medicaid Inspector General, or their re-

spective duly authorized agents, pursuant to section 5 of P.L.2007, c.217 (C.26:2H-18.60e);

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.

3. 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. or p. 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.

4. This act shall take effect immediately.

Approved January 13, 2008.

CHAPTER 295

AN ACT to amend “An Act making appropriations for the support of the State Government and the several public purposes for the fiscal year ending June 30, 2008 and regulating the disbursement thereof,” approved June 28, 2007 (P.L.2007, c.111).

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

1. The following item in section 1 of P.L.2007, c.111, the fiscal year 2008 annual appropriations act, is amended to read as follows:

34 DEPARTMENT OF EDUCATION
30 Educational, Cultural and Intellectual Development
34 Educational Support Services
DIRECT STATE SERVICES
30-5063 Educational Programs and Assessment

From the amount hereinabove appropriated for the Governor's Literacy Initiative, there is allocated \$250,000 for a grant to Literacy Volunteers of New Jersey, Inc. to support the programs and initiatives which address the needs of adults with limited literacy.

2. This act shall take effect immediately.

Approved January 13, 2008.

CHAPTER 296

AN ACT authorizing the imposition of a special event parking tax surcharge in certain municipalities and authorizing the imposition by certain municipalities of a parking tax on any parking facility located therein, and amending the "Local Tax Authorization Act," P.L.1970, c.326, P.L.1987, c.21 and P.L.1991, c.288.

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

1. Section 6 of P.L.1970, c.326 (C.40:48C-6) is amended to read as follows:

C.40:48C-6 Parking tax; special event parking tax surcharge.

6. a. Any municipality is hereby authorized and empowered to enact an ordinance imposing in any such municipality a tax, not to exceed 15%, on fees for parking, garaging, or storing of motor vehicles, other than parking in a garage which is part of premises occupied solely as a private one- or two-family dwelling. For the purposes of this act, in the case where any parking facility is situated within two contiguous municipalities authorized under section 1 of P.L.1970, c.326 (C.40:48C-1) and section 2 of P.L.1987, c.21 (C.40:48C-1.2), the tax authorized herein may only be imposed on fees attributable to that portion of any parking facility which is situated within the physical boundaries of the municipality.

b. In addition to the tax authorized by subsection a. of this section, a municipality also may adopt an ordinance imposing a special event parking tax surcharge of 7% on fees for the parking, garaging, or storing of motor vehicles for events held in the municipality during weekday evenings, beginning at 6:00 p.m. or later, and held at any time on Saturdays, Sundays,

and holidays. For the purposes of this subsection, "special events" means, but is not limited to, spectator sporting events, trade shows, expositions, concerts, and other public events. An ordinance adopted pursuant to this subsection shall designate the areas of the municipality, to be designated as "special event parking tax surcharge zones," in which the special event parking tax surcharge shall be imposed, but no zone designated under this subsection shall include a facility for the parking, garaging, or storing of motor vehicles that is located on land that comprises any part of an international airport. All surcharges required to be collected shall be anticipated and appropriated in the municipal budget as a dedicated revenue pursuant to N.J.S.40A:4-39 for the purpose of defraying municipal expenses for police, fire, sanitation work, and other services associated with the hosting of special events; provided, however, that sanitation work services paid for out of the surcharge receipts shall be performed solely by employees of the municipality. The ordinance imposing the special event parking tax surcharge shall be void and the surcharge shall not be collected if sanitation work services related to special events and paid for out of the surcharge receipts are not performed solely by employees of the municipality.

2. Section 7 of P.L.1970, c.326 (C.40:48C-7) is amended to read as follows:

C.40:48C-7 Collection of taxes, surcharges, liability of collector; payment to municipality.

7. a. All taxes imposed by the ordinances authorized pursuant to section 6 of P.L.1970, c.326 (C.40:48C-6) shall be collected on behalf of the municipality by the person (hereinafter sometimes referred to as "taxpayer") providing parking services to the customer.

b. Every person required to collect any tax, including surcharges imposed by the ordinances shall be personally liable for the tax imposed, collected or required to be collected hereunder. Any such person shall have the same right in respect to collecting the tax from his customer or in respect to nonpayment of the tax by the customer as if the tax were a part of the service charge and payable at the same time; provided, however, that the chief fiscal officer of the municipality shall be joined as a party in any action or proceeding brought to collect the tax.

c. No person required to collect any tax, including surcharges, hereunder shall advertise or hold out to any person or to the public in general, in any manner, directly or indirectly, that the tax is not considered as an element in the charge payable by the customer, that he will pay the tax, that

the tax will not be separately charged and stated to the customer or that the tax will be refunded to the customer.

d. All taxes and surcharges collected pursuant to the ordinances shall be remitted to the chief fiscal officer of the municipality and shall be reported on such forms and paid at such times as may be prescribed in the ordinances.

3. Section 2 of P.L.1987, c.21 (C.40:48C-1.2) is amended to read as follows:

C.40:48C-1.2 Imposition of tax, surcharge by certain municipalities.

2. Any municipality having a population of less than 125,000, but in excess of 100,000, according to the latest federal decennial census, is hereby authorized and empowered to enact an ordinance imposing the tax, or tax and surcharge, provided for in Article 3 (Parking Tax) of the "Local Tax Authorization Act," P.L.1970, c.326 (C. 40:48C-6 et seq.) on any facility, or any portion of a facility, situated within its borders, provided that an ordinance so enacted meets all of the requirements and restrictions set forth in subsection b. of section 6 of P.L.1970, c.326 (C.40:48C-6), and provided that the municipality is contiguous with a municipality which has enacted an ordinance imposing the tax provided for in Article 3 (Parking Tax) of the "Local Tax Authorization Act," P.L.1970, c.326 (C.40:48C-6 et seq.).

4. Section 2 of P.L.1991, c.288 (C.40:48C-1.3) is amended to read as follows:

C.40:48C-1.3 Parking tax, surcharge, certain municipalities.

2. Any municipality located in a county of the first class with a population density exceeding 10,000 persons per square mile, according to the latest federal decennial census is hereby authorized and empowered to enact an ordinance imposing the tax, or tax and surcharge, provided for in Article 3 (Parking Tax) of the "Local Tax Authorization Act," P.L.1970, c.326 (C.40:48C-6 et seq.) on any facility situated entirely within its borders, or on any portion of a facility situated within its borders, but which, in part, is also situated in a contiguous municipality which has enacted an ordinance imposing the tax provided for in Article 3 (Parking Tax) of the "Local Tax Authorization Act," P.L.1970, c.326 (C.40:48C-6 et seq.).

5. This act shall take effect immediately.

Approved January 13, 2008.

CHAPTER 297

AN ACT concerning certain penalties and amending N.J.S.2C:35-15.

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

1. N.J.S.2C:35-15 is amended to read as follows:

Mandatory drug enforcement and demand reduction penalties; collection; disposition; suspension.

2C:35-15. a. (1) In addition to any disposition authorized by this title, the provisions of section 24 of P.L.1982, c.77 (C.2A:4A-43), or any other statute indicating the dispositions that can be ordered for an adjudication of delinquency, every person convicted of or adjudicated delinquent for a violation of any offense defined in this chapter or chapter 36 of this title shall be assessed for each such offense a penalty fixed at:

- (a) \$3,000.00 in the case of a crime of the first degree;
- (b) \$2,000.00 in the case of a crime of the second degree;
- (c) \$1,000.00 in the case of a crime of the third degree;
- (d) \$750.00 in the case of a crime of the fourth degree;
- (e) \$500.00 in the case of a disorderly persons or petty disorderly persons offense.

(2) A person being sentenced for more than one offense set forth in subsection a. of this section who is neither placed in supervisory treatment pursuant to this section nor ordered to perform reformatory service pursuant to subsection f. of this section may, in the discretion of the court, be assessed a single penalty applicable to the highest degree offense for which the person is convicted or adjudicated delinquent, if the court finds that the defendant has established the following:

- (a) the imposition of multiple penalties would constitute a serious hardship that outweighs the need to deter the defendant from future criminal activity; and
- (b) the imposition of a single penalty would foster the defendant's rehabilitation.

Every person placed in supervisory treatment pursuant to the provisions of N.J.S.2C:36A-1 or N.J.S.2C:43-12 for a violation of any offense defined in this chapter or chapter 36 of this title shall be assessed the penalty prescribed herein and applicable to the degree of the offense charged, except that the court shall not impose more than one such penalty regard-

less of the number of offenses charged. If the person is charged with more than one offense, the court shall impose as a condition of supervisory treatment the penalty applicable to the highest degree offense for which the person is charged.

All penalties provided for in this section shall be in addition to and not in lieu of any fine authorized by law or required to be imposed pursuant to the provisions of N.J.S.2C:35-12.

b. All penalties provided for in this section shall be collected as provided for collection of fines and restitutions in section 3 of P.L.1979, c.396 (C.2C:46-4), and shall be forwarded to the Department of the Treasury as provided in subsection c. of this section.

c. All moneys collected pursuant to this section shall be forwarded to the Department of the Treasury to be deposited in a nonlapsing revolving fund to be known as the "Drug Enforcement and Demand Reduction Fund." Moneys in the fund shall be appropriated by the Legislature on an annual basis for the purposes of funding in the following order of priority: (1) the Alliance to Prevent Alcoholism and Drug Abuse and its administration by the Governor's Council on Alcoholism and Drug Abuse; (2) the "Alcoholism and Drug Abuse Program for the Deaf, Hard of Hearing and Disabled" established pursuant to section 2 of P.L.1995, c.318 (C.26:2B-37); (3) the "Partnership for a Drug Free New Jersey," the State affiliate of the "Partnership for a Drug Free America"; and (4) other alcohol and drug abuse programs.

Moneys appropriated for the purpose of funding the "Alcoholism and Drug Abuse Program for the Deaf, Hard of Hearing and Disabled" shall not be used to supplant moneys that are available to the Department of Health and Senior Services as of the effective date of P.L.1995, c.318 (C.26:2B-36 et al.), and that would otherwise have been made available to provide alcoholism and drug abuse services for the deaf, hard of hearing and disabled, nor shall the moneys be used for the administrative costs of the program.

d. (Deleted by amendment, P.L.1991, c.329).

e. The court may suspend the collection of a penalty imposed pursuant to this section; provided the person is ordered by the court to participate in a drug or alcohol rehabilitation program approved by the court; and further provided that the person agrees to pay for all or some portion of the costs associated with the rehabilitation program. In this case, the collection of a penalty imposed pursuant to this section shall be suspended during the person's participation in the approved, court-ordered rehabilitation program. Upon successful completion of the program, as determined by the court upon the recommendation of the treatment provider, the person may apply to the court to reduce the penalty imposed pursuant to this section by any amount actually paid by the person for

his participation in the program. The court shall not reduce the penalty pursuant to this subsection unless the person establishes to the satisfaction of the court that he has successfully completed the rehabilitation program. If the person's participation is for any reason terminated before his successful completion of the rehabilitation program, collection of the entire penalty imposed pursuant to this section shall be enforced. Nothing in this section shall be deemed to affect or suspend any other criminal sanctions imposed pursuant to this chapter or chapter 36 of this title.

f. A person required to pay a penalty under this section may propose to the court and the prosecutor a plan to perform reformatory service in lieu of payment of up to one-half of the penalty amount imposed under this section. The reformatory service plan option shall not be available if the provisions of paragraph (2) of subsection a. of this section apply or if the person is placed in supervisory treatment pursuant to the provisions of N.J.S.2C:36A-1 or N.J.S.2C:43-12. For purposes of this section, "reformatory service" shall include training, education or work, in which regular attendance and participation is required, supervised, and recorded, and which would assist in the defendant's rehabilitation and reintegration. "Reformatory service" shall include, but not be limited to, substance abuse treatment or services, other therapeutic treatment, educational or vocational services, employment training or services, family counseling, service to the community and volunteer work.

The court, in its discretion, shall determine whether to accept the plan, after considering the position of the prosecutor, the plan's appropriateness and practicality, the defendant's ability to pay and the effect of the proposed service on the defendant's rehabilitation and reintegration into society. The court shall determine the amount of the credit that would be applied against the penalty upon successful completion of the reformatory service, not to exceed one-half of the amount assessed. The court shall not apply the credit against the penalty unless the person establishes to the satisfaction of the court that he has successfully completed the reformatory service. If the person's participation is for any reason terminated before his successful completion of the reformatory service, collection of the entire penalty imposed pursuant to this section shall be enforced. Nothing in this subsection shall be deemed to affect or suspend any other criminal sanctions imposed pursuant to this chapter or chapter 36 of this title.

Any reformatory service ordered pursuant to this section shall be in addition to and not in lieu of any community service imposed by the court or otherwise required by law. Nothing in this section shall limit the court's authority to order a person to participate in any activity, program or treatment in addition to those proposed in a reformatory service plan.

2. This act shall take effect on the 90th day following enactment.

Approved January 13, 2008.

CHAPTER 298

AN ACT concerning the transportation of firearms for certain unlawful purposes and amending N.J.S.2C:39-9.

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

1. N.J.S.2C:39-9 is amended to read as follows:

Manufacture, transport, disposition and defacement of weapons and dangerous instruments and appliances.

2C:39-9. Manufacture, Transport, Disposition and Defacement of Weapons and Dangerous Instruments and Appliances. a. Machine guns. Any person who manufactures, causes to be manufactured, transports, ships, sells or disposes of any machine gun without being registered or licensed to do so as provided in chapter 58 is guilty of a crime of the third degree.

b. Sawed-off shotguns. Any person who manufactures, causes to be manufactured, transports, ships, sells or disposes of any sawed-off shotgun is guilty of a crime of the third degree.

c. Firearm silencers. Any person who manufactures, causes to be manufactured, transports, ships, sells or disposes of any firearm silencer is guilty of a crime of the fourth degree.

d. Weapons. Any person who manufactures, causes to be manufactured, transports, ships, sells or disposes of any weapon, including gravity knives, switchblade knives, ballistic knives, daggers, dirks, stilettos, billies, blackjacks, metal knuckles, sandclubs, slingshots, cesti or similar leather bands studded with metal filings, or, except as otherwise provided in subsection i. of this section, in the case of firearms if he is not licensed or registered to do so as provided in chapter 58, is guilty of a crime of the fourth degree. Any person who manufactures, causes to be manufactured, transports, ships, sells or disposes of any weapon or other device which projects, releases or emits tear gas or other substances intended to produce temporary physical discomfort or permanent injury through being vaporized or other-

wise dispensed in the air, which is intended to be used for any purpose other than for authorized military or law enforcement purposes by duly authorized military or law enforcement personnel or the device is for the purpose of personal self-defense, is pocket-sized and contains not more than three-quarters of an ounce of chemical substance not ordinarily capable of lethal use or of inflicting serious bodily injury, or other than to be used by any person permitted to possess such weapon or device under the provisions of subsection d. of N.J.S.2C:39-5, which is intended for use by financial and other business institutions as part of an integrated security system, placed at fixed locations, for the protection of money and property, by the duly authorized personnel of those institutions, is guilty of a crime of the fourth degree.

e. Defaced firearms. Any person who defaces any firearm is guilty of a crime of the third degree. Any person who knowingly buys, receives, disposes of or conceals a defaced firearm, except an antique firearm or an antique handgun, is guilty of a crime of the fourth degree.

f. (1) Any person who manufactures, causes to be manufactured, transports, ships, sells, or disposes of any bullet, which is primarily designed for use in a handgun, and which is comprised of a bullet whose core or jacket, if the jacket is thicker than .025 of an inch, is made of tungsten carbide, or hard bronze, or other material which is harder than a rating of 72 or greater on the Rockwell B. Hardness Scale, and is therefore capable of breaching or penetrating body armor and which is intended to be used for any purpose other than for authorized military or law enforcement purposes by duly authorized military or law enforcement personnel, is guilty of a crime of the fourth degree.

(2) Nothing in this subsection shall be construed to prevent a licensed collector of ammunition as defined in paragraph (2) of subsection f. of N.J.S.2C:39-3 from transporting the bullets defined in paragraph (1) of this subsection from (a) any licensed retail or wholesale firearms dealer's place of business to the collector's dwelling, premises, or other land owned or possessed by him, or (b) to or from the collector's dwelling, premises or other land owned or possessed by him to any gun show for the purposes of display, sale, trade, or transfer between collectors, or (c) to or from the collector's dwelling, premises or other land owned or possessed by him to any rifle or pistol club organized in accordance with the rules prescribed by the National Board for the Promotion of Rifle Practice; provided that the club has filed a copy of its charter with the superintendent of the State Police and annually submits a list of its members to the superintendent, and provided further that the ammunition being transported shall be carried not loaded in any firearm and contained in a closed and fastened case, gun box, or locked in the trunk of the automobile in which it is being transported,

and the course of travel shall include only such deviations as are reasonably necessary under the circumstances.

g. Assault firearms. Any person who manufactures, causes to be manufactured, transports, ships, sells or disposes of an assault firearm without being registered or licensed to do so pursuant to N.J.S.2C:58-1 et seq. is guilty of a crime of the third degree.

h. Large capacity ammunition magazines. Any person who manufactures, causes to be manufactured, transports, ships, sells or disposes of a large capacity ammunition magazine which is intended to be used for any purpose other than for authorized military or law enforcement purposes by duly authorized military or law enforcement personnel is guilty of a crime of the fourth degree.

i. Transporting firearms into this State for an unlawful sale or transfer. Any person who knowingly transports, ships or otherwise brings into this State any firearm for the purpose of unlawfully selling, transferring, giving, assigning or otherwise disposing of that firearm to another individual is guilty of a crime of the second degree. The temporary transfer of a firearm while hunting or target shooting, the transfer of any firearm that uses air or carbon dioxide to expel a projectile, or the transfer of an antique firearm shall not constitute a violation of this subsection.

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

Approved January 13, 2008.

CHAPTER 299

AN ACT concerning the loss or theft of a firearm and supplementing chapter 58 of Title 2C of the New Jersey Statutes.

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

C.2C:58-19 Report of loss, theft of firearm within 36 hours; violations, penalties.

1. The legal owner of a firearm, upon discovering that the firearm is lost or stolen, shall report the loss or theft within 36 hours to the chief law enforcement officer of the municipality in which the loss or theft occurred or, if the municipality does not have a local police force, to the Superintendent of State Police.

A person who violates the provisions of this section shall be liable to a civil penalty of not less than \$500 for a first offense, and not less than \$1,000 for any second or subsequent offense. The civil penalty shall be collected pursuant to the "Penalty Enforcement Law of 1999," P.L.1999, c.274 (C.2A:58-10 et seq.).

2. This act shall take effect immediately.

Approved January 13, 2008.

CHAPTER 300

AN ACT concerning electric power net metering, safety and power quality interconnection standards, and renewable energy credit rules, and amending P.L.1999, c.23.

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

1. 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; terms defined.

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) If a State department or agency adopts regulations to implement a State policy or an interstate or regional agreement to reduce Statewide greenhouse gas emissions related to electricity generation, then 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. Any regulation 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.

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, interim 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 I or Class II renewable energy sources; and

(2) beginning on January 1, 2001, that one-half of one 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, 2006, one 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 shall additionally increase the required percentage for Class I renewable energy sources by one-half of one percent each year until January 1, 2012, when four 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.

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.

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."

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. 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 whenever the total rated generating capacity owned and operated by net metering customer-generators Statewide equals 2.5 percent of the State's peak electricity demand;

(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 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 Electronic 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; and

(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.

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, the electric energy efficiency portfolio standard adopted pursuant to subsection g. of this section, or the gas energy efficiency portfolio standard adopted pursuant to subsection h. of this section.

g. The board may adopt, pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), an electric energy efficiency portfolio standard that may require each electric public utility to implement energy efficiency measures that reduce electricity usage in the State by 2020 to a level that is 20 percent below the usage projected by the board in the absence of such a standard. Nothing in this section shall be construed to prevent an electric public utility from meeting the requirements of this section by contracting with another entity for the performance of the requirements.

h. The board may adopt, pursuant to the "Administrative Procedure Act," a gas energy efficiency portfolio standard that may require each gas public utility to implement energy efficiency measures that reduce natural gas usage for heating in the State by 2020 to a level that is 20 percent below

the usage projected by the board in the absence of such a standard. Nothing in this section shall be construed to prevent a gas public utility from meeting the requirements of this section by contracting with another entity for the performance of the requirements.

i. As used in this section:

“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.

“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.

“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.

2. This act shall take effect on the 180th day after the date of enactment, but the Board of Public Utilities may take such anticipatory administrative action in advance thereof as shall be necessary for the implementation of this act.

Approved January 13, 2008.

CHAPTER 301

AN ACT concerning voting machines, and amending R.S.19:48-1 and P.L.1973, c.82.

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

1. R.S.19:48-1 is amended to read as follows:

Voting machines, requirements.

19:48-1. Any thoroughly tested and reliable voting machines may be adopted, rented, purchased or used, which shall be so constructed as to fulfill the following requirements:

- (a) It shall secure to the voter secrecy in the act of voting;
- (b) It shall provide facilities for such number of office columns, not less than 40 and not exceeding 60, as the purchasing authorities may specify and of as many political parties or organizations, not exceeding nine, as may make nominations, and for or against as many questions, not exceeding 30, as submitted;
- (c) It shall, except at primary elections, permit the voter to vote for all the candidates of one party or in part for the candidates of one party or one or more parties;
- (d) It shall permit the voter to vote for as many persons for an office as he is lawfully entitled to vote for, but no more;
- (e) It shall prevent the voter from voting for the same person more than once for the same office;
- (f) It shall permit the voter to vote for or against any question he may have the right to vote on, but no other;
- (g) It shall for use in primary elections be so equipped that the election officials can stop a voter from voting for all candidates except those of the voter's party;
- (h) It shall correctly register or record and accurately count all votes cast for any and all persons, and for or against any and all questions;
- (i) It shall be provided with a "protective counter" or "protective device" whereby any operation of the machine before or after the election will be detected;
- (j) It shall be so equipped with such protective devices as shall prevent the operation of the machine after the polls are closed;
- (k) It shall be provided with a counter which shall show at all times during an election how many persons have voted;
- (l) It shall be provided with a model, illustrating the manner of voting on the machine, suitable for the instruction of voters;
- (m) It must permit a voter to vote for any person for any office, except delegates and alternates to national party conventions, whether or not nominated as a candidate by any party or organization by providing an opportunity to indicate such names or name;
- (n) It shall be equipped with a permanently affixed box or container of sufficient strength, size and security to hold all emergency ballots and pre-punched single-hole envelopes and with a clipboard and a table-top privacy screen;
- (o) It shall not use mechanical lever machines or punch cards to record votes.

All voting machines used in any election shall be provided with a screen, hood or curtain, which shall be so made and adjusted as to conceal the voter and his action while voting.

It shall also be provided with one device for each party for voting for all the presidential electors of that party by one operation, and a ballot therefor containing only the words "presidential electors for," preceded by the name of that party and followed by the names of the candidates thereof for the offices of President and Vice-President and a registering device therefor which shall register the vote cast for such electors when thus voted collectively.

By June 3, 2008, each voting machine shall produce an individual permanent paper record for each vote cast, which shall be made available for inspection and verification by the voter at the time the vote is cast, and preserved for later use in any manual audit. In the event of a recount of the results of an election, the voter-verified paper record shall be the official tally in that election. A waiver of the provisions of this paragraph shall be granted by the Attorney General if the technology to produce a permanent voter-verified paper record for each vote cast is not commercially available.

2. Section 3 of P.L.1973, c.82 (C.19:53A-3) is amended to read as follows:

C.19:53A-3 Requirements of electronic voting systems.

3. Every electronic voting system, consisting of a voting device in combination with automatic tabulating equipment, acquired or used in accordance with this act, shall:

- a. Provide for voting in secrecy, except in the case of voters who have received assistance as provided by law;
- b. Permit each voter to vote at any election for all persons and offices for whom and for which he is lawfully entitled to vote; to vote for or against any question upon which he is entitled to vote; and the automatic tabulating equipment shall reject choices recorded on his ballot if the number of choices exceeds the number which he is entitled to vote for the office or on the measure;
- c. Permit each voter, at presidential elections, by one mark to vote for the candidates of that party for president, vice president, and their presidential electors;
- d. Permit each voter, at other than primary elections, to vote for the nominees of one or more parties and for independent candidates; and personal choice or write-in candidates;

- e. Permit each voter in primary elections to vote for candidates in the party primary in which he is qualified to vote, and the automatic tabulating equipment shall reject any votes cast for candidates of another party;
- f. Prevent the voter from voting for the same person more than once for the same office;
- g. Be suitably designed for the purpose used, of durable construction, and may be used safely, efficiently, and accurately in the conduct of elections and counting ballots;
- h. When properly operated, record correctly and count accurately every vote cast, including all overvotes or undervotes and all affirmative votes or negative votes on all public questions or referenda;
- i. By June 3, 2008, each voting machine shall produce an individual permanent paper record for each vote cast, which shall be made available for inspection and verification by the voter at the time the vote is cast, and preserved for later use in any manual audit. In the event of a recount of the results of an election, the voter-verified paper record shall be the official tally in that election. A waiver of the provisions of this subsection shall be granted by the Attorney General if the technology to produce a permanent voter-verified paper record for each vote cast is not commercially available.

3. This act shall take effect immediately.

Approved January 13, 2008.

CHAPTER 302

AN ACT authorizing municipalities to impose a surcharge on admission charges at certain major places of amusement and supplementing Title 40 of the Revised Statutes.

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

C.40:48G-1 Definitions relative to surcharge on admission charges at certain major places of amusement; authorization, contents of ordinance.

1. a. As used in this section:

"admission charge" means the amount paid for admission, including any service charge and any charge for entertainment at a place of amusement, including but not limited to a dramatic or musical arts admission

charge as defined pursuant to subsection (r) of section 2 of P.L.1966, c.30 (C.54:32B-2); and

“major place of amusement” means a place of amusement as that term is defined in subsection (t) of section 2 of P.L.1966, c.30 (C.54:32B-2), other than a motion picture theater, and other than an amusement park as defined in section 1 of P.L.1992, c.118 (C.5:3-55), at which admission charges are regularly paid, which place of amusement is not owned by the State or an independent State authority, or is not located on property that is owned by the State or an independent State authority, and which contains fixed seats or bleacher capacity for not less than 10,000 patrons.

b. The governing body of a municipality in which there is located a major place of amusement may adopt an ordinance imposing a surcharge in the amount of 5% of each admission charge that is subject to the New Jersey sales tax pursuant to paragraph (1) of subsection (e) of section 3 of P.L.1966, c.30 (C.54:32B-3), and that is not otherwise exempt from that tax, collected by each major place of amusement in the municipality for admission thereto, which surcharge shall be paid by the customer from whom the sales tax is due pursuant to section 3 of P.L.1966, c.30 (C.54:32B-3). A surcharge imposed under an ordinance adopted pursuant to this section shall be in addition to any other tax or fee imposed pursuant to statute or local ordinance or resolution by any governmental entity upon the admission charge. A surcharge imposed under an ordinance adopted pursuant to this section shall be separately stated on any bill, receipt, invoice or similar document provided to the patron, but shall not be considered part of the sale price for purpose of determining tax pursuant to P.L.1966, c.30 (C.54:32B-1 et seq.).

c. A copy of an ordinance adopted pursuant to this section shall be transmitted upon adoption or amendment to the State Treasurer along with a list of the names and locations of major places of amusement in the municipality. An ordinance so adopted or any amendment thereto shall provide that the surcharge provisions of the ordinance or any amendment to the surcharge provisions shall take effect on the first day of the first full month occurring 30 days after the date of transmittal to the State Treasurer. Any ordinance enacted pursuant to this section shall contain the following provisions:

(1) A vendor shall not assume or absorb the surcharge imposed by the ordinance;

(2) A vendor shall not in any manner advertise or hold out to any person or to the public in general, in any manner, directly or indirectly, that the surcharge will be assumed or absorbed by the vendor, that the surcharge

will not be separately charged and stated to the customer, or that the surcharge will be refunded to the customer;

(3) Each assumption or absorption by a vendor of the surcharge shall be deemed a separate offense and each representation or advertisement by a vendor for each day the representation or advertisement continues shall be deemed a separate offense; and

(4) Penalties as fixed in the ordinance, for violation of the foregoing provisions.

d. (1) A surcharge imposed pursuant to a municipal ordinance adopted under the provisions of this section shall be collected on behalf of the municipality by the person collecting the admission charge from the customer.

(2) Each person required to collect a surcharge imposed by the ordinance shall be personally liable for the surcharge imposed, collected or required to be collected hereunder. Any such person shall have the same right in respect to collecting the surcharge from a customer as if the surcharge were a part of the admission charge and payable at the same time; provided, however, that the chief fiscal officer of the municipality shall be joined as a party in any action or proceeding brought to collect the surcharge.

e. (1) A person required to collect a surcharge imposed pursuant to the provisions of this section shall, on or before the dates required pursuant to section 17 of P.L.1966, c.30 (C.54:32B-17), forward to the Director of the Division of Taxation in the Department of the Treasury the surcharge collected in the preceding month and make and file a return for the preceding month with the director on any form and containing any information as the director shall prescribe as necessary to determine liability for the surcharge in the preceding month during which the person was required to collect the surcharge.

(2) The director may permit or require returns to be made covering other periods and upon any dates as the director may specify. In addition, the director may require payments of surcharge liability at any intervals and based upon any classifications as the director may designate. In prescribing any other periods to be covered by the return or intervals or classifications for payment of surcharge liability, the director may take into account the dollar volume of surcharge involved as well as the need for ensuring the prompt and orderly collection of the surcharge imposed.

(3) The director may require amended returns to be filed within 20 days after notice and to contain the information specified in the notice.

f. (1) The Director of the Division of Taxation in the Department of the Treasury shall collect and administer the surcharge; in so doing, the director shall have all the powers granted pursuant to P.L.1966, c.30 (C.54:32B-1 et

seq.). A surcharge imposed pursuant to the provisions of this section shall be governed by the provisions of the "State Uniform Tax Procedure Law," R.S.54:48-1 et seq.

(2) The director shall determine and certify to the State Treasurer on a quarterly or more frequent basis, as prescribed by the State Treasurer, the amount of revenues collected in each municipality pursuant to this section.

(3) The State Treasurer, upon the certification of the director and upon the warrant of the State Comptroller, shall pay and distribute on a quarterly or more frequent basis, as prescribed by the State Treasurer, to each municipality the amount of revenues determined and certified under this subsection.

(4) The revenue, if any, received by a municipality shall be appropriated as a special item of local revenue subject to the prior written approval by the Director of the Division of Local Government Services in the Department of Community Affairs, and shall be offset with a local unit appropriation of an equal amount for public safety purposes.

g. The director may, pursuant to the provisions of the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), make, adopt, amend, or repeal such rules and regulations as the director finds necessary to carry out the provisions of this section.

2. This act shall take effect immediately.

Approved January 13, 2008.

CHAPTER 303

AN ACT concerning hate crimes and bullying, establishing a commission, amending various parts of the statutory law, and supplementing Title 52 of the Revised Statutes.

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

1. N.J.S.2C:16-1 is amended to read as follows:

Bias intimidation.

2C:16-1. Bias Intimidation.

a. Bias Intimidation. A person is guilty of the crime of bias intimidation if he commits, attempts to commit, conspires with another to commit,

or threatens the immediate commission of an offense specified in chapters 11 through 18 of Title 2C of the New Jersey Statutes; N.J.S.2C:33-4; N.J.S.2C:39-3; N.J.S.2C:39-4 or N.J.S.2C:39-5,

(1) with a purpose to intimidate an individual or group of individuals because of race, color, religion, gender, disability, sexual orientation, gender identity or expression, national origin, or ethnicity; or

(2) knowing that the conduct constituting the offense would cause an individual or group of individuals to be intimidated because of race, color, religion, gender, disability, sexual orientation, gender identity or expression, national origin, or ethnicity; or

(3) under circumstances that caused any victim of the underlying offense to be intimidated and the victim, considering the manner in which the offense was committed, reasonably believed either that (a) the offense was committed with a purpose to intimidate the victim or any person or entity in whose welfare the victim is interested because of race, color, religion, gender, disability, sexual orientation, gender identity or expression, national origin, or ethnicity, or (b) the victim or the victim's property was selected to be the target of the offense because of the victim's race, color, religion, gender, disability, sexual orientation, gender identity or expression, national origin, or ethnicity.

b. Permissive inference concerning selection of targeted person or property. Proof that the target of the underlying offense was selected by the defendant, or by another acting in concert with the defendant, because of race, color, religion, gender, disability, sexual orientation, gender identity or expression, national origin, or ethnicity shall give rise to a permissive inference by the trier of fact that the defendant acted with a purpose to intimidate an individual or group of individuals because of race, color, religion, gender, disability, sexual orientation, gender identity or expression, national origin, or ethnicity.

c. Grading. Bias intimidation is a crime of the fourth degree if the underlying offense referred to in subsection a. is a disorderly persons offense or petty disorderly persons offense. Otherwise, bias intimidation is a crime one degree higher than the most serious underlying crime referred to in subsection a., except that where the underlying crime is a crime of the first degree, bias intimidation is a first-degree crime and the defendant upon conviction thereof may, notwithstanding the provisions of paragraph (1) of subsection a. of N.J.S.2C:43-6, be sentenced to an ordinary term of imprisonment between 15 years and 30 years, with a presumptive term of 20 years.

d. Gender exemption in sexual offense prosecutions. It shall not be a violation of subsection a. if the underlying criminal offense is a violation of

chapter 14 of Title 2C of the New Jersey Statutes and the circumstance specified in paragraph (1), (2) or (3) of subsection a. of this section is based solely upon the gender of the victim.

e. Merger. Notwithstanding the provisions of N.J.S.2C:1-8 or any other provision of law, a conviction for bias intimidation shall not merge with a conviction of any of the underlying offenses referred to in subsection a. of this section, nor shall any conviction for such underlying offense merge with a conviction for bias intimidation. The court shall impose separate sentences upon a conviction for bias intimidation and a conviction of any underlying offense.

f. Additional Penalties. In addition to any fine imposed pursuant to N.J.S.2C:43-3 or any term of imprisonment imposed pursuant to N.J.S.2C:43-6, a court may order a person convicted of bias intimidation to one or more of the following:

(1) complete a class or program on sensitivity to diverse communities, or other similar training in the area of civil rights;

(2) complete a counseling program intended to reduce the tendency toward violent and antisocial behavior; and

(3) make payments or other compensation to a community-based program or local agency that provides services to victims of bias intimidation.

g. As used in this section "gender identity or expression" means having or being perceived as having a gender related identity or expression whether or not stereotypically associated with a person's assigned sex at birth.

h. It shall not be a defense to a prosecution for a crime under this section that the defendant was mistaken as to the race, color, religion, gender, disability, sexual orientation, gender identity or expression, national origin, or ethnicity of the victim.

2. Section 1 of P.L.1993, c.137 (C.2A:53A-21) is amended to read as follows:

C.2A:53A-21 Civil cause of action for bias crime victims.

1. a. A person, acting with purpose to intimidate an individual or group of individuals because of race, color, religion, gender, disability, sexual orientation, gender identity or expression, national origin, or ethnicity, who engages in conduct that is an offense under the provisions of the "New Jersey Code of Criminal Justice," Title 2C of the New Jersey Statutes, commits a civil offense.

b. Any person who sustains injury to person or property as a result of a violation of subsection a. shall have a cause of action against the person or persons who committed the civil offense resulting in the injury. In the

case of a homicide committed in violation of subsection a., the estate of the deceased shall have a cause of action. Nothing in this subsection shall be construed to preclude the parent or legal guardian of a person who has sustained injury as a result of a violation of subsection a. from initiating a civil action on behalf of a minor child or ward.

c. The Attorney General, as *parens patriae*, may initiate a cause of action against any person who violates subsection a. of this section on behalf of any person or persons who have sustained injury to person or property as a result of the commission of the civil offense.

d. Upon proof, by a preponderance of the evidence, of a defendant's violation of subsection a. of this section and of resulting damages, the defendant shall be liable as follows:

(1) To the person or persons injured, for an award in the amount of damages incurred as a result of the commission of the civil offense, including damages for any emotional distress suffered as a result of the civil offense, such punitive damages as may be assessed, and any reasonable attorney's fees and costs of suit incurred;

(2) To the State, in any case in which the Attorney General has participated, reasonable attorney's fees and costs of investigation and suit;

(3) Such injunctive relief as the court may deem necessary to avoid the defendant's continued violation of subsection a.; and

(4) Any additional appropriate equitable relief, including restraints to avoid repeated violation.

e. An award entered pursuant to paragraph (1) of subsection d. of this section shall be reduced by the amount of any restitution that has been awarded for the same injury following criminal conviction or juvenile adjudication, and, notwithstanding the provisions of paragraph (1) of subsection d., damages awarded for injuries that have previously been compensated by the Victims of Crime Compensation Agency shall be paid to the agency for deposit in the Violent Crimes Compensation Board Account.

f. All fees and costs assessed for the benefit of the State pursuant to paragraph (2) of subsection d. of this section shall be paid to the State Treasurer for deposit in the Civil Rights Enforcement Fund established pursuant to section 2 of P.L.1993, c.137 (C.2A:53A-22).

g. The parent or guardian of a juvenile against whom an award has been entered pursuant to paragraph (1) of subsection d. of this section shall be liable for payment only if the parent has been named as a defendant and it has been established, by a preponderance of the evidence, that the parent or guardian's conduct was a significant contributing factor in the juvenile's commission of the offense.

3. Section 11 of P.L.1971, c.317 (C.52:4B-11) is amended to read as follows:

C.52:4B-11 Victim compensation.

11. The agency may order the payment of compensation in accordance with the provisions of P.L.1971, c.317 for personal injury or death which resulted from:

a. an attempt to prevent the commission of crime or to arrest a suspected criminal or in aiding or attempting to aid a police officer so to do; or

b. the commission or attempt to commit any of the following offenses:

(1) aggravated assault;

(2) (Deleted by amendment, P.L.1995, c.135).

(3) threats to do bodily harm;

(4) lewd, indecent, or obscene acts;

(5) indecent acts with children;

(6) kidnapping;

(7) murder;

(8) manslaughter;

(9) aggravated sexual assault, sexual assault, aggravated criminal sexual contact, criminal sexual contact;

(10) any other crime involving violence including domestic violence as defined by section 3 of P.L.1981, c.426 (C.2C:25-3) or section 3 of P.L.1991, c.261 (C.2C:25-19);

(11) burglary;

(12) tampering with a cosmetic, drug or food product;

(13) a violation of human trafficking, section 1 of P.L.2005, c.77 (C.2C:13-8); or

c. the commission of a violation of R.S.39:4-50, section 5 of P.L.1990, c.103 (C.39:3-10.13), section 19 of P.L.1954, c.236 (C.12:7-34.19) or section 3 of P.L.1952, c.157 (C.12:7-46); or

d. theft of an automobile pursuant to N.J.S.2C:20-2, eluding a law enforcement officer pursuant to subsection b. of N.J.S.2C:29-2 or unlawful taking of a motor vehicle pursuant to subsection b., c. or d. of N.J.S.2C:20-10 where injuries to the victim occur in the course of operating an automobile in furtherance of the offense; or

e. the commission of a violation of N.J.S. 2C:16-1, bias intimidation.

4. Section 3 of P.L.1966, c.37 (C.52:17B-5.3) is amended to read as follows:

C.52:17B-5.3 Quarterly crime report by local and county police; contents, incidence of street gang activity, bias crime.

3. a. All local and county police authorities shall submit a quarterly report to the Attorney General, on forms prescribed by the Attorney General, which report shall contain the number and nature of offenses committed within their respective jurisdictions, the disposition of such matters, information relating to criminal street gang activities within their respective jurisdictions, information relating to any offense directed against a person or group, or their property, by reason of their race, color, religion, gender, disability, sexual orientation, gender identity or expression, national origin, or ethnicity and such other information as the Attorney General may require, respecting information relating to the cause and prevention of crime, recidivism, the rehabilitation of criminals and the proper administration of criminal justice.

b. A law enforcement officer who responds to an offense involving criminal street gang activity shall complete a gang related incident offense report on a form prescribed by the Superintendent of State Police. All information contained in the gang related incident offense report shall be forwarded to the appropriate county bureau of identification and to the Superintendent of State Police.

C.52:17B-5.4a Collection, analysis of information, central repository.

5. The Attorney General shall maintain a central repository for the collection and analysis of information collected pursuant to section 3 of P.L.1966, c.37 (C.52:17B-5.3). Information in the repository shall be made available to the public. The Attorney General may designate the Division of State Police in the Department of Law and Public Safety to be the agency to maintain the repository and provide information from the repository to the public.

C.52:17B-77.12 Required training concerning bias intimidation crimes for police officers.

6. The Police Training Commission shall require all new police officers to complete two hours of training, which may include interactive training, in identifying, responding to, and reporting bias intimidation crimes. The Police Training Commission shall develop or revise the training course in consultation with the New Jersey Human Relations Council established pursuant to section 1 of P.L.1997, c.257 (C.52:9DD-8). The training course shall include the following topics:

- a. features that identify or could identify a bias intimidation crime;
- b. laws dealing with bias intimidation crimes;

c. law enforcement procedures, reporting, and documentation of bias intimidation crimes; and

d. techniques and methods to handle incidents of bias intimidation crimes, including training on how to deal sensitively with victims and referring victims of bias intimidation crimes to organizations that provide assistance and compensation to victims.

7. Section 3 of P.L.2002, c.83 (C.18A:37-15) is amended to read as follows:

C.18A:37-15 Adoption of policy concerning intimidation or bullying by each school district.

3. a. Each school district shall adopt a policy prohibiting harassment, intimidation or bullying on school property, at a school-sponsored function or on a school bus. The school district shall attempt to adopt the policy through a process that includes representation of parents or guardians, school employees, volunteers, students, administrators, and community representatives.

b. A school district shall have local control over the content of the policy, except that the policy shall contain, at a minimum, the following components:

(1) a statement prohibiting harassment, intimidation or bullying of a student;

(2) a definition of harassment, intimidation or bullying no less inclusive than that set forth in section 2 of P.L.2002, c.83 (C.18A:37-14);

(3) a description of the type of behavior expected from each student;

(4) consequences and appropriate remedial action for a person who commits an act of harassment, intimidation or bullying;

(5) a procedure for reporting an act of harassment, intimidation or bullying, including a provision that permits a person to report an act of harassment, intimidation or bullying anonymously; however, this shall not be construed to permit formal disciplinary action solely on the basis of an anonymous report;

(6) a procedure for prompt investigation of reports of violations and complaints, identifying either the principal or the principal's designee as the person responsible for the investigation;

(7) the range of ways in which a school will respond once an incident of harassment, intimidation or bullying is identified;

(8) a statement that prohibits reprisal or retaliation against any person who reports an act of harassment, intimidation or bullying and the conse-

quence and appropriate remedial action for a person who engages in reprisal or retaliation;

(9) consequences and appropriate remedial action for a person found to have falsely accused another as a means of retaliation or as a means of harassment, intimidation or bullying;

(10) a statement of how the policy is to be publicized, including notice that the policy applies to participation in school-sponsored functions; and

(11) a requirement that the policy be posted on the school district's website and distributed annually to parents and guardians who have children enrolled in a school in the school district.

c. A school district shall adopt a policy and transmit a copy of its policy to the appropriate county superintendent of schools by September 1, 2003.

d. To assist school districts in developing policies for the prevention of harassment, intimidation or bullying, the Commissioner of Education shall develop a model policy applicable to grades kindergarten through 12. This model policy shall be issued no later than December 1, 2002.

e. Notice of the school district's policy shall appear in any publication of the school district that sets forth the comprehensive rules, procedures and standards of conduct for schools within the school district, and in any student handbook.

C.18A:37-15.2 Actions required relative to bullying policy.

8. Within 60 days of the effective date of this section each school district shall amend its bullying policy in accordance with section 3 of P.L.2002, c.83 (C.18A:37-15) as amended by section 7 of P.L.2007, c.303, make the policy available on the district's website, and notify students and parents that the policy is available on the district's website.

9. a. There is hereby established the Commission on Bullying in Schools.

b. The commission shall consist of 14 members as follows:

(1) the Commissioner of the Department of Education, or his designee;

(2) the Director of the Division on Civil Rights in the Department of Law and Public Safety, or his designee;

(3) the Governor shall appoint eight public members: one representative of the New Jersey Education Association, one representative of the New Jersey School Boards Association, one representative of the Anti-Defamation League, one representative of the New Jersey Principals and Supervisors Association, and four public members with a background in, or

special knowledge of, the legal, policy, educational, social or psychological aspects of bullying in schools;

(4) the President of the Senate shall appoint two public members with a background in, or special knowledge of, the legal, policy, educational, social or psychological aspects of bullying in schools; and

(5) the Speaker of the General Assembly shall appoint two public members with a background in, or special knowledge of, the legal, policy, educational, social or psychological aspects of bullying in schools.

c. The commission shall study and make recommendations regarding:

(1) the implementation and effectiveness of school bullying laws and regulations;

(2) the adequacy of legal remedies available to students who are victims of bullying and their parents and guardians;

(3) the adequacy of legal protections available to teachers who are in compliance with school bullying policies;

(4) training of teachers, school administrators, and law enforcement personnel in responding to, investigating and reporting incidents of bullying;

(5) funding issues related to the implementation of the State school bullying laws and regulations; and

(6) the implementation of a possible collaboration between the Department of Education and the Division on Civil Rights in the Department of Law and Public Safety on a Statewide initiative against school bullying.

d. The members shall be appointed within 30 days of enactment.

e. The members shall serve without compensation, but may be reimbursed for necessary expenses incurred in the performance of their duties, within the limits of funds appropriated or otherwise made available to the commission for its purposes.

f. The commission shall choose a chairperson from among its members.

g. Any vacancy in the membership shall be filled in the same manner as the original appointment.

h. The commission is entitled to the assistance and service 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, and to employ stenographic and clerical assistance and to incur traveling or other miscellaneous expenses as may be necessary in order to perform its duties, within the limits of funds appropriated or otherwise made available to the commission for its purposes.

i. The commission shall conduct a minimum of three public hearings: one in the northern portion of the State; one in the central portion of the State; and one in the southern portion of the State.

j. The commission shall report its findings and recommendations, along with any legislation it desires to recommend for adoption by the Legislature, to the Governor and the Legislature in accordance with section 2 of P.L.1991, c.164 (C.52:14-19.1). The commission shall issue its final report no later than nine months after final appointment of its members.

k. The commission shall expire upon submission of its final report to the Governor and the Legislature.

10. Section 9 of this act shall take effect immediately. Sections 1 through 8 shall take effect on the 60th day after enactment, but the Attorney General and the Commissioner of the Department of Education shall take such anticipatory administrative action in advance thereof as shall be necessary for the implementation of this act.

Approved January 13, 2008.

CHAPTER 304

AN ACT concerning certain political contribution disclosures made annually to ELEC and prior to entering into certain public contracts and amending P.L.2005, c.271.

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

1. Section 2 of P.L.2005, c.271 (C.19:44A-20.26) is amended to read as follows:

C.19:44A-20.26 Submission of list of political contributions by contractor to State, local agencies; definitions.

2. a. Not later than 10 days prior to entering into any contract having an anticipated value in excess of \$17,500, except for a contract that is required by law to be publicly advertised for bids, a State agency, county, municipality, independent authority, board of education, or fire district shall require any business entity bidding thereon or negotiating therefor, to submit along with its bid or price quote, a list of political contributions as set forth in this subsection that are reportable by the recipient pursuant to the provisions of P.L.1973, c.83 (C.19:44A-1 et al.) and that were made by the business entity during the preceding 12-month period, along with the date and amount

of each contribution and the name of the recipient of each contribution. A business entity contracting with a State agency shall disclose contributions to any State, county, or municipal committee of a political party, legislative leadership committee, candidate committee of a candidate for, or holder of, a State elective office, or any continuing political committee. A business entity contracting with a county, municipality, independent authority, other than an independent authority that is a State agency, board of education, or fire district shall disclose contributions to: any State, county, or municipal committee of a political party; any legislative leadership committee; or any candidate committee of a candidate for, or holder of, an elective office of that public entity, of that county in which that public entity is located, of another public entity within that county, or of a legislative district in which that public entity is located or, when the public entity is a county, of any legislative district which includes all or part of the county, or any continuing political committee.

The provisions of this section shall not apply to a contract when a public emergency requires the immediate delivery of goods or services.

b. When a business entity is a natural person, a contribution by that person's spouse or child, residing therewith, shall be deemed to be a contribution by the business entity. When a business entity is other than a natural person, a contribution by any person or other business entity having an interest therein shall be deemed to be a contribution by the business entity. When a business entity is other than a natural person, a contribution by: all principals, partners, officers, or directors of the business entity or their spouses; any subsidiaries directly or indirectly controlled by the business entity; or any political organization organized under section 527 of the Internal Revenue Code that is directly or indirectly controlled by the business entity, other than a candidate committee, election fund, or political party committee, shall be deemed to be a contribution by the business entity.

c. As used in this section:

"business entity" means a for-profit entity that is a natural or legal person, business corporation, professional services corporation, limited liability company, partnership, limited partnership, business trust, association or any other legal commercial entity organized under the laws of this State or of any other state or foreign jurisdiction;

"interest" means the ownership or control of more than 10% of the profits or assets of a business entity or 10% of the stock in the case of a business entity that is a corporation for profit, as appropriate; and

"State agency" means any of the principal departments in the Executive Branch of the State Government, and any division, board, bureau, office,

commission or other instrumentality within or created by such department, the Legislature of the State and any office, board, bureau or commission within or created by the Legislative Branch, and any independent State authority, commission, instrumentality or agency.

d. Any business entity that fails to comply with the provisions of this section shall be subject to a fine imposed by the New Jersey Election Law Enforcement Commission in an amount to be determined by the commission which may be based upon the amount that the business entity failed to report.

2. Section 3 of P.L.2005, c.271 (C.19:44A-20.27) is amended to read as follows:

C.19:44A-20.27 Annual disclosure statement by business entities of contributions filed with ELEC; definitions; enforcement.

3. a. Any business entity making a contribution of money or any other thing of value, including an in-kind contribution, or pledge to make a contribution of any kind to a candidate for or the holder of any public office having ultimate responsibility for the awarding of public contracts, or to a political party committee, legislative leadership committee, political committee or continuing political committee, which has received in any calendar year \$50,000 or more in the aggregate through agreements or contracts with a public entity, shall file an annual disclosure statement with the New Jersey Election Law Enforcement Commission, established pursuant to section 5 of P.L.1973, c.83 (C.19:44A-5), setting forth all such contributions made by the business entity during the 12 months prior to the reporting deadline.

b. The commission shall prescribe forms and procedures for the reporting required in subsection a. of this section which shall include, but not be limited to:

(1) the name and mailing address of the business entity making the contribution, and the amount contributed during the 12 months prior to the reporting deadline;

(2) the name of the candidate for or the holder of any public office having ultimate responsibility for the awarding of public contracts, candidate committee, joint candidates committee, political party committee, legislative leadership committee, political committee or continuing political committee receiving the contribution; and

(3) the amount of money the business entity received from the public entity through contract or agreement, the dates, and information identifying

each contract or agreement and describing the goods, services or equipment provided or property sold.

c. The commission shall maintain a list of such reports for public inspection both at its office and through its Internet site.

d. When a business entity is a natural person, a contribution by that person's spouse or child, residing therewith, shall be deemed to be a contribution by the business entity. When a business entity is other than a natural person, a contribution by any person or other business entity having an interest therein shall be deemed to be a contribution by the business entity. When a business entity is other than a natural person, a contribution by: all principals, partners, officers, or directors of the business entity, or their spouses; any subsidiaries directly or indirectly controlled by the business entity; or any political organization organized under section 527 of the Internal Revenue Code that is directly or indirectly controlled by the business entity, other than a candidate committee, election fund, or political party committee, shall be deemed to be a contribution by the business entity.

As used in this section:

"business entity" means a for-profit entity that is a natural or legal person, business corporation, professional services corporation, limited liability company, partnership, limited partnership, business trust, association or any other legal commercial entity organized under the laws of this State or of any other state or foreign jurisdiction; and

"interest" means the ownership or control of more than 10% of the profits or assets of a business entity or 10% of the stock in the case of a business entity that is a corporation for profit, as appropriate.

e. Any business entity that fails to comply with the provisions of this section shall be subject to a fine imposed by the New Jersey Election Law Enforcement Commission in an amount to be determined by the commission which may be based upon the amount that the business entity failed to report.

3. This act shall take effect immediately.

Approved January 13, 2008.

CHAPTER 305

AN ACT concerning alternative electrical energy and supplementing P.L.1999, c.23 (C.48:3-49 et al).

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

C.48:3-91.6 Contracts for provision of alternative electrical energy systems; inclusion of local units in State contract, certain conditions; definitions.

1. a. The State, prior to initiating the process required pursuant to P.L.1954, c.48 (C.52:34-6 et seq.) for entering into a written contract for the provision of alternative electrical energy systems, shall notify in writing or through electronic mail the governing body of each local government contracting unit of its intent to enter into such a contract. Upon receiving the notification, the governing body of the local government contracting unit may request that the State include in the proposed contract the provision of alternative electrical energy systems for the use of the local government contracting unit. The State may include in any proposed contract for the provision of alternative electrical energy systems the facilities of any local government contracting unit which has requested the State to do so pursuant to this act if such inclusion may be accomplished within the State's schedule for entering into the contract.

The State Treasurer shall consult with the Board of Public Utilities and the Commissioner of Environmental Protection regarding the technical sufficiency of alternative electrical energy systems for purposes of inclusion in the proposed contract.

b. As used in this section:

"Alternative electrical energy" means Class I renewable energy as that term is defined in section 3 of P.L.1999, c.23 (C.48:3-51);

"Alternative electrical energy system" means 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; and

"Local government contracting unit" means any county, municipality, local authority, public school district, or county college.

2. This act shall take effect immediately.

Approved January 13, 2008.

CHAPTER 306

AN ACT authorizing municipal utilities authorities to promote the production and use of alternative electrical energy and amending P.L.1957, c.183.

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) shall be amended to read as follows:

C.40:14B-3 Definitions.

3. As used in this act, 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 this act, 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 or water reclamation authority" shall mean a public body created or organized pursuant to section 4, 5 or 6 of this act 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 this act, "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, aque-

ducts, 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;

(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 this act;

(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 this act or in section 7 of this amendatory and supplementary act;

(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 hydrolyze, 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 this act, 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 this act, 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; and

(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.

2. Section 19 of P.L.1957, c.183 (C.40:14B-19) is amended to read as follows:

C.40:14B-19 Purposes, acquisition of facilities; alternative electrical energy.

19. (a) The purposes of every municipal authority shall be (1) the provision and distribution of an adequate supply of water for the public and private uses of the local units, and their inhabitants, within the district, and (2) the relief of waters in or bordering the State from pollution arising from causes within the district and the relief of waters in, bordering or entering the district from pollution or threatened pollution, and the consequent improvement of conditions affecting the public health, (3) the provision of sewage collection and disposal service within or without the district, and (4) the provision of water supply and distribution service in such areas without the district as are permitted by the provisions of this act, and (5) the provision of solid waste services and facilities within or without the district 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, and (6) the generation, transmission and sale of hydroelectric power at wholesale, and (7) the operation and maintenance of utility systems owned by other governments located within the district through contracts with said governments.

(b) Every municipal authority is hereby authorized, subject to the limitations of this act, to acquire, in its own name but for the local unit or units, by purchase, gift, condemnation or otherwise, lease as lessee, and, notwithstanding the provisions of any charter, ordinance or resolution of any county or municipality to the contrary, to construct, maintain, operate and use such reservoirs, basins, dams, canals, aqueducts, standpipes, conduits, pipelines, mains, pumping and ventilating stations, treatment, purification and filtration plants or works, trunk, intercepting and outlet sewers, water distribution systems, waterworks, sources of water supply and wells at such places within or without the district, such compensating reservoirs within a county in which any part of the district lies, and such other plants, structures, boats and conveyances, as in the judgment of the municipal authority will provide an effective and satisfactory method for promoting purposes of the municipal authority.

(c) Every municipal authority is hereby authorized and directed, when in its judgment its sewerage system or any part thereof will permit, to collect from any and all public systems within the district all sewage and treat and dispose of the same in such manner as to promote purposes of the municipal authority.

(d) Every municipal utilities authority is authorized to promote the production and use of alternative electrical energy by contracting with producers of alternative electrical energy for the installation, construction, maintenance, repair, renewal, relocation, or removal of alternative electrical energy systems, and for the purchase of excess alternative electrical energy

generated by a producer of alternative electrical energy. Any purchase or sale of alternative electrical energy where such energy is distributed using the infrastructure of a public utility, as that term is defined in R.S.48:2-13, shall include the payment by the purchaser of all relevant non-bypassable charges as provided for in the "Electric Discount and Energy Competition Act," P.L.1999, c.23 (C.48:3-49 et al.).

3. This act shall take effect immediately.

Approved January 13, 2008.

CHAPTER 307

AN ACT concerning the disclosure of certain information regarding applicants for or holders of certain licenses and supplementing P.L.1978, c.73 (C.45:1-14 et seq.).

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

C.45:1-21.4 Certain information relative to address of certain applicants, licensees; nondisclosure.

1. Notwithstanding any other law, rule or regulation to the contrary, the director or a board shall not disclose to the public information indicating the place of residence of any applicant for or holder of a license, registration or certification without the consent of the applicant or holder, except for such disclosure to a federal or State regulatory authority or a law enforcement or judicial authority.

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

3. This act shall take effect immediately, and shall apply to an individual holder of a license, registration or certification upon the issuance or renewal of that individual's license, registration or certification which takes place on or after the first day of the thirteenth month following enactment.

Approved January 13, 2008.

CHAPTER 308

AN ACT concerning certain highway entry or exit ramps and schools and supplementing Title 27 of the Revised Statutes and Title 18A of the New Jersey Statutes.

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

1. This act shall be known and may be cited as "Terrell James' Law."

C.27:7-44.10 Findings, declarations relative to certain highway entry or exit ramps.

2. The Legislature finds and declares that:
 - a. The safety of the State's school children is of paramount importance.
 - b. Given the school facilities needs of Abbott districts, as defined pursuant to section 3 of P.L.1996, c.138 (C.18A:7F-3), particular sensitivity is required for the safety of children attending schools in those districts.
 - c. The Department of Transportation must exercise the utmost care when considering any proposal to plan, design, or construct a highway entry or exit ramp within 1,000 feet of a school.
 - d. A local board of education, and the New Jersey Economic Development Authority in the case of a school to be constructed by the authority pursuant to P.L.2000, c.72 (C.18A:7G-1 et al.), or a board of a nonpublic school must also exercise the utmost care when considering any proposal to plan, design, or construct a school within 1,000 feet of a highway entry or exit ramp.

C.27:7-44.11 Definitions relative to certain highway entry or exit ramps.

3. As used in this act:

"Department" means the Department of Transportation.

"Highway" means a highway which is designated part of the Interstate System as provided in Title 23 of the United States Code, or is a limited access highway as defined in section 1 of P.L.1945, c.83 (C.27:7A-1).

"School" means a public or nonpublic school containing any of the grades kindergarten through 12.

C.27:7-44.12 New entry or exit ramp, construction within 1,000 feet of school; prohibited; exceptions.

4. a. A new entry or exit ramp shall not be constructed as part of a highway project if a school is located or is being constructed within 1,000 feet of the proposed location of the entry or exit ramp, unless, during the

planning and design of the project, the department determines that the construction is required and that there is no feasible or prudent alternative.

b. Prior to making the determination required pursuant to subsection a. of this section, the department shall, as part of its community outreach efforts to identify a preferred alternative design for the highway project, notify the local board of education in whose district the school is located or being constructed, and in the case of a school being constructed by the New Jersey Economic Development Authority, the authority, or in the case of a nonpublic school, the board thereof, the Department of Education and the members of the Legislature representing the district in which the school is located or being constructed, that the department is considering the construction of an entry or exit ramp within 1,000 feet of the school. The preferred alternative design for the highway project shall not be selected until the members of the Legislature notified pursuant to this subsection have been afforded the opportunity to submit comments to the department. If the department subsequently determines that the construction of the entry or exit ramp is required and that there is no feasible or prudent alternative, pedestrian safety issues shall be included as part of the environmental review undertaken by the department pursuant to State and federal laws, rules and regulations. When the public forum is held as part of the environmental review of the proposed highway project, the department shall present its plan for any entry or exit ramp and the safety measures, consistent with the recommendations of the study required pursuant to section 7 of this act, that are to be included in the highway project.

c. An entry or exit ramp for a highway shall not be reconstructed if a school is located or being constructed within 1,000 feet of the location of the ramp unless the department shall take steps to minimize the public safety hazards of the reconstructed ramp, consistent with the recommendations contained in the study required pursuant to section 7 of this act.

C.18A:7G-5.1 No construction of school within 1,000 feet of an existing entry, exit ramp of a highway; exceptions.

5. a. A school shall not be constructed within 1,000 feet of an existing entry or exit ramp of a highway unless, during the planning and design of the proposed school, the local board of education and, in the case of a school to be constructed by the New Jersey Economic Development Authority, the authority, or, in the case of a nonpublic school, the board thereof, determines that there is no feasible or prudent alternative. Prior to making this determination, the local board of education and, in the case of a school to be constructed by the New Jersey Economic Development Au-

thority, the authority, or, in the case of a nonpublic school, the board thereof, shall notify the members of the Legislature representing the district in which the school is proposed to be constructed and the Departments of Transportation and Education that construction of a school is being considered within 1,000 feet of the entry or exit ramp of a highway. The legislators shall be afforded the opportunity to submit comments to the local board of education, and, in the case of a school being constructed by the New Jersey Economic Development Authority, the authority, or the board of the nonpublic school, as the case may be, and the Departments of Transportation and Education. If the determination is subsequently made that there is no feasible or prudent alternative, the Department of Transportation shall be so notified and the Department of Transportation shall review the proposed location of the school, identify potential safety hazards, and make recommendations to abate or minimize such hazards consistent with the study required pursuant to section 7 of this act, or if the study is not completed, consistent with such preliminary findings and recommendations which may exist. The Department of Transportation shall complete its review within 90 days of receiving notification of the determination, and shall report its findings to the local board of education and, in the case of a school being constructed by the New Jersey Economic Development Authority, to the authority, or to the board of the nonpublic school, the Department of Education and the members of the Legislature representing the legislative district in which the school is proposed to be constructed.

b. As a condition of granting approval of a proposed school facilities project, the Department of Education shall require a local board of education to include with a board's application for approval: (1) a certification that the proposed school is not within 1,000 feet of an entry or exit ramp of a highway; or (2) a response to each item of advice to mitigate safety hazards that the Department of Transportation has issued based on the Department of Transportation's review of the school project.

C.27:7-44.13 Determination of distance between a highway ramp and school.

6. For the purpose of determining the distance between a highway ramp and a school pursuant to sections 4 and 5 of this act, the distance of 1,000 feet between a school and a highway entry or exit ramp shall be measured along the roadway from the school property line closest to the proposed ramp to the beginning of the full lane width of a deceleration lane or the end of the full lane width of an acceleration lane. The distance of 1,000 feet shall be measured along the center line of the traveled way of the roadway not the straight line distance between two points.

C.27:7-44.14 Statewide study.

7. a. The department, in consultation with the Department of Education, shall conduct a Statewide study to identify public safety hazards posed by highway entry or exit ramps located within 1,000 feet of a school. The study shall include recommendations to abate such safety hazards for existing ramps and recommendations to avoid or minimize such safety hazards when designing or reconstructing ramps. In addition, the study shall include specific recommendations to abate student pedestrian safety hazards at highway entry or exit ramps located within 1,000 feet of a school that is planned for continued use or expansion. No later than two years after the effective date of this act, the study required by this subsection shall be transmitted to the President of the Senate, the Speaker of the General Assembly, the members of the Legislature, the metropolitan planning organizations designated within the State, and the Administrator of the Federal Highway Administration.

b. Requests to fund improvements that address safety hazards at highway entry or exit ramps shall be included, to the extent eligible, in the report of proposed projects to be financed by the New Jersey Transportation Trust Fund Authority and required to be submitted annually pursuant to section 22 of P.L.1984, c.73 (C.27:1B-22) by the Commissioner of Transportation.

C.27:7-44.15 Inapplicability of act.

8. This act shall not apply to highway projects for which preliminary design has been completed and for which environmental work has commenced on or before the effective date of this act.

9. This act shall take effect immediately, except that sections 5 and 6 shall take effect 180 days after enactment, and section 4 shall take effect on the date the study is transmitted as required by section 7 of this act.

Approved January 13, 2008.

CHAPTER 309

AN ACT concerning the issuance of service medals and ribbons to certain veterans and amending N.J.S.38A:15-2 and P.L.2000, c.154.

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

1. N.J.S.38A:15-2 is amended to read as follows:

Distinguished service medals.

38A:15-2. The Governor may present in the name of the State of New Jersey a distinguished service medal of appropriate design, and ribbon to be worn in lieu thereof, to:

a. any member of the organized militia who, while serving in any capacity in the organized militia under orders of the Governor, or while in federal service, shall have been distinguished by especially meritorious service and who has been or may be cited in orders for distinguished service by the Governor or by appropriate federal authority;

b. any resident or former resident of the State of New Jersey who was a resident of this State at the time of entry into active military service or who has been a resident of this State for at least twenty years in the aggregate and (1) who while serving in the organized militia or in federal military service on active duty in time of war or emergency, shall have been distinguished by especially meritorious service and who has been or may be cited in orders for distinguished service by the Governor or by appropriate federal authority or (2) who shall have seen active military service in the Armed Forces of the United States of America in a combat theater of operations during time of war or emergency as attested to by the awarding of an honorable discharge and DD 214 or WD 53 by the respective Armed Force;

c. any deceased person who, on the date of induction into the organized militia or federal military service, was a resident of this State or who was a resident of this State at the time of death and for at least 20 years in the aggregate immediately preceding death and (1) who, while serving in the organized militia or in federal military service on active duty in time of war or emergency, shall have been distinguished by especially meritorious service and who has been or may be cited in orders for distinguished service by the Governor or appropriate federal authority or (2) who shall have seen active military service in the Armed Forces of the United States of America in a combat theater of operations during time of war or emergency as attested to by the awarding of an honorable discharge and DD 214 or WD 53 by the respective Armed Force or who, having seen such service, died while on active duty as evidenced by DD 1300; or

d. any person who, on the date of induction into the organized militia or federal military service, was a resident of this State or who is currently a resident of this State and has been a resident for at least 20 years in the aggregate and who, while serving in the organized militia or in federal military service on active duty in time of war or emergency, shall have been

officially listed as a prisoner of war or missing in action by the United States Department of Defense.

The service medal for a deceased person or a person absent as a prisoner of war or missing in action shall be issued to the parent, spouse, sibling or other relative who submits all of the required forms and documentation on behalf of that person.

2. Section 1 of P.L.2000, c.154 is amended to read as follows:

1. The Legislature finds and declares:

a. The year 1998 marks the 25th anniversary of the United States, North Vietnam, South Vietnam and the National Liberation Front's provisional revolutionary government signing an agreement to end the war in Vietnam;

b. The conflict that was declared over in 1973 was a uniquely important event in the political and domestic history of Southeast Asia and of this country;

c. The United States' involvement in that conflict resulted in great domestic turmoil and dispute in this nation, as well as over 50,000 American soldiers killed, including 1,515 from New Jersey; and

d. It is fitting and proper for this State to recognize and honor those men and women who served proudly and those who died bravely in that conflict on the 25th anniversary of its ending, because in 1973 those same individuals were often ignored or scorned for their service to their country.

3. Section 2 of P.L.2000, c.154 is amended to read as follows:

2. a. The Adjutant General is hereby authorized to issue a medal and ribbon to commemorate the 25th anniversary of the ending of the Vietnam Conflict in January 1973.

b. The medal and ribbon shall be issued to: (1) all residents of the State who were on active duty in any branch of the armed forces of the United States in Vietnam, Thailand, Laos or Cambodia or the contiguous waters or airspace thereof on or after December 31, 1960 and on or before May 7, 1975, who have been given an honorable discharge from such service, if discharged or released therefrom, and:

(a) were attached to or served for one or more days with an organization participating in or directly supporting military operations;

(b) were attached to or served for one or more days aboard a United States Naval vessel directly supporting military operations;

(c) participated as a crew member in one or more aerial flights into airspace above Vietnam and contiguous waters directly supporting military operations; or

(d) served on temporary duty for 30 consecutive days or 60 nonconsecutive days in Vietnam or contiguous areas, except that this time limit may be waived for persons participating in actual combat operations;

(2) the surviving spouse or immediate family member of any resident of the State meeting the requirements for a medal established by paragraph (1) of this subsection who was killed while on active duty or died after receiving an honorable discharge from the armed forces; or

(3) any person who, on the date of induction into the organized militia or federal military service, was a resident of this State and who meets the service requirements for a medal established by paragraph (1) of this subsection.

c. The Adjutant General shall select an appropriate design for the award no later than the fourth month following the enactment of this act and shall issue the award to qualified persons beginning no later than the eighth month following enactment.

d. No person shall be entitled to more than one award of the medal and ribbon authorized by subsection a. of this section.

4. This act shall take effect immediately.

Approved January 13, 2008.

CHAPTER 310

AN ACT lowering the jobs retention eligibility requirement for tax credits for business relocation and retention in New Jersey and amending P.L.1996, c.25.

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

1. Section 4 of P.L.1996, c.25 (C.34:1B-115) is amended to read as follows:

C.34:1B-115 Grant of tax credits; qualifications.

4. a. To qualify for a grant of tax credits, a business shall enter into an agreement to undertake a project to:

(1) relocate a minimum of 50 retained full-time jobs from one or more locations within this State to a new business location or locations in this State; and

(2) maintain the retained full-time jobs pursuant to the project agreement for the commitment duration.

b. A project that consists solely of point-of-final-purchase retail facilities shall not be eligible for a grant of tax credits. If a project consists of both point-of-final-purchase retail facilities and non-retail facilities, only the portion of the project consisting of non-retail facilities shall be eligible for a grant of tax credits. If a warehouse facility is part of a point-of-final-purchase retail facility and supplies only that facility, the warehouse facility shall not be eligible for a grant of tax credits. For the purposes of this section, catalog distribution centers shall not be considered point-of-final-purchase retail facilities.

2. Section 7 of P.L.2004, c.65 (C.34:1B-115.3) is amended to read as follows:

C.34:1B-115.3 Limit on total value of grants of tax credits.

7. a. The total value of the grants of tax credits issued pursuant to P.L.1996, c.25 (C.34:1B-112 et seq.) shall not exceed an aggregate annual limit of \$20,000,000 for a fiscal year. A tax credit issued pursuant to P.L.1996, c.25 may be applied against liability arising in the tax period in which the tax credit is issued and the tax period next following, and shall expire thereafter.

b. Grants of tax credits shall be awarded and issued to qualifying businesses as follows, subject to the limitations of subsection c. of this section:

(1) for a project that covers a business relocating a minimum of 500 full-time employees, a grant of tax credits made pursuant to P.L.1996, c.25 (C.34:1B-112 et seq.) shall equal total allowable relocation costs plus any applicable bonus award determined pursuant to section 5 of P.L.2004, c.65 (C.34:1B-115.1) and shall be issued immediately upon the entry of the project agreement between the commissioner and the business with an approved project, up to the aggregate annual limit; and

(2) for a project that covers a business relocating between 50 and 499 full-time employees, a grant of tax credits shall not be issued until the end of the fiscal year in which the application is approved.

c. If the sum of the amount of tax credits issued pursuant to paragraph (1) of subsection b. of this section in a fiscal year, plus the amount of tax credits approved pursuant to paragraph (2) of subsection b. of this section exceeds the \$20,000,000 aggregate annual limit, the commissioner shall reduce, on a pro rata basis, the award to each business receiving a grant of tax credits pursuant to paragraph (2) of subsection b. as necessary to comply with the aggregate annual limit.

3. This act shall take effect immediately.

Approved January 13, 2008.

CHAPTER 311

AN ACT concerning the recycling of solid waste, imposing a recycling tax on solid waste generation, amending, supplementing and repealing various sections of statutory law, and making an appropriation.

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

C.13:1E-96.2 Short title.

1. This act shall be known and may be cited as the "Recycling Enhancement Act."

C.13:1E-96.3 Findings, declarations relative to recycling goals and recycling of solid waste.

2. The Legislature finds and declares that the State Recycling Plan goals, which provide for the recycling of 50% of the municipal solid waste stream and 60% of the total solid waste stream, are perhaps the most ambitious in the nation; that since the expiration of the recycling tax on December 31, 1996 the State of New Jersey provides less public support to recycling than at least 25 other states; that this lack of public financial support, especially for local public information and recycling education programs, is at least partly responsible for the steady decline in New Jersey's recycling rates over the past decade, from a high of 45% recycling of the municipal solid waste stream in 1995 to a recycling rate of 33% in 2003; and that it is unacceptable that the State which enacted the nation's first statewide mandatory recycling law has been unable to sustain its heretofore exemplary recycling efforts due to inadequate public funding.

The Legislature further finds that the recycling of waste materials decreases waste flow to county solid waste facilities and out-of-State disposal sites, and that by achieving the statutory recycling goals a disposal facility capacity savings equal to the annual utilization of 3.5 solid waste incinerators or 4.5 solid waste landfills can be realized; that recycling reduces waste flow to the State's solid waste incinerators while contributing to their overall combustion efficiency through the removal of noncombustible and non-processible materials at the source, recovers or saves valuable resources,

including over 3 million tons of iron, coal and limestone in the production of new ferrous metals and over 9 million trees in the production of virgin paper from the ferrous metals and paper recycling by New Jersey residents and businesses in 2003 alone, conserves an estimated 86 trillion BTU's, or the equivalent of 700 million gallons of gasoline in the manufacturing process, and offers a supply of domestic raw materials for the State's recycling-related industries, which include over 2,000 businesses with over 27,000 employees; that recycling reduces air and water pollutants emitted during the manufacturing process by more than 134,000 metric tons; that economically viable municipal and county recycling programs are necessary to achieve the maximum practicable recovery of reusable materials from solid waste in this State; and that such programs will reduce the amount of solid waste disposed at county solid waste facilities, result in more efficient solid waste incinerators, conserve energy and resources, and recover materials for industrial uses.

The Legislature, therefore, declares it to be in the environmental and economic interests of the State of New Jersey to provide financial support for municipal and county recycling programs through the imposition of a tax on solid waste generation.

C.13:1E-96.4 Definitions relative to recycling of solid waste.

3. For the purposes of this act:

"Beverage container" means an individual, separate, hermetically sealed, or made airtight with a metal or plastic cap, bottle or can composed of glass, metal, plastic or any combination thereof, containing a beverage.

"Certified recycling coordinator" means a person or persons designated as such pursuant to section 3 of P.L.1987, c.102 (C.13:1E-99.13) or section 6 of P.L.1987, c.102 (C.13:1E-99.16).

"Commissioner" means the Commissioner of Environmental Protection.

"Department" means the Department of Environmental Protection.

"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.

"Materials recovery" means the processing and separation of solid waste utilizing manual or mechanical methods for the purposes of recovering recyclable materials for disposition and recycling prior to the disposal of the residual solid waste at an authorized solid waste facility.

"Materials recovery facility" means a transfer station or other authorized solid waste facility at which nonhazardous solid waste, which material

is not source separated by the generator thereof prior to collection, is received for onsite processing and separation utilizing manual or mechanical methods for the purposes of recovering recyclable materials for disposition and recycling prior to the disposal of the residual solid waste at an authorized solid waste facility.

"Post-consumer waste material" means a material or product that would otherwise become solid waste, having completed its intended end use and product life cycle; except that "post-consumer waste material" shall not include secondary waste material or materials and by-products generated from, and commonly used within, an original manufacturing and fabrication process.

"Recycled product" means any product or commodity which is manufactured or produced in whole or in part from post-consumer waste material and which meets the recycled content standard of the United States Environmental Protection Agency as published in the Comprehensive Procurement Guidelines for Products Containing Recovered Material.

"Residue" means any solid waste generated as a result of the use of post-consumer waste material in the manufacture of a recycled product.

"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; or a mechanized composting facility, or any other solid waste facility constructed or operated for the collection, separation, recycling, and recovery of metals, glass, paper, and other materials for reuse or for energy production.

"Secondary waste material" means waste material generated after the completion of a manufacturing process.

"Solid waste" means the same as that term is defined in section 3 of P.L.1970, c.39 (C.13:1E-3), except that, as used in the provisions of P.L.2007, c.311 (C.13:1E-96.2 et al.), "solid waste" shall be limited to the following solid waste ID types: Type 10 Municipal; Type 12 Dry sewage sludge; Type 13 Bulky waste; Type 13C Construction and Demolition waste; Type 23 Vegetative waste; Type 25 Animal and food processing wastes; and Type 27 Dry industrial waste, as set forth in N.J.A.C.7:26-1.6 and N.J.A.C.7:26-2.13.

"Solid waste collection" means the activity related to pick-up and transportation of solid waste from its source or location to a solid waste facility or other destination.

"Solid waste collector" means a person engaged in the collection of solid waste and registered pursuant to sections 4 and 5 of P.L.1970, c.39 (C.13:1E-4 and 13:1E-5); or any municipality wherein the municipal gov-

erning body has established and operates a municipal service system for solid waste collection pursuant to R.S.40:66-1.

"Solid waste disposal" means the storage, treatment, utilization, processing, transfer, or final disposal of solid waste.

"Solid waste facilities" means and includes the plants, structures and other real and personal property acquired, constructed or operated or to be acquired, constructed or operated by, or on behalf of, any person, public authority or county pursuant to the provisions of P.L.1970, c.39 (C.13:1E-1 et seq.) or any other act, including transfer stations, incinerators, resource recovery facilities, sanitary landfill facilities or other plants for the disposal of solid waste, and all vehicles, equipment and other real and personal property and rights therein and appurtenances necessary or useful and convenient for the collection or disposal of solid waste in a sanitary manner.

C.13:1E-96.5 Recycling tax on owner, operator of solid waste facility; applicability; rate.

4. a. (1) There is levied upon the owner or operator of every solid waste facility a recycling tax of \$3.00 per ton on all solid waste accepted for disposal or transfer at the solid waste facility.

The recycling tax shall not be imposed on solid waste transported from an in-State transfer station from which the recycling tax has been levied on the owner or operator thereof to an in-State solid waste facility for final disposal.

(a) The recycling tax shall not be imposed on the owner or operator of a railroad transfer station or other facility designed exclusively to transport waste on railroads.

(b) The recycling tax shall not be imposed on the owner or operator of a sanitary landfill facility for the acceptance for disposal of the ash residue resulting from the incineration of solid waste at a resource recovery facility.

(c) The recycling tax shall not be imposed on the owner or operator of a solid waste facility for the acceptance for disposal of solid waste originating from out-of-State sources under a contract awarded prior to December 31, 2007 if the contract does not include a change-in-law or similar mechanism by which the recycling tax imposed by this section may be passed through as a fee or surcharge on the rates and charges set forth in the contract.

(d) The recycling tax shall not be imposed on the owner or operator of a resource recovery facility for the acceptance for disposal of solid waste originating from in-State sources under a contract awarded prior to December 31, 2007 if the contract does not include a change-in-law or similar mechanism by which the recycling tax imposed by this section may be passed through as a fee or surcharge on the rates and charges set forth in the contract.

The recycling tax shall be imposed on the owner or operator of a solid waste facility for the acceptance for disposal of solid waste originating from out-of-State sources under any contract awarded after December 31, 2007.

(2) There is levied upon every solid waste collector that transports solid waste for transshipment or direct transportation to an out-of-State disposal site a recycling tax. The recycling tax shall be levied on the solid waste collector at the rate of \$3.00 per ton on all solid waste collected for transportation to a railroad transfer station or other facility designed to transport waste on railroads or directly to an out-of-State disposal site.

b. (1) Every person subject to the recycling tax shall, within 30 days of the effective date of this act, register with the director on forms prescribed by the director.

(2) Every person subject to the recycling tax shall, on or before the first day of the first full fiscal quarter following the effective date of this act, and quarterly thereafter, render a return under oath to the director, on such forms as may be prescribed by the director, indicating the number of tons of solid waste accepted for disposal or transfer, or collected, as appropriate, and at that time shall pay the full amount due.

c. If a return required by this section is not filed, or if a return when filed is incorrect or insufficient in the opinion of the director, the amount due shall be determined by the director from such information as may be available. Notice of the determination shall be given to the person subject to the recycling tax. The determination shall finally and irrevocably fix the amount due, unless the person on whom it is imposed, within 90 days after the giving of the notice of the determination, shall file a protest in writing as provided in R.S.54:49-18 and request a hearing, or unless the director on the director's own motion shall redetermine the same. After the hearing the director shall give notice of the determination to the person on whom the recycling tax is imposed.

d. Any person subject to the recycling tax who fails to file a return when due or to pay any tax when it becomes due, as herein provided, shall be subject to such penalties and interest as provided in the "State Uniform Tax Procedure Law," R.S.54:48-1 et seq. If the director determines that the failure to comply with any provision of this section was excusable under the circumstances, the director may remit that part or all of the penalty as shall be appropriate under the circumstances.

e. The director shall deposit all revenues collected pursuant to this section in the State Recycling Fund established pursuant to section 5 of P.L.1981, c.278 (C.13:1E-96).

f. In addition to the other powers granted to the director in this section, the director is authorized:

(1) To delegate to any officer or employee of the division those powers and duties as the director deems necessary to carry out efficiently the provisions of this section, and the person to whom the power has been delegated shall possess and may exercise all of these powers and perform all of the duties delegated by the director;

(2) To prescribe and distribute all necessary forms for the implementation of this section.

g. (1) Every owner or operator of a solid waste facility may collect the recycling tax imposed by this section by (a) including the amount of recycling tax due as a separate line item on every customer bill or other statement presented to a solid waste collector or solid waste generator; (b) including the amount of recycling tax due as a fee or surcharge on any amount collected under a contract awarded pursuant to the "Local Public Contracts Law," P.L.1971, c.198 (C.40A:11-1 et seq.) or any other law for the provision of solid waste collection or solid waste disposal services; or (c) imposing an automatic surcharge on any tariff established pursuant to law for the solid waste disposal or transfer operations of the solid waste facility.

(2) Every solid waste collector is hereby authorized to calculate, charge and collect rates, fees or surcharges from all solid waste generators serviced by the solid waste collector sufficient to recover the recycling tax collected by the owner or operator of the solid waste facility.

(3) Every solid waste collector subject to the recycling tax is hereby authorized to calculate, charge and collect rates, fees or surcharges from all solid waste generators serviced by the solid waste collector sufficient to recover the recycling tax imposed by this section.

h. The recycling tax imposed by this section shall be governed in all respects by the provisions of the "State Uniform Tax Procedure Law," R.S.54:48-1 et seq., except only to the extent that a specific provision of this section may be in conflict therewith.

i. (1) The recycling tax imposed by this section shall not be imposed on the owner or operator of a materials recovery facility for the acceptance of Type 13C Construction and Demolition waste, provided that the facility meets or exceeds recyclable materials extraction rates as established by the department.

(2) The recycling tax imposed by this section shall not be imposed on a solid waste collector or the owner or operator of a solid waste facility for the collection or acceptance for disposal or transfer of residue resulting from the operations of a scrap processing facility as defined in section 2 of P.L.1987, c.102 (C.13:1E-99.12).

j. The recycling tax imposed by this section shall not be imposed on a solid waste collector or the owner or operator of a solid waste facility for the collection or acceptance for disposal or transfer of residue, provided that the residue is generated as a result of the use of post-consumer waste material in the manufacture of a recycled product which constitutes at least 75% of total annual sales dollar volume of the products manufactured by a manufacturer in this State as determined by the director.

k. The registration issued to any person subject to the recycling tax who violates the provisions of this section may be subject to revocation or suspension pursuant to section 12 of P.L.1970, c.39 (C.13:1E-12).

l. Subsections a. through k. of this section shall be without effect on and after the tenth day following a certification by the Director of the Division of Budget and Accounting in the Department of the Treasury pursuant to subsection b. of section 6 of P.L.2007, c.311 (C.13:1E-96.7).

C.13:1E-96.6 Recycling tax suspended when beverage containers are refundable.

5. The recycling tax imposed pursuant to section 4 of P.L.2007, c.311 (C.13:1E-96.5) shall not be due and payable if, and as long as, any State of New Jersey or federal law, or any rule or regulation adopted pursuant thereto, requiring a deposit on, or establishing a refund value for, any beverage container shall be in effect.

C.13:1E-96.7 Annual appropriations; conditions.

6. a. The annual appropriations act for each State fiscal year shall, without other conditions, limitations or restrictions on the following:

(1) appropriate the amounts specified pursuant to paragraph (1) of subsection b. of section 5 of P.L.1981, c.278 (C.13:1E-96) for use by the Department of Environmental Protection for direct recycling grants to counties and municipalities; and

(2) appropriate the balance of the State Recycling Fund established pursuant to section 5 of P.L.1981, c.278 (C.13:1E-96) for the purposes set forth in paragraphs (2), (3) and (4) of subsection b. of that section.

b. If the requirements of subsection a. of this section are not met on the effective date of an annual appropriations act for the State fiscal year, or if an amendment or supplement to an annual appropriations act for the State fiscal year should violate any of the requirements of subsection a. of this section, the Director of the Division of Budget and Accounting in the Department of the Treasury shall, not later than five days after the enactment of the annual appropriations act, or an amendment or supplement thereto that violates any of the requirements of subsection a. of this section, certify

to the Director of the Division of Taxation that the requirements of subsection a. of this section have not been met.

7. Section 5 of P.L.1981, c.278 (C.13:1E-96) is amended to read as follows:

C.13:1E-96 State Recycling Fund; allocation of moneys.

5. a. The State Recycling Fund (hereinafter referred to as the "fund") is established as a nonlapsing, revolving fund. The fund shall be administered by the Department of Environmental Protection, and shall be credited with all recycling tax revenue collected pursuant to section 4 of P.L.2007, c.311 (C.13:1E-96.5), and all interest received on moneys in the fund.

b. Moneys in the fund shall be appropriated annually solely for the following purposes and no others:

(1) 60% of the estimated annual balance of the fund shall be used for the annual expenses of a program for direct recycling grants to municipalities or counties in those instances where a county, at its own expense, provides for the collection, processing and marketing of recyclable materials on a regional basis. The amount of a direct recycling grant shall be calculated on the basis of the total number of tons of recyclable materials annually recycled from residential, commercial and institutional sources within a particular municipality, or group of municipalities in the case of a county recycling program. No direct recycling grant shall exceed \$10 per ton of recyclable materials recycled. All grant moneys received by a municipality shall be expended only for its recycling program. The department may allocate a portion of the direct recycling grant moneys as bonus grants to municipalities and counties whenever a municipality or county, at its own expense, provides for the collection of recyclable materials in its recycling program. The department shall announce each year the total amount of moneys available in the bonus grant fund.

A municipality may distribute a portion of its direct recycling grant moneys to nonprofit groups that are located within that municipality and which have contributed to the receipt of the direct recycling grant, except that this distribution shall not exceed the value of approved documented tonnage contributed by a nonprofit group.

A municipality may designate any nonprofit group as a recycling agent. A recycling agent shall receive that part of the municipality's direct recycling grant under this paragraph that represents the percentage of the grant received by the municipality due to the documented tonnage contributed by that recycling agent. Moneys received by a recycling agent shall be ex-

pendent only for its recycling program. Any moneys not used for recycling shall be returned by the recycling agent to the municipality.

To be eligible for a direct recycling grant pursuant to this paragraph, a municipality or county in the case of a county recycling program shall demonstrate that the recyclable materials recycled by the municipal or county recycling program were not diverted from a commercial recycling program already in existence on the effective date of the ordinance or resolution establishing the municipal or county recycling program.

To remain eligible for a direct recycling grant pursuant to this paragraph, a municipality or county in the case of a county recycling program shall submit an annual recycling tonnage report to the department in accordance with rules and regulations adopted by the department therefor. Following the designation of a district certified recycling coordinator pursuant to section 3 of P.L.1987, c.102 (C.13:1E-99.13) and the designation of a municipal certified recycling coordinator pursuant to section 6 of P.L.1987, c.102 (C.13:1E-99.16), the department shall not accept an annual recycling tonnage report from a county or municipality unless the report has been signed by a certified recycling coordinator.

No direct recycling grant to any municipality shall be used for constructing or operating any facility for the baling of wastepaper or for the shearing, baling or shredding of ferrous or nonferrous materials.

Whenever a municipality operates a municipal service system for solid waste collection pursuant to R.S.40:66-1, or provides for regular solid waste collection service under a contract awarded pursuant to the "Local Public Contracts Law," P.L.1971, c.198 (C.40A:11-1 et seq.), the amount of grant moneys received by the municipality shall not be less than the annual amount of recycling tax paid by the municipality pursuant to section 4 of P.L.2007, c.311 (C.13:1E-96.5), except that all grant moneys received by the municipality shall be expended only for its recycling program;

(2) 5% of the estimated annual balance of the fund shall be used for State recycling program planning and program funding, including the administrative expenses thereof;

(3) 25% of the estimated annual balance of the fund shall be used to provide State aid to counties for preparing, revising, and implementing solid waste management plans, including the implementation of the goals of the State Recycling Plan. The moneys may also be used by the counties to support community oversight projects and to establish a citizens' advisory committee. A county receiving State aid shall not expend more than 2% of the amount of aid received in any year for the costs of administering the aid. The State aid shall be distributed to the counties on the basis of the

total amount of solid waste generated from within each county during the previous calendar year as determined by the department. In the event that the department determines that any county has failed to fulfill its district solid waste management planning responsibilities, the department may withhold for an entire year or until the county fulfills its responsibilities, all or a portion of the amount of moneys that county would have received in any year pursuant to this paragraph. Any moneys withheld for an entire year shall be distributed among the remaining counties in the same proportion as the other moneys were distributed. The moneys may also be used by the counties for household hazardous waste collection, and for recycling program planning and program funding, including the administrative expenses thereof;

(4) 5% of the estimated annual balance of the fund shall be used by counties for public information and education programs concerning recycling activities; and

(5) 5% of the estimated annual balance of the fund shall be used by the department to provide grants to institutions of higher education to conduct research in recycling.

8. Section 3 of P.L.1987, c.102 (C.13:1E-99.13) is amended to read as follows:

C.13:1E-99.13 District recycling plan.

3. a. Each county shall prepare and adopt a district recycling plan to implement the State Recycling Plan goals. Each district recycling plan shall be adopted as an amendment to the district solid waste management plan required pursuant to the provisions of the "Solid Waste Management Act," P.L.1970, c.39 (C.13:1E-1 et seq.) and subject to the approval of the department. Each district recycling plan may be modified after adoption pursuant to a procedure set forth in the adopted plan as approved by the department.

b. Each district recycling plan required pursuant to this section shall include, but need not be limited to:

- (1) Designation of a district recycling coordinator;
- (2) Designation of the recyclable materials to be source separated in each municipality which shall include, in addition to leaves, at least three other recyclable materials separated from the municipal solid waste stream;
- (3) Designation of the strategy for the collection, marketing and disposition of designated source separated recyclable materials in each municipality;

(4) Designation of recovery targets in each municipality to achieve the maximum feasible recovery of recyclable materials from the municipal solid waste stream which shall include, at a minimum, the following schedule:

(a) The recycling of at least 15% of the total municipal solid waste stream by December 31, 1989;

(b) The recycling of at least 25% of the total municipal solid waste stream by December 31, 1990; and

(c) The recycling of at least 50% of the total municipal solid waste stream, including yard waste and vegetative waste, by December 31, 1995; and

(5) Designation of countywide recovery targets to achieve the maximum feasible recovery of recyclable materials from the total solid waste stream which shall include, at a minimum, the recycling of at least 60% of the total solid waste stream by December 31, 1995.

Within 24 months of the effective date of P.L.2007, c.311 (C.13:1E-96.2 et al.), each district recycling plan shall be modified to include the designation of a district certified recycling coordinator.

For the purposes of this subsection, "district certified recycling coordinator" means a person who shall have completed the requirements of a course of instruction in various aspects of recycling program management, as determined and administered by the department; "total municipal solid waste stream" means the sum of the municipal solid waste stream disposed of as solid waste, as measured in tons, plus the total number of tons of recyclable materials recycled; and "total solid waste stream" means the aggregate amount of solid waste generated within the boundaries of any county from all sources of generation, including the municipal solid waste stream.

c. Each district recycling plan, in designating a strategy for the collection, marketing and disposition of designated recyclable materials in each municipality, shall authorize municipalities that adopt a recycling ordinance pursuant to subsection b. of section 6 of P.L.1987, c.102 (C.13:1E-99.16) to limit the collection of designated recyclable materials to specified operating hours in order to preserve the peace and quiet in neighborhoods during the hours when most residents are asleep.

d. A district recycling plan may be modified to require that each municipality within the county revise the ordinance adopted pursuant to subsection b. of section 6 of P.L.1987, c.102 (C.13:1E-99.16) to provide for the source separation and collection of used dry cell batteries as a designated recyclable material.

9. Section 6 of P.L.1987, c.102 (C.13:1E-99.16) is amended to read as follows:

C.13:1E-99.16 Municipal recycling program.

6. Each municipality in this State shall, within 24 months of the effective date of P.L.2007, c.311 (C.13:1E-96.2 et al.), designate one or more persons as the municipal certified recycling coordinator. For the purposes of this section, "municipal certified recycling coordinator" means a person who shall have completed the requirements of a course of instruction in various aspects of recycling program management, as determined and administered by the department.

Each municipality shall establish and implement a municipal recycling program in accordance with the following requirements:

a. Each municipality shall provide for a collection system for the recycling of the recyclable materials designated in the district recycling plan as may be necessary to achieve the designated recovery targets set forth in the plan in those instances where a recycling collection system is not otherwise provided for by the generator or by the county, interlocal service agreement or joint service program, or other private or public recycling program operator.

b. The governing body of each municipality shall adopt an ordinance which requires persons generating municipal solid waste within its municipal boundaries to source separate from the municipal solid waste stream, in addition to leaves, the specified recyclable materials for which markets have been secured and, unless recycling is otherwise provided for by the generator, place these specified recyclable materials for collection in the manner provided by the ordinance.

c. The governing body of each municipality shall, at least once every 36 months, conduct a review and make necessary revisions to the master plan and development regulations adopted pursuant to P.L.1975, c.291 (C.40:55D-1 et seq.), which revisions shall reflect changes in federal, State, county and municipal laws, policies and objectives concerning the collection, disposition and recycling of designated recyclable materials.

The revised master plan shall include provisions for the collection, disposition and recycling of recyclable materials designated in the municipal recycling ordinance adopted pursuant to subsection b. of this section, and for the collection, disposition and recycling of designated recyclable materials within any development proposal for the construction of 50 or more units of single-family residential housing or 25 or more units of multi-family residential housing and any commercial or industrial development proposal for the utilization of 1,000 square feet or more of land.

d. The governing body of a municipality may exempt persons occupying commercial and institutional premises within its municipal boundaries

from the source separation requirements of the ordinance adopted pursuant to subsection b. of this section if those persons have otherwise provided for the recycling of the recyclable materials designated in the district recycling plan from solid waste generated at those premises. To be eligible for an exemption pursuant to this subsection, a commercial or institutional solid waste generator annually shall provide written documentation to the municipality of the total number of tons recycled.

e. The governing body of each municipality shall, on or before July 1 of each year, submit a recycling tonnage report to the New Jersey Office of Recycling in accordance with rules and regulations adopted by the department therefor.

f. The governing body of each municipality shall, at least once every six months, notify all persons occupying residential, commercial, and institutional premises within its municipal boundaries of local recycling opportunities, and the source separation requirements of the ordinance. In order to fulfill the notification requirements of this subsection, the governing body of a municipality may, in its discretion, place an advertisement in a newspaper circulating in the municipality, post a notice in public places where public notices are customarily posted, include a notice with other official notifications periodically mailed to residential taxpayers, or any combination thereof, as the municipality deems necessary and appropriate.

The governing body of a municipality that adopts a recycling ordinance pursuant to subsection b. of this section may limit the collection of designated recyclable materials to specified operating hours in order to preserve the peace and quiet in neighborhoods during the hours when most residents are asleep.

10. Section 2 of P.L.1985, c.38 (C.13:1E-137) is amended to read as follows:

C.13:1E-137 Definitions.

2. As used in this act:

"Contract file" means a file established and maintained by a contracting unit, in which the contracting unit shall maintain a copy of its request for qualifications issued pursuant to section 19 of P.L.1985, c.38 (C.13:1E-154), a list of vendors responding to its request for qualifications, a copy of its request for proposals issued pursuant to section 20 of P.L.1985, c.38 (C.13:1E-155), a list of qualified vendors submitting proposals, and a document outlining the general criteria used by the contracting unit in selecting a proposal;

"Contracting unit" means any county; any municipality; any bistate authority; or any public authority which has statutory power to enter into contracts or agreements for the design, financing, construction, operation, or maintenance, or any combination thereof, of a resource recovery facility;

"County" means any county of this State of whatever class;

"Department" means the Department of Environmental Protection;

"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;

"Division of Local Government Services" means the Division of Local Government Services in the Department of Community Affairs;

"Franchise" means the exclusive right to control and provide for the disposal of solid waste, except for recyclable material whenever markets for those materials are available, within a district as awarded by the Board of Public Utilities or the department prior to November 10, 1997;

"Independent public accountant" means a certified public accountant, a licensed public accountant or a registered municipal accountant;

"Person or party" means any individual, public or private corporation, company, partnership, firm, association, political subdivision of this State, or any State, bistate, or interstate agency or public authority;

"Proposed contract" means a contract negotiated by a contracting unit pursuant to the provisions of P.L.1985, c.38 (C.13:1E-136 et al.);

"Public authority" means any municipal or county utilities authority created pursuant to the "municipal and county utilities authorities law," P.L.1957, c.183 (C.40:14B-1 et seq.); county improvement authority created pursuant to the "county improvement authorities law," P.L.1960, c.183 (C.40:37A-44 et seq.); pollution control financing authority created pursuant to the "New Jersey Pollution Control Financing Law," P.L.1973, c.376 (C.40:37C-1 et seq.), or any other public body corporate and politic created for solid waste management purposes in any county, pursuant to the provisions of any law;

"Qualified vendor" means any person or party financially qualified for, and technically and administratively capable of, undertaking the design, financing, construction, operation, or maintenance, or any combination thereof, of a resource recovery facility or of providing resource recovery services, as provided in section 19 of P.L.1985, c.38 (C.13:1E-154);

"Recyclable material" means those materials which would otherwise become solid waste, which may be collected, separated or processed and returned to the economic mainstream in the form of raw materials or products;

"Recycling" means any process by which materials which would otherwise become solid waste are collected, separated or processed and returned to the economic mainstream in the form of raw materials or products;

"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; or a mechanized composting facility, or any other solid waste facility constructed or operated for the collection, separation, recycling, and recovery of metals, glass, paper, and other materials for reuse or for energy production;

"Sanitary landfill facility" means a solid waste facility at which solid waste is deposited on or in the land as fill for the purpose of permanent disposal or storage for a period exceeding six months, except that it shall not include any waste facility approved for disposal of hazardous waste;

"Vendor" means any person or party proposing to undertake the design, financing, construction, operation, or maintenance, or any combination thereof, of a resource recovery facility or of providing resource recovery services.

11. Section 3 of P.L.1985, c.38 (C.13:1E-138) is amended to read as follows:

C.13:1E-138 Solid waste services, tax; obligation to pay.

3. a. There is levied upon the owner or operator of every sanitary landfill facility a solid waste services tax. The services tax shall be imposed on the owner or operator at the rate of \$1.65 per ton of solid waste on all solid waste accepted for disposal at a sanitary landfill facility. No services tax shall be levied on the owner or operator of a sanitary landfill facility for the acceptance for disposal of the waste products resulting from the operation of a resource recovery facility.

The services tax imposed by this subsection shall expire on the first day of the first month after the effective date of P.L.2007, c.311 (C.13:1E-96.2 et al.). However, this expiration shall not affect any obligation, lien or duty to pay taxes that may be due with respect to the imposition of any levy, or interest or penalties that may accrue by virtue of any assessment, which may be made with respect to taxes levied for any taxable year or part of a taxable year, prior to the first day of the first month after the effective date of P.L.2007, c.311 (C.13:1E-96.2 et al.), nor shall this expiration affect the legal authority to assess and collect the taxes that may be due and payable under subsection a. of section 3 of P.L.1985, c.38 (C.13:1E-138), as the case may be, together with such interest and penalties as would accrue thereon under section 6 of P.L.1985, c.38 (C.13:1E-141), nor shall the expi-

ration invalidate any assessment or affect any proceeding for the enforcement thereof.

b. (Deleted by amendment, P.L.2007, c.311).

c. (Deleted by amendment, P.L.2007, c.311).

d. If any owner or operator of a sanitary landfill facility determines the quantity of solid waste accepted for disposal by a measure other than tons, the taxes imposed pursuant to the provisions of this section shall be levied at an equivalent rate as determined by the director.

e. No taxes shall be levied on the owner or operator of a sanitary landfill facility for the acceptance of solid waste generated exclusively by an agency of the federal government if a solid waste collector submits to the owner or operator an itemized invoice, signed and verified by an authorized officer of the federal agency, indicating the number of tons of solid waste to be disposed of, and a copy of the contract with the federal agency for the collection of solid waste with an effective date prior to May 1, 1985. Taxes shall be levied on the owner or operator for acceptance of solid waste generated by a federal agency if the contract between the federal agency and the solid waste collector was entered into, or renewed, on or after May 1, 1985.

12. Section 12 of P.L.1985, c.38 (C.13:1E-147) is amended to read as follows:

C.13:1E-147 Solid Waste Services Tax Fund.

12. The Solid Waste Services Tax Fund is established as a nonlapsing, revolving fund in the Department of Environmental Protection. The services tax fund shall be administered by the department and shall be the depository for the revenues generated by the solid waste services tax levied and imposed pursuant to section 3 of P.L.1985, c.38 (C.13:1E-138), and any interest earned thereon.

No later than 30 days following the effective date of P.L.2007, c.311 (C.13:1E-96.2 et al.), the remaining moneys in the services tax fund shall be appropriated to the State Recycling Fund established pursuant to section 5 of P.L.1981, c.278 (C.13:1E-96).

13. Section 1 of P.L.2002, c.128 (C.13:1E-213) is amended to read as follows:

C.13:1E-213 Title amended.

1. Sections 1 through 10 and section 13 of P.L.2002, c.128 (C.13:1E-213 et seq.) shall be known and may be cited as the "Clean Communities Program Act."

14. Section 2 of P.L.2002, c.128 (C.13:1E-214) is amended to read as follows:

C.13:1E-214 Findings, declarations relative to the Clean Communities Program.

2. The Legislature finds that an uncluttered landscape is among the most priceless heritages which New Jersey can bequeath to posterity; that it is the duty of government to promote and encourage a clean and safe environment; that the proliferation and accumulation of carelessly discarded litter may pose a threat to the public health and safety; that the litter problem is especially serious in a State as densely populated and heavily traveled as New Jersey; and that unseemly litter has an adverse economic effect on New Jersey by making the State less attractive to tourists and new industry and residents.

The Legislature, therefore, declares it to be in the aesthetic, environmental, and economic interests of the State of New Jersey to support a Clean Communities Program.

15. Section 5 of P.L.2002, c.128 (C.13:1E-217) is amended to read as follows:

C.13:1E-217 Clean Communities Program Fund.

5. The Clean Communities Program Fund is established as a nonlapsing, revolving fund in the Department of the Treasury. The Clean Communities Program Fund shall be administered by the Department of Environmental Protection and credited, in addition to any appropriations made thereto, with all user fees imposed pursuant to section 4 of P.L.2002, c.128 (C.13:1E-216) or penalties imposed pursuant to section 10 of P.L.2002, c.128 (C.13:1E-222), and any sums received as voluntary contributions from private sources. Interest received on moneys in the Clean Communities Program Fund shall be credited to the fund. Unless otherwise expressly provided by the specific appropriation thereof by the Legislature, which shall take the form of a discrete legislative appropriations act and shall not be included within the annual appropriations act, all available moneys in the Clean Communities Program Fund shall be appropriated annually solely for the following purposes and no others:

a. 10% of the estimated annual balance of the Clean Communities Program Fund shall be used for a State program of litter pickup and removal and of enforcement of litter-related laws and ordinances in State owned places and areas that are accessible to the public. Moneys in the fund may also be used by the State to abate graffiti;

b. 50% of the estimated annual balance of the Clean Communities Program Fund shall be distributed as State aid to eligible municipalities with total housing units of 200 or more for programs of litter pickup and removal, including establishing an "Adopt-A-Highway" program, of public education and information relating to litter abatement and of enforcement of litter-related laws and ordinances. The amount of State aid due each municipality shall be solely calculated based on the proportion which the housing units of a qualifying municipality bear to the total housing units in the State. Total housing units shall be determined using the most recent federal decennial population estimates for New Jersey and its municipalities, filed in the office of the Secretary of State. Moneys in the fund may also be used by an eligible municipality to abate graffiti;

c. 30% of the estimated annual balance of the Clean Communities Program Fund shall be distributed as State aid to eligible municipalities with total housing units of 200 or more for programs of litter pickup and removal, including establishing an "Adopt-A-Highway" program, of public education and information relating to litter abatement and of enforcement of litter-related laws and ordinances. The amount of State aid due each municipality shall be solely calculated based on the proportion which the municipal road mileage of a qualifying municipality bears to the total municipal road mileage within the State. For the purposes of this subsection, "municipal road mileage" means that road mileage under the jurisdiction of municipalities, as determined by the Department of Transportation. Moneys in the fund may also be used by an eligible municipality to abate graffiti;

d. 10% of the estimated annual balance of the Clean Communities Program Fund shall be distributed as State aid to eligible counties for programs of litter pickup and removal, including establishing an "Adopt-A-Highway" program, of public education and information relating to litter abatement and of enforcement of litter-related laws and ordinances. The amount of State aid due each county shall be solely calculated based on the proportion which the county road mileage of an eligible county bears to the total county road mileage within the State. For the purposes of this subsection, "county road mileage" means that road mileage under the jurisdiction of counties, as determined by the Department of Transportation. Moneys in the fund may also be used by an eligible county to abate graffiti;

e. No eligible municipality shall receive less than \$4,000 in State aid as apportioned pursuant to subsections b. and c. of this section. A municipality or county may use up to 5% of its State aid for administrative expenses;

f. Prior to the distribution of funds pursuant to subsections a. through d. of this section, \$375,000 of the estimated annual balance of the Clean

Communities Program Fund shall be annually appropriated to the department and made available on July 1 of every year to the organization under contract with the department pursuant to section 6 of P.L.2002, c.128 (C.13:1E-218) for a Statewide public information and education program concerning antilittering activities and other aspects of responsible solid waste handling behavior, of which up to \$75,000 shall be used exclusively to finance an annual Statewide television, radio, newspaper and other media advertising campaign to promote antilittering and responsible solid waste handling behavior.

The organization under contract with the department pursuant to section 6 of P.L.2002, c.128 (C.13:1E-218) shall, no later than the date on which the contract period concludes, submit a report to the Governor and the Legislature concerning its activities during the contract period and any recommendations concerning improving the program. Every eligible municipality and county shall cooperate with the organization under contract with the department pursuant to section 6 of P.L.2002, c.128 (C.13:1E-218) in providing information concerning its program of litter pickup and removal.

No later than May 31, 2008, 25% of the estimated annual balance of the Clean Communities Program Fund shall be appropriated to the State Recycling Fund established pursuant to section 5 of P.L.1981, c.278 (C.13:1E-96). These moneys shall be used by the Department of Environmental Protection for direct recycling grants to counties and municipalities, up to a maximum appropriation of \$4,000,000.

g. As used in this section, "graffiti" means any inscription drawn, painted or otherwise made on a bridge, building, public transportation vehicle, rock, wall, sidewalk, street or other exposed surface on public property.

The department may carry forward any unexpended balances in the Clean Communities Program Fund as of June 30 of each year.

16. Section 13 of P.L.2002, c.128 (C.13:1E-223) is amended to read as follows:

C.13:1E-223 Annual appropriations; conditions.

13. a. The annual appropriations act for each State fiscal year shall, without other conditions, limitations or restrictions on the following:

(1) (Deleted by amendment, P.L.2007, c.311).

(2) appropriate the amount specified pursuant to subsection f. of section 5 of P.L.2002, c.128 (C.13:1E-217) to the Department of Environmental Protection for use by the organization under contract with the department pursuant to section 6 of P.L.2002, c.128 (C.13:1E-218) for a Statewide pub-

lic information and education program concerning antilittering activities and other aspects of responsible solid waste handling behavior; and

(3) appropriate the balance of the Clean Communities Program Fund established pursuant to section 5 of P.L.2002, c.128 (C.13:1E-217) for the purposes set forth in subsections a., b., c. and d. of that section.

b. If the requirements of subsection a. of this section are not met on the effective date of an annual appropriations act for the State fiscal year, or if an amendment or supplement to an annual appropriations act for the State fiscal year should violate any of the requirements of subsection a. of this section, the Director of the Division of Budget and Accounting in the Department of the Treasury shall, not later than five days after the enactment of the annual appropriations act, or an amendment or supplement thereto, that violates any of the requirements of subsection a. of this section, certify to the Director of the Division of Taxation that the requirements of subsection a. of this section have not been met.

17. Section 3 of P.L.1976, c.68 (C.40A:4-45.3) is amended to read as follows:

C.40A:4-45.3 Municipalities; budget limitation exceptions.

3. In the preparation of its budget a municipality shall limit any increase in said budget to 2.5% or the cost-of-living adjustment, whichever is less, over the previous year's final appropriations subject to the following exceptions:

a. (Deleted by amendment, P.L.1990, c.89.)

b. Capital expenditures, including appropriations for current capital expenditures, whether in the capital improvement fund or as a component of a line item elsewhere in the budget, provided that any such current capital expenditure would be otherwise bondable under the requirements of N.J.S.40A:2-21 and 40A:2-22;

c. (1) An increase based upon emergency temporary appropriations made pursuant to N.J.S.40A:4-20 to meet an urgent situation or event which immediately endangers the health, safety or property of the residents of the municipality, and over which the governing body had no control and for which it could not plan and emergency appropriations made pursuant to N.J.S.40A:4-46. Emergency temporary appropriations and emergency appropriations shall be approved by at least two-thirds of the governing body and by the Director of the Division of Local Government Services, and shall not exceed in the aggregate 3% of the previous year's final current operating appropriations.

(2) (Deleted by amendment, P.L.1990, c.89.)

The approval procedure in this subsection shall not apply to appropriations adopted for a purpose referred to in subsection d. or j. below;

d. All debt service, including that of a Type I school district;

e. Upon the approval of the Local Finance Board in the Division of Local Government Services, amounts required for funding a preceding year's deficit;

f. Amounts reserved for uncollected taxes;

g. (Deleted by amendment, P.L.1990, c.89.)

h. Expenditure of amounts derived from new or increased construction, housing, health or fire safety inspection or other service fees imposed by State law, rule or regulation or by local ordinance;

i. Any amount approved by any referendum;

j. Amounts required to be paid pursuant to (1) any contract with respect to use, service or provision of any project, facility or public improvement for water, sewerage, parking, senior citizen housing or any similar purpose, or payments on account of debt service therefor, between a municipality and any other municipality, county, school or other district, agency, authority, commission, instrumentality, public corporation, body corporate and politic or political subdivision of this State; (2) the provisions of article 9 of P.L.1968, c.404 (C.13:17-60 through 13:17-76) by a constituent municipality to the intermunicipal account; (3) any lease of a facility owned by a county improvement authority when the lease payment represents the proportionate amount necessary to amortize the debt incurred by the authority in providing the facility which is leased, in whole or in part; and (4) any repayments under a loan agreement entered into in accordance with the provisions of section 5 of P.L.1992, c.89;

k. (Deleted by amendment, P.L.1987, c.74.)

l. Appropriations of federal, county, independent authority or State funds, or by grants from private parties or nonprofit organizations for a specific purpose, and amounts received or to be received from such sources in reimbursement for local expenditures. If a municipality provides matching funds in order to receive the federal, county, independent authority or State funds, or the grants from private parties or nonprofit organizations for a specific purpose, the amount of the match which is required by law or agreement to be provided by the municipality shall be excepted;

m. (Deleted by amendment, P.L.1987, c.74.)

n. (Deleted by amendment, P.L.1987, c.74.)

o. (Deleted by amendment, P.L.1990, c.89.)

p. (Deleted by amendment, P.L.1987, c.74.)

- q. (Deleted by amendment, P.L.1990, c.89.)
- r. Amounts expended to fund a free public library established pursuant to the provisions of R.S.40:54-1 through 40:54-29, inclusive;
- s. (Deleted by amendment, P.L.1990, c.89.)
- t. Amounts expended in preparing and implementing a housing element and fair share plan pursuant to the provisions of P.L.1985, c.222 (C.52:27D-301 et al.) and any amounts received by a municipality under a regional contribution agreement pursuant to section 12 of that act;
- u. (Deleted by amendment, P.L.2004, c.74.)
- v. (Deleted by amendment, P.L.1990, c.89.)
- w. (Deleted by amendment, P.L.2004, c.74.)
- x. Amounts expended to aid privately owned libraries and reading rooms, pursuant to R.S.40:54-35;
- y. (Deleted by amendment, P.L.1990, c.89.)
- z. (Deleted by amendment, P.L.1990, c.89.)
- aa. Extraordinary expenses, approved by the Local Finance Board, required for the implementation of an interlocal services agreement;
- bb. Any expenditure mandated as a result of a natural disaster, civil disturbance or other emergency that is specifically authorized pursuant to a declaration of an emergency by the President of the United States or by the Governor;
- cc. Expenditures for the cost of services mandated by any order of court, by any federal or State statute, or by administrative rule, directive, order, or other legally binding device issued by a State agency which has identified such cost as mandated expenditures on certification to the Local Finance Board by the State agency;
- dd. Expenditures of amounts actually realized in the local budget year from the sale of municipal assets in extraordinary cases and with the permission of the Local Finance Board;
- ee. Any local unit which is determined to be experiencing fiscal distress pursuant to the provisions of P.L.1987, c.75 (C.52:27D-118.24 et seq.), whether or not a local unit is an "eligible municipality" as defined in section 3 of P.L.1987, c.75 (C.52:27D-118.26), and which has available surplus pursuant to the spending limitations imposed by P.L.1976, c.68 (C.40A:4-45.1 et seq.), may appropriate and expend an amount of that surplus approved by the director and the Local Finance Board as an exception to the spending limitation. Any determination approving the appropriation and expenditure of surplus as an exception to the spending limitations shall be based upon:
 - 1) the local unit's revenue needs for the current local budget year and its revenue raising capacity;

2) the intended actions of the governing body of the local unit to meet the local unit's revenue needs;

3) the intended actions of the governing body of the local unit to expand its revenue generating capacity for subsequent local budget years;

4) the local unit's ability to demonstrate the source and existence of sufficient surplus as would be prudent to appropriate as an exception to the spending limitations to meet the operating expenses for the local unit's current budget year; and

5) the impact of utilization of surplus upon succeeding budgets of the local unit;

ff. Newly authorized operating appropriations for the municipal court or violation's bureau when approved by the vicinage Presiding Judge of the Municipal Court after consultation with the mayor and governing body of the municipality;

gg. (Deleted by amendment, P.L.2004, c.74.)

hh. (Deleted by amendment, P.L.2004, c.74.)

ii. Subject to the approval of the Local Finance Board, expenditures related to the cost of conducting and implementing a total property tax levy sale pursuant to section 16 of P.L.1997, c.99 (C.54:5-113.5);

jj. Amounts expended for a length of service award program pursuant to P.L.1997, c.388 (C.40A:14-183 et al.);

kk. Amounts expended to provide municipal services or reimbursement amounts to multifamily dwellings for the collection and disposal of solid waste generated by the residents of the multifamily dwellings. This subsection shall cease to be operative at the end of the first local budget year in which the municipality has fully phased in its reimbursement amount expenses;

ll. Amounts expended by a municipality under an interlocal services agreement entered into pursuant to the "Interlocal Services Act," P.L.1973, c.208 (C.40:8A-1 et al.) entered into after the effective date of P.L.2000, c.126 (C.52:13H-21 et al.). The governing body of the municipality that will receive the service may choose to allow the amount of projected annual savings to be added to the amount of final appropriations upon which its permissible expenditures are calculated pursuant to section 2 of P.L.1976, c.68 (C.40A:4-45.2);

mm. Amounts expended under a joint contract pursuant to the "Consolidated Municipal Service Act," P.L.1952, c.72 (C.40:48B-1 et seq.) entered into after the effective date of P.L.2000, c.126 (C.52:13H-21 et al.). The governing body of each participating municipality may choose to allow the amount of projected annual savings to be added to the amount of final

appropriations upon which its permissible expenditures are calculated pursuant to section 2 of P.L.1976, c.68 (C.40A:4-45.2);

nn. (Deleted by amendment, P.L.2004, c.74.)

oo. Amounts appropriated in the first three years after the effective date of P.L.2003, c.92 (C.18A:7F-5b et al.) for liability insurance, workers' compensation insurance and employee group insurance;

pp. Amounts appropriated in the first three years after the effective date of P.L.2003, c.92 (C.18A:7F-5b et al.) for costs of domestic security preparedness and responses to incidents and threats to domestic security;

qq. Amounts required to be paid by a municipality pursuant to the provisions of section 4 of P.L.2007, c.311 (C.13:1E-96.5).

In the first full year when an existing appropriation or expenditure that is subject to budget limitations is made an exception to budget limitations, a municipality shall deduct from its final appropriations upon which its permissible expenditures are calculated pursuant to section 2 of P.L.1976, c.68 (C.40A:4-45.2), the amount which the municipality expended for that purpose during the last full budget year, or portion thereof, in which the purpose so excepted was funded from appropriations in the municipal budget.

In the first full year when an existing appropriation or expenditure that is not subject to budget limitations is made subject to budget limitations, a municipality shall add to its final appropriations upon which its permissible expenditures are calculated pursuant to section 2 of P.L.1976, c.68 (C.40A:4-45.2), the amount which the municipality expended for that purpose during the last full budget year, or portion thereof, in which the purpose so excepted was funded from appropriations in the municipal budget.

18. Section 4 of P.L.1976, c.68 (C.40A:4-45.4) is amended to read as follows:

C.40A:4-45.4 Limitation on increase in county tax levies over previous year; exceptions.

4. In the preparation of its budget, a county may not increase the county tax levy to be apportioned among its constituent municipalities in excess of 2.5% or the cost-of-living adjustment, whichever is less, of the previous year's county tax levy, subject to the following exceptions:

a. The amount of revenue generated by the increase in valuations within the county, based solely on applying the preceding year's county tax rate to the apportionment valuation of new construction or improvements within the county, and such increase shall be levied in direct proportion to said valuation;

b. Capital expenditures, including appropriations for current capital expenditures, whether in the capital improvement fund or as a component of a line item elsewhere in the budget, provided that any such current capital expenditures would be otherwise bondable under the requirements of N.J.S.40A:2-21 and 40A:2-22;

c. (1) An increase based upon emergency temporary appropriations made pursuant to N.J.S.40A:4-20 to meet an urgent situation or event which immediately endangers the health, safety or property of the residents of the county, and over which the governing body had no control and for which it could not plan and emergency appropriations made pursuant to N.J.S.40A:4-46. Emergency temporary appropriations and emergency appropriations shall be approved by at least two-thirds of the governing body and by the Director of the Division of Local Government Services, and shall not exceed in the aggregate 3% of the previous year's final current operating appropriations.

(2) (Deleted by amendment, P.L.1990, c.89.)

The approval procedure in this subsection shall not apply to appropriations adopted for a purpose referred to in subsection d. or f. below;

d. All debt service;

e. (Deleted by amendment, P.L.1990, c.89.)

f. Amounts required to be paid pursuant to (1) any contract with respect to use, service or provision of any project, facility or public improvement for water, sewerage, parking, senior citizen housing or any similar purpose, or payments on account of debt service therefor, between a county and any other county, municipality, school or other district, agency, authority, commission, instrumentality, public corporation, body corporate and politic or political subdivision of this State; and (2) any lease of a facility owned by a county improvement authority when the lease payment represents the proportionate amount necessary to amortize the debt incurred by the authority in providing the facility which is leased, in whole or in part;

g. That portion of the county tax levy which represents funding to participate in any federal or State aid program and amounts received or to be received from federal, State or other funds in reimbursement for local expenditures. If a county provides matching funds in order to receive the federal or State or other funds, only the amount of the match which is required by law or agreement to be provided by the county shall be excepted;

h. (Deleted by amendment, P.L.1987, c.74.)

i. (Deleted by amendment, P.L.1990, c.89.)

j. (Deleted by amendment, P.L.1990, c.89.)

k. (Deleted by amendment, P.L.1990, c.89.)

- l. (Deleted by amendment, P.L.2004, c.74.)
- m. (Deleted by amendment, P.L.1990, c.89.)
- n. (Deleted by amendment, P.L.1990, c.89.)
- o. (Deleted by amendment, P.L.1990, c.89.)
- p. Extraordinary expenses, approved by the Local Finance Board, required for the implementation of an interlocal services agreement;
- q. Any expenditure mandated as a result of a natural disaster, civil disturbance or other emergency that is specifically authorized pursuant to a declaration of an emergency by the President of the United States or by the Governor;
- r. Expenditures for the cost of services mandated by any order of court, by any federal or State statute, or by administrative rule, directive, order, or other legally binding device issued by a State agency which has identified such cost as mandated expenditures on certification to the Local Finance Board by the State agency;
- s. That portion of the county tax levy which represents funding to a county college in excess of the county tax levy required to fund the county college in local budget year 1992;
- t. (Deleted by amendment, P.L.2004, c.74.)
- u. Expenditures for the administration of general public assistance pursuant to P.L.1995, c.259 (C.40A:4-6.1 et al.);
- v. Amounts in a separate line item of a county budget that are expended on tick-borne disease vector management activities undertaken pursuant to P.L.1997, c.52 (C.26:2P-7 et al.);
- w. Amounts expended by a county under an interlocal services agreement entered into pursuant to the "Interlocal Services Act," P.L.1973, c.208 (C.40:8A-1 et al.) entered into after the effective date of P.L.2000, c.126 (C.52:13H-21 et al.) or amounts expended under a joint contract pursuant to the "Consolidated Municipal Service Act," P.L.1952, c.72 (C.40:48B-1 et seq.) entered into after the effective date of P.L.2000, c.126 (C.52:13H-21 et al.);
- x. Amounts appropriated in the first three years after the effective date of P.L.2003, c.92 (C.18A:7F-5b et al.) for liability insurance, workers' compensation insurance and employee group insurance;
- y. Amounts appropriated in the first three years after the effective date of P.L.2003, c.92 (C.18A:7F-5b et al.) for costs of domestic security preparedness and responses to incidents and threats to domestic security;
- z. Expenditures of amounts received pursuant to section 5 of P.L.1981, c.278 (C.13:1E-96).

In the first full year where an existing appropriation or expenditure that is subject to budget limitations is made an exception to budget limitations, a

county shall deduct from its final appropriations upon which its permissible expenditures are calculated pursuant to section 2 of P.L.1976, c.68 (C.40A:4-45.2) the amount which the county expended for that purpose during the last full budget year, or portion thereof, in which the purpose so excepted was funded from appropriations in the county budget.

In the first full year where an existing appropriation or expenditure that is not subject to budget limitations is made subject to budget limitations, a county shall add to its final appropriations upon which its permissible expenditures are calculated pursuant to section 2 of P.L.1976, c.68 (C.40A:4-45.2) the amount which the county expended for that purpose during the last full budget year, or portion thereof, in which the purpose so excepted was funded from appropriations in the county budget.

19. There is appropriated from the General Fund to the State Recycling Fund established pursuant to section 5 of P.L.1981, c.278 (C.13:1E-96) the sum of \$8,000,000. These moneys shall be used by the Department of Environmental Protection to provide direct recycling grants to counties and municipalities within 12 months following the effective date of P.L.2007, c.311 (C.13:1E-96.2 et al.). The grants shall be used solely for the purposes set forth in the adopted and approved district solid waste management plans required pursuant to P.L.1970, c.39 (C.13:1E-1 et seq.) and the district recycling plans required pursuant to section 3 of P.L.1987, c.102 (C.13:1E-99.13), including the municipal source separation and recycling ordinances required pursuant to section 6 of P.L.1987, c.102 (C.13:1E-99.16), as those plans and ordinances may be revised or modified pursuant to the Statewide Solid Waste Management Plan. The amount appropriated pursuant to this section shall be repaid to the General Fund from moneys deposited in the State Recycling Fund in annual installments not to exceed \$1,000,000 per fiscal year beginning July 1, 2009 and annually thereafter until the full amount is repaid according to a schedule of repayments determined by the State Treasurer.

Repealer.

20. The following are repealed:

Sections 4 through 9 inclusive of P.L.1985, c.38 (C.13:1E-139 through 13:1E-144);

Section 11 of P.L.1985, c.38 (C.13:1E-146);

Sections 13 through 17 inclusive of P.L.1985, c.38 (C.13:1E-148 through 13:1E-152);

Sections 30 and 31 of P.L.1985, c.38 (C.13:1E-165 and 13:1E-166).

21. This act shall take effect immediately.

Approved January 13, 2008.

CHAPTER 312

AN ACT concerning school district self-insurance groups and amending P.L.1983, c.108.

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

1. Section 1 of P.L.1983, c.108 (C.18A:18B-1) is amended to read as follows:

C.18A:18B-1 Definitions.

1. For the purposes of this act:

a. "Fund" means a joint self-insurance fund established by a school board insurance group pursuant to this act. The joint self-insurance fund is a fund of public moneys from contributions made by members of a school board insurance group for the purpose of securing insurance protection, risk management programs, or related services as authorized by this act;

b. "School board insurance group" or "group" means an association formed by two or more boards of education or the New Jersey School Boards Association for the development, administration, and provision of risk management programs, joint self-insurance fund or funds, and related services;

c. "Risk management program" means a plan, and activities carried out under the plan, by a school board insurance group to reduce risk of loss with respect to a particular line of insurance protection or coverage provided by a fund pursuant to this act, including safety engineering and other loss prevention and control techniques. Risk management program also includes the administration of one or more funds, including the processing and defense of claims brought against or on behalf of members of the group;

d. "Trustees" or "board of trustees" means the board of trustees established pursuant to the bylaws of the school board insurance group to govern or manage the risk management programs, joint self-insurance fund or funds and related services of the group;

e. "Contributions" mean the moneys paid by a member of a school board insurance group in amounts as may be set by the board of trustees or

other officers as provided in the group's bylaws for the purpose of participating in a joint self-insurance fund or funds, securing risk management programs or related services;

f. "Certified audit" means an audit upon which an auditor expresses his professional opinion that the accompanying statements present fairly the financial position of a fund in conformity with generally accepted accounting principles consistently applied, and accordingly including tests of the accounting records and other auditing procedures as considered necessary in the circumstances;

g. "Commissioner" means the Commissioner of Banking and Insurance.

2. This act shall take effect immediately.

Approved January 13, 2008.

CHAPTER 313

AN ACT concerning firearms and retired law enforcement officers and amending N.J.S.2C:39-6.

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

1. N.J.S.2C:39-6 is amended to read as follows:

Exemptions.

2C:39-6. a. Provided a person complies with the requirements of subsection j. of this section, N.J.S.2C:39-5 does not apply to:

(1) Members of the Armed Forces of the United States or of the National Guard while actually on duty, or while traveling between places of duty and carrying authorized weapons in the manner prescribed by the appropriate military authorities;

(2) Federal law enforcement officers, and any other federal officers and employees required to carry firearms in the performance of their official duties;

(3) Members of the State Police and, under conditions prescribed by the superintendent, members of the Marine Law Enforcement Bureau of the Division of State Police;

(4) A sheriff, undersheriff, sheriff's officer, county prosecutor, assistant prosecutor, prosecutor's detective or investigator, deputy attorney general or

State investigator employed by the Division of Criminal Justice of the Department of Law and Public Safety, investigator employed by the State Commission of Investigation, inspector of the Alcoholic Beverage Control Enforcement Bureau of the Division of State Police in the Department of Law and Public Safety authorized to carry such weapons by the Superintendent of State Police, State park police officer, or State conservation officer;

(5) A prison or jail warden of any penal institution in this State or his deputies, or an employee of the Department of Corrections engaged in the interstate transportation of convicted offenders, while in the performance of his duties, and when required to possess the weapon by his superior officer, or a corrections officer or keeper of a penal institution in this State at all times while in the State of New Jersey, provided he annually passes an examination approved by the superintendent testing his proficiency in the handling of firearms;

(6) A civilian employee of the United States Government under the supervision of the commanding officer of any post, camp, station, base or other military or naval installation located in this State who is required, in the performance of his official duties, to carry firearms, and who is authorized to carry such firearms by said commanding officer, while in the actual performance of his official duties;

(7) (a) A regularly employed member, including a detective, of the police department of any county or municipality, or of any State, interstate, municipal or county park police force or boulevard police force, at all times while in the State of New Jersey;

(b) A special law enforcement officer authorized to carry a weapon as provided in subsection b. of section 7 of P.L.1985, c.439 (C.40A:14-146.14);

(c) An airport security officer or a special law enforcement officer appointed by the governing body of any county or municipality, except as provided in subsection (b) of this section, or by the commission, board or other body having control of a county park or airport or boulevard police force, while engaged in the actual performance of his official duties and when specifically authorized by the governing body to carry weapons;

(8) A full-time, paid member of a paid or part-paid fire department or force of any municipality who is assigned full-time or part-time to an arson investigation unit created pursuant to section 1 of P.L.1981, c.409 (C.40A:14-7.1) or to the county arson investigation unit in the county prosecutor's office, while either engaged in the actual performance of arson investigation duties or while actually on call to perform arson investigation duties and when specifically authorized by the governing body or the county prosecutor, as the case may be, to carry weapons. Prior to being

permitted to carry a firearm, such a member shall take and successfully complete a firearms training course administered by the Police Training Commission pursuant to P.L.1961, c.56 (C.52:17B-66 et seq.), and shall annually qualify in the use of a revolver or similar weapon prior to being permitted to carry a firearm;

(9) A juvenile corrections officer in the employment of the Juvenile Justice Commission established pursuant to section 2 of P.L.1995, c.284 (C.52:17B-170) subject to the regulations promulgated by the commission;

(10) A designated employee or designated licensed agent for a nuclear power plant under license of the Nuclear Regulatory Commission, while in the actual performance of his official duties, if the federal licensee certifies that the designated employee or designated licensed agent is assigned to perform site protection, guard, armed response or armed escort duties and is appropriately trained and qualified, as prescribed by federal regulation, to perform those duties. Any firearm utilized by an employee or agent for a nuclear power plant pursuant to this paragraph shall be returned each day at the end of the employee's or agent's authorized official duties to the employee's or agent's supervisor. All firearms returned each day pursuant to this paragraph shall be stored in locked containers located in a secure area.

b. Subsections a., b. and c. of N.J.S.2C:39-5 do not apply to:

(1) A law enforcement officer employed by a governmental agency outside of the State of New Jersey while actually engaged in his official duties, provided, however, that he has first notified the superintendent or the chief law enforcement officer of the municipality or the prosecutor of the county in which he is engaged; or

(2) A licensed dealer in firearms and his registered employees during the course of their normal business while traveling to and from their place of business and other places for the purpose of demonstration, exhibition or delivery in connection with a sale, provided, however, that the weapon is carried in the manner specified in subsection g. of this section.

c. Provided a person complies with the requirements of subsection j. of this section, subsections b. and c. of N.J.S.2C:39-5 do not apply to:

(1) A special agent of the Division of Taxation who has passed an examination in an approved police training program testing proficiency in the handling of any firearm which he may be required to carry, while in the actual performance of his official duties and while going to or from his place of duty, or any other police officer, while in the actual performance of his official duties;

(2) A State deputy conservation officer or a full-time employee of the Division of Parks and Forestry having the power of arrest and authorized to carry weapons, while in the actual performance of his official duties;

(3) (Deleted by amendment, P.L.1986, c.150).

(4) A court attendant serving as such under appointment by the sheriff of the county or by the judge of any municipal court or other court of this State, while in the actual performance of his official duties;

(5) A guard in the employ of any railway express company, banking or building and loan or savings and loan institution of this State, while in the actual performance of his official duties;

(6) A member of a legally recognized military organization while actually under orders or while going to or from the prescribed place of meeting and carrying the weapons prescribed for drill, exercise or parade;

(7) A humane law enforcement officer of the New Jersey Society for the Prevention of Cruelty to Animals or of a county society for the prevention of cruelty to animals, while in the actual performance of his duties;

(8) An employee of a public utilities corporation actually engaged in the transportation of explosives;

(9) A railway policeman, except a transit police officer of the New Jersey Transit Police Department, at all times while in the State of New Jersey, provided that he has passed an approved police academy training program consisting of at least 280 hours. The training program shall include, but need not be limited to, the handling of firearms, community relations, and juvenile relations;

(10) A campus police officer appointed under P.L.1970, c.211 (C.18A:6-4.2 et seq.) at all times. Prior to being permitted to carry a firearm, a campus police officer shall take and successfully complete a firearms training course administered by the Police Training Commission, pursuant to P.L.1961, c.56 (C.52:17B-66 et seq.), and shall annually qualify in the use of a revolver or similar weapon prior to being permitted to carry a firearm;

(11) (Deleted by amendment, P.L.2003, c.168).

(12) A transit police officer of the New Jersey Transit Police Department, at all times while in the State of New Jersey, provided the officer has satisfied the training requirements of the Police Training Commission, pursuant to subsection c. of section 2 of P.L.1989, c.291 (C.27:25-15.1);

(13) A parole officer employed by the State Parole Board at all times. Prior to being permitted to carry a firearm, a parole officer shall take and successfully complete a basic course for regular police officer training administered by the Police Training Commission, pursuant to P.L.1961, c.56 (C.52:17B-66 et seq.), and shall annually qualify in the use of a revolver or similar weapon prior to being permitted to carry a firearm;

(14) A Human Services police officer at all times while in the State of New Jersey, as authorized by the Commissioner of Human Services;

(15) A person or employee of any person who, pursuant to and as required by a contract with a governmental entity, supervises or transports persons charged with or convicted of an offense;

(16) A housing authority police officer appointed under P.L.1997, c.210 (C.40A:14-146.19 et al.) at all times while in the State of New Jersey; or

(17) A probation officer assigned to the "Probation Officer Community Safety Unit" created by section 2 of P.L.2001, c.362 (C.2B:10A-2) while in the actual performance of the probation officer's official duties. Prior to being permitted to carry a firearm, a probation officer shall take and successfully complete a basic course for regular police officer training administered by the Police Training Commission, pursuant to P.L.1961, c.56 (C.52:17B-66 et seq.), and shall annually qualify in the use of a revolver or similar weapon prior to being permitted to carry a firearm.

d. (1) Subsections c. and d. of N.J.S.2C:39-5 do not apply to antique firearms, provided that such antique firearms are unloaded or are being fired for the purposes of exhibition or demonstration at an authorized target range or in such other manner as has been approved in writing by the chief law enforcement officer of the municipality in which the exhibition or demonstration is held, or if not held on property under the control of a particular municipality, the superintendent.

(2) Subsection a. of N.J.S.2C:39-3 and subsection d. of N.J.S.2C:39-5 do not apply to an antique cannon that is capable of being fired but that is unloaded and immobile, provided that the antique cannon is possessed by (a) a scholastic institution, a museum, a municipality, a county or the State, or (b) a person who obtained a firearms purchaser identification card as specified in N.J.S.2C:58-3.

(3) Subsection a. of N.J.S.2C:39-3 and subsection d. of N.J.S.2C:39-5 do not apply to an unloaded antique cannon that is being transported by one eligible to possess it, in compliance with regulations the superintendent may promulgate, between its permanent location and place of purchase or repair.

(4) Subsection a. of N.J.S.2C:39-3 and subsection d. of N.J.S.2C:39-5 do not apply to antique cannons that are being loaded or fired by one eligible to possess an antique cannon, for purposes of exhibition or demonstration at an authorized target range or in the manner as has been approved in writing by the chief law enforcement officer of the municipality in which the exhibition or demonstration is held, or if not held on property under the control of a particular municipality, the superintendent, provided that performer has given at least 30 days' notice to the superintendent.

(5) Subsection a. of N.J.S.2C:39-3 and subsection d. of N.J.S.2C:39-5 do not apply to the transportation of unloaded antique cannons directly to or

from exhibitions or demonstrations authorized under paragraph (4) of subsection d. of this section, provided that the transportation is in compliance with safety regulations the superintendent may promulgate. Nor do those subsections apply to transportation directly to or from exhibitions or demonstrations authorized under the law of another jurisdiction, provided that the superintendent has been given 30 days' notice and that the transportation is in compliance with safety regulations the superintendent may promulgate.

e. Nothing in subsections b., c. and d. of N.J.S.2C:39-5 shall be construed to prevent a person keeping or carrying about his place of business, residence, premises or other land owned or possessed by him, any firearm, or from carrying the same, in the manner specified in subsection g. of this section, from any place of purchase to his residence or place of business, between his dwelling and his place of business, between one place of business or residence and another when moving, or between his dwelling or place of business and place where such firearms are repaired, for the purpose of repair. For the purposes of this section, a place of business shall be deemed to be a fixed location.

f. Nothing in subsections b., c. and d. of N.J.S.2C:39-5 shall be construed to prevent:

(1) A member of any rifle or pistol club organized in accordance with the rules prescribed by the National Board for the Promotion of Rifle Practice, in going to or from a place of target practice, carrying such firearms as are necessary for said target practice, provided that the club has filed a copy of its charter with the superintendent and annually submits a list of its members to the superintendent and provided further that the firearms are carried in the manner specified in subsection g. of this section;

(2) A person carrying a firearm or knife in the woods or fields or upon the waters of this State for the purpose of hunting, target practice or fishing, provided that the firearm or knife is legal and appropriate for hunting or fishing purposes in this State and he has in his possession a valid hunting license, or, with respect to fresh water fishing, a valid fishing license;

(3) A person transporting any firearm or knife while traveling:

(a) Directly to or from any place for the purpose of hunting or fishing, provided the person has in his possession a valid hunting or fishing license; or

(b) Directly to or from any target range, or other authorized place for the purpose of practice, match, target, trap or skeet shooting exhibitions, provided in all cases that during the course of the travel all firearms are carried in the manner specified in subsection g. of this section and the person has complied with all the provisions and requirements of Title 23 of the

Revised Statutes and any amendments thereto and all rules and regulations promulgated thereunder; or

(c) In the case of a firearm, directly to or from any exhibition or display of firearms which is sponsored by any law enforcement agency, any rifle or pistol club, or any firearms collectors club, for the purpose of displaying the firearms to the public or to the members of the organization or club, provided, however, that not less than 30 days prior to the exhibition or display, notice of the exhibition or display shall be given to the Superintendent of the State Police by the sponsoring organization or club, and the sponsor has complied with such reasonable safety regulations as the superintendent may promulgate. Any firearms transported pursuant to this section shall be transported in the manner specified in subsection g. of this section;

(4) A person from keeping or carrying about a private or commercial aircraft or any boat, or from transporting to or from such vessel for the purpose of installation or repair a visual distress signaling device approved by the United States Coast Guard.

g. All weapons being transported under paragraph (2) of subsection b., subsection e., or paragraph (1) or (3) of subsection f. of this section shall be carried unloaded and contained in a closed and fastened case, gunbox, securely tied package, or locked in the trunk of the automobile in which it is being transported, and in the course of travel shall include only such deviations as are reasonably necessary under the circumstances.

h. Nothing in subsection d. of N.J.S.2C:39-5 shall be construed to prevent any employee of a public utility, as defined in R.S.48:2-13, doing business in this State or any United States Postal Service employee, while in the actual performance of duties which specifically require regular and frequent visits to private premises, from possessing, carrying or using any device which projects, releases or emits any substance specified as being noninjurious to canines or other animals by the Commissioner of Health and Senior Services and which immobilizes only on a temporary basis and produces only temporary physical discomfort through being vaporized or otherwise dispensed in the air for the sole purpose of repelling canine or other animal attacks.

The device shall be used solely to repel only those canine or other animal attacks when the canines or other animals are not restrained in a fashion sufficient to allow the employee to properly perform his duties.

Any device used pursuant to this act shall be selected from a list of products, which consist of active and inert ingredients, permitted by the Commissioner of Health and Senior Services.

i. Nothing in N.J.S.2C:39-5 shall be construed to prevent any person who is 18 years of age or older and who has not been convicted of a felony,

from possession for the purpose of personal self-defense of one pocket-sized device which contains and releases not more than three-quarters of an ounce of chemical substance not ordinarily capable of lethal use or of inflicting serious bodily injury, but rather, is intended to produce temporary physical discomfort or disability through being vaporized or otherwise dispensed in the air. Any person in possession of any device in violation of this subsection shall be deemed and adjudged to be a disorderly person, and upon conviction thereof, shall be punished by a fine of not less than \$100.00.

j. A person shall qualify for an exemption from the provisions of N.J.S.2C:39-5, as specified under subsections a. and c. of this section, if the person has satisfactorily completed a firearms training course approved by the Police Training Commission.

Such exempt person shall not possess or carry a firearm until the person has satisfactorily completed a firearms training course and shall annually qualify in the use of a revolver or similar weapon. For purposes of this subsection, a "firearms training course" means a course of instruction in the safe use, maintenance and storage of firearms which is approved by the Police Training Commission. The commission shall approve a firearms training course if the requirements of the course are substantially equivalent to the requirements for firearms training provided by police training courses which are certified under section 6 of P.L.1961, c.56 (C.52:17B-71). A person who is specified in paragraph (1), (2), (3) or (6) of subsection a. of this section shall be exempt from the requirements of this subsection.

k. Nothing in subsection d. of N.J.S.2C:39-5 shall be construed to prevent any financial institution, or any duly authorized personnel of the institution, from possessing, carrying or using for the protection of money or property, any device which projects, releases or emits tear gas or other substances intended to produce temporary physical discomfort or temporary identification.

l. Nothing in subsection b. of N.J.S.2C:39-5 shall be construed to prevent a law enforcement officer who retired in good standing, including a retirement because of a disability pursuant to section 6 of P.L.1944, c.255 (C.43:16A-6), section 7 of P.L.1944, c.255 (C.43:16A-7), section 1 of P.L.1989, c.103 (C.43:16A-6.1) or any substantially similar statute governing the disability retirement of federal law enforcement officers, provided the officer was a regularly employed, full-time law enforcement officer for an aggregate of four or more years prior to his disability retirement and further provided that the disability which constituted the basis for the officer's retirement did not involve a certification that the officer was mentally incapacitated for the performance of his usual law enforcement duties and any other available duty in the department which his employer was willing to

assign to him or does not subject that retired officer to any of the disabilities set forth in subsection c. of N.J.S.2C:58-3 which would disqualify the retired officer from possessing or carrying a firearm, who semi-annually qualifies in the use of the handgun he is permitted to carry in accordance with the requirements and procedures established by the Attorney General pursuant to subsection j. of this section and pays the actual costs associated with those semi-annual qualifications, who is 75 years of age or younger, and who was regularly employed as a full-time member of the State Police; a full-time member of an interstate police force; a full-time member of a county or municipal police department in this State; a full-time member of a State law enforcement agency; a full-time sheriff, undersheriff or sheriff's officer of a county of this State; a full-time State or county corrections officer; a full-time county park police officer; a full-time county prosecutor's detective or investigator; a full-time federal law enforcement officer; or is a qualified retired law enforcement officer, as used in the federal "Law Enforcement Officers Safety Act of 2004," Pub.L.108-277, domiciled in this State from carrying a handgun in the same manner as law enforcement officers exempted under paragraph (7) of subsection a. of this section under the conditions provided herein:

(1) The retired law enforcement officer shall make application in writing to the Superintendent of State Police for approval to carry a handgun for one year. An application for annual renewal shall be submitted in the same manner.

(2) Upon receipt of the written application of the retired law enforcement officer, the superintendent shall request a verification of service from the chief law enforcement officer of the organization in which the retired officer was last regularly employed as a full-time law enforcement officer prior to retiring. The verification of service shall include:

- (a) The name and address of the retired officer;
- (b) The date that the retired officer was hired and the date that the officer retired;
- (c) A list of all handguns known to be registered to that officer;
- (d) A statement that, to the reasonable knowledge of the chief law enforcement officer, the retired officer is not subject to any of the restrictions set forth in subsection c. of N.J.S.2C:58-3; and
- (e) A statement that the officer retired in good standing.

(3) If the superintendent approves a retired officer's application or re-application to carry a handgun pursuant to the provisions of this subsection, the superintendent shall notify in writing the chief law enforcement officer of the municipality wherein that retired officer resides. In the event the retired officer resides in a municipality which has no chief law enforcement

officer or law enforcement agency, the superintendent shall maintain a record of the approval.

(4) The superintendent shall issue to an approved retired officer an identification card permitting the retired officer to carry a handgun pursuant to this subsection. This identification card shall be valid for one year from the date of issuance and shall be valid throughout the State. The identification card shall not be transferable to any other person. The identification card shall be carried at all times on the person of the retired officer while the retired officer is carrying a handgun. The retired officer shall produce the identification card for review on the demand of any law enforcement officer or authority.

(5) Any person aggrieved by the denial of the superintendent of approval for a permit to carry a handgun pursuant to this subsection may request a hearing in the Superior Court of New Jersey in the county in which he resides by filing a written request for such a hearing within 30 days of the denial. Copies of the request shall be served upon the superintendent and the county prosecutor. The hearing shall be held within 30 days of the filing of the request, and no formal pleading or filing fee shall be required. Appeals from the determination of such a hearing shall be in accordance with law and the rules governing the courts of this State.

(6) A judge of the Superior Court may revoke a retired officer's privilege to carry a handgun pursuant to this subsection for good cause shown on the application of any interested person. A person who becomes subject to any of the disabilities set forth in subsection c. of N.J.S.2C:58-3 shall surrender, as prescribed by the superintendent, his identification card issued under paragraph (4) of this subsection to the chief law enforcement officer of the municipality wherein he resides or the superintendent, and shall be permanently disqualified to carry a handgun under this subsection.

(7) The superintendent may charge a reasonable application fee to retired officers to offset any costs associated with administering the application process set forth in this subsection.

m. Nothing in subsection d. of N.J.S.2C:39-5 shall be construed to prevent duly authorized personnel of the New Jersey Division of Fish and Wildlife, while in the actual performance of duties, from possessing, transporting or using any device that projects, releases or emits any substance specified as being non-injurious to wildlife by the Director of the Division of Animal Health in the Department of Agriculture, and which may immobilize wildlife and produces only temporary physical discomfort through being vaporized or otherwise dispensed in the air for the purpose of repelling bear or other animal attacks or for the aversive conditioning of wildlife.

n. Nothing in subsection b., c., d. or e. of N.J.S.2C:39-5 shall be construed to prevent duly authorized personnel of the New Jersey Division of Fish and Wildlife, while in the actual performance of duties, from possessing, transporting or using hand held pistol-like devices, rifles or shotguns that launch pyrotechnic missiles for the sole purpose of frightening, hazing or aversive conditioning of nuisance or depredating wildlife; from possessing, transporting or using rifles, pistols or similar devices for the sole purpose of chemically immobilizing wild or non-domestic animals; or, provided the duly authorized person complies with the requirements of subsection j. of this section, from possessing, transporting or using rifles or shotguns, upon completion of a Police Training Commission approved training course, in order to dispatch injured or dangerous animals or for non-lethal use for the purpose of frightening, hazing or aversive conditioning of nuisance or depredating wildlife.

2. This act shall take effect on the first day of the second month following enactment.

Approved January 13, 2008.

CHAPTER 314

AN ACT concerning county corrections officers and amending N.J.S.2C:39-6.

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

1. N.J.S.2C:39-6 is amended to read as follows:

Exemptions.

2C:39-6. a. Provided a person complies with the requirements of subsection j. of this section, N.J.S.2C:39-5 does not apply to:

- (1) Members of the Armed Forces of the United States or of the National Guard while actually on duty, or while traveling between places of duty and carrying authorized weapons in the manner prescribed by the appropriate military authorities;
- (2) Federal law enforcement officers, and any other federal officers and employees required to carry firearms in the performance of their official duties;

(3) Members of the State Police and, under conditions prescribed by the superintendent, members of the Marine Law Enforcement Bureau of the Division of State Police;

(4) A sheriff, undersheriff, sheriff's officer, county prosecutor, assistant prosecutor, prosecutor's detective or investigator, deputy attorney general or State investigator employed by the Division of Criminal Justice of the Department of Law and Public Safety, investigator employed by the State Commission of Investigation, inspector of the Alcoholic Beverage Control Enforcement Bureau of the Division of State Police in the Department of Law and Public Safety authorized to carry such weapons by the Superintendent of State Police, State park police officer, or State conservation officer;

(5) Except as hereinafter provided, a prison or jail warden of any penal institution in this State or his deputies, or an employee of the Department of Corrections engaged in the interstate transportation of convicted offenders, while in the performance of his duties, and when required to possess the weapon by his superior officer, or a corrections officer or keeper of a penal institution in this State at all times while in the State of New Jersey, provided he annually passes an examination approved by the superintendent testing his proficiency in the handling of firearms;

(6) A civilian employee of the United States Government under the supervision of the commanding officer of any post, camp, station, base or other military or naval installation located in this State who is required, in the performance of his official duties, to carry firearms, and who is authorized to carry such firearms by said commanding officer, while in the actual performance of his official duties;

(7) (a) A regularly employed member, including a detective, of the police department of any county or municipality, or of any State, interstate, municipal or county park police force or boulevard police force, at all times while in the State of New Jersey;

(b) A special law enforcement officer authorized to carry a weapon as provided in subsection b. of section 7 of P.L.1985, c.439 (C.40A:14-146.14);

(c) An airport security officer or a special law enforcement officer appointed by the governing body of any county or municipality, except as provided in subsection (b) of this section, or by the commission, board or other body having control of a county park or airport or boulevard police force, while engaged in the actual performance of his official duties and when specifically authorized by the governing body to carry weapons;

(8) A full-time, paid member of a paid or part-paid fire department or force of any municipality who is assigned full-time or part-time to an arson investigation unit created pursuant to section 1 of P.L.1981, c.409

(C.40A:14-7.1) or to the county arson investigation unit in the county prosecutor's office, while either engaged in the actual performance of arson investigation duties or while actually on call to perform arson investigation duties and when specifically authorized by the governing body or the county prosecutor, as the case may be, to carry weapons. Prior to being permitted to carry a firearm, such a member shall take and successfully complete a firearms training course administered by the Police Training Commission pursuant to P.L.1961, c.56 (C.52:17B-66 et seq.), and shall annually qualify in the use of a revolver or similar weapon prior to being permitted to carry a firearm;

(9) A juvenile corrections officer in the employment of the Juvenile Justice Commission established pursuant to section 2 of P.L.1995, c.284 (C.52:17B-170) subject to the regulations promulgated by the commission;

(10) A designated employee or designated licensed agent for a nuclear power plant under license of the Nuclear Regulatory Commission, while in the actual performance of his official duties, if the federal licensee certifies that the designated employee or designated licensed agent is assigned to perform site protection, guard, armed response or armed escort duties and is appropriately trained and qualified, as prescribed by federal regulation, to perform those duties. Any firearm utilized by an employee or agent for a nuclear power plant pursuant to this paragraph shall be returned each day at the end of the employee's or agent's authorized official duties to the employee's or agent's supervisor. All firearms returned each day pursuant to this paragraph shall be stored in locked containers located in a secure area;

(11) A county corrections officer at all times while in the State of New Jersey, provided he annually passes an examination approved by the superintendent testing his proficiency in the handling of firearms.

b. Subsections a., b. and c. of N.J.S.2C:39-5 do not apply to:

(1) A law enforcement officer employed by a governmental agency outside of the State of New Jersey while actually engaged in his official duties, provided, however, that he has first notified the superintendent or the chief law enforcement officer of the municipality or the prosecutor of the county in which he is engaged; or

(2) A licensed dealer in firearms and his registered employees during the course of their normal business while traveling to and from their place of business and other places for the purpose of demonstration, exhibition or delivery in connection with a sale, provided, however, that the weapon is carried in the manner specified in subsection g. of this section.

c. Provided a person complies with the requirements of subsection j. of this section, subsections b. and c. of N.J.S.2C:39-5 do not apply to:

(1) A special agent of the Division of Taxation who has passed an examination in an approved police training program testing proficiency in the handling of any firearm which he may be required to carry, while in the actual performance of his official duties and while going to or from his place of duty, or any other police officer, while in the actual performance of his official duties;

(2) A State deputy conservation officer or a full-time employee of the Division of Parks and Forestry having the power of arrest and authorized to carry weapons, while in the actual performance of his official duties;

(3) (Deleted by amendment, P.L.1986, c.150.)

(4) A court attendant serving as such under appointment by the sheriff of the county or by the judge of any municipal court or other court of this State, while in the actual performance of his official duties;

(5) A guard in the employ of any railway express company, banking or building and loan or savings and loan institution of this State, while in the actual performance of his official duties;

(6) A member of a legally recognized military organization while actually under orders or while going to or from the prescribed place of meeting and carrying the weapons prescribed for drill, exercise or parade;

(7) A humane law enforcement officer of the New Jersey Society for the Prevention of Cruelty to Animals or of a county society for the prevention of cruelty to animals, while in the actual performance of his duties;

(8) An employee of a public utilities corporation actually engaged in the transportation of explosives;

(9) A railway policeman, except a transit police officer of the New Jersey Transit Police Department, at all times while in the State of New Jersey, provided that he has passed an approved police academy training program consisting of at least 280 hours. The training program shall include, but need not be limited to, the handling of firearms, community relations, and juvenile relations;

(10) A campus police officer appointed under P.L.1970, c.211 (C.18A:6-4.2 et seq.) at all times. Prior to being permitted to carry a firearm, a campus police officer shall take and successfully complete a firearms training course administered by the Police Training Commission, pursuant to P.L.1961, c.56 (C.52:17B-66 et seq.), and shall annually qualify in the use of a revolver or similar weapon prior to being permitted to carry a firearm;

(11) (Deleted by amendment, P.L.2003, c.168).

(12) A transit police officer of the New Jersey Transit Police Department, at all times while in the State of New Jersey, provided the officer has satisfied the training requirements of the Police Training Commission, pursuant to subsection c. of section 2 of P.L.1989, c.291 (C.27:25-15.1);

(13) A parole officer employed by the State Parole Board at all times. Prior to being permitted to carry a firearm, a parole officer shall take and successfully complete a basic course for regular police officer training administered by the Police Training Commission, pursuant to P.L.1961, c.56 (C.52:17B-66 et seq.), and shall annually qualify in the use of a revolver or similar weapon prior to being permitted to carry a firearm;

(14) A Human Services police officer at all times while in the State of New Jersey, as authorized by the Commissioner of Human Services;

(15) A person or employee of any person who, pursuant to and as required by a contract with a governmental entity, supervises or transports persons charged with or convicted of an offense;

(16) A housing authority police officer appointed under P.L.1997, c.210 (C.40A:14-146.19 et al.) at all times while in the State of New Jersey; or

(17) A probation officer assigned to the "Probation Officer Community Safety Unit" created by section 2 of P.L.2001, c.362 (C.2B:10A-2) while in the actual performance of the probation officer's official duties. Prior to being permitted to carry a firearm, a probation officer shall take and successfully complete a basic course for regular police officer training administered by the Police Training Commission, pursuant to P.L.1961, c.56 (C.52:17B-66 et seq.), and shall annually qualify in the use of a revolver or similar weapon prior to being permitted to carry a firearm.

d. (1) Subsections c. and d. of N.J.S.2C:39-5 do not apply to antique firearms, provided that such antique firearms are unloaded or are being fired for the purposes of exhibition or demonstration at an authorized target range or in such other manner as has been approved in writing by the chief law enforcement officer of the municipality in which the exhibition or demonstration is held, or if not held on property under the control of a particular municipality, the superintendent.

(2) Subsection a. of N.J.S.2C:39-3 and subsection d. of N.J.S.2C:39-5 do not apply to an antique cannon that is capable of being fired but that is unloaded and immobile, provided that the antique cannon is possessed by (a) a scholastic institution, a museum, a municipality, a county or the State, or (b) a person who obtained a firearms purchaser identification card as specified in N.J.S.2C:58-3.

(3) Subsection a. of N.J.S.2C:39-3 and subsection d. of N.J.S.2C:39-5 do not apply to an unloaded antique cannon that is being transported by one eligible to possess it, in compliance with regulations the superintendent may promulgate, between its permanent location and place of purchase or repair.

(4) Subsection a. of N.J.S.2C:39-3 and subsection d. of N.J.S.2C:39-5 do not apply to antique cannons that are being loaded or fired by one eligi-

ble to possess an antique cannon, for purposes of exhibition or demonstration at an authorized target range or in the manner as has been approved in writing by the chief law enforcement officer of the municipality in which the exhibition or demonstration is held, or if not held on property under the control of a particular municipality, the superintendent, provided that performer has given at least 30 days' notice to the superintendent.

(5) Subsection a. of N.J.S.2C:39-3 and subsection d. of N.J.S.2C:39-5 do not apply to the transportation of unloaded antique cannons directly to or from exhibitions or demonstrations authorized under paragraph (4) of subsection d. of this section, provided that the transportation is in compliance with safety regulations the superintendent may promulgate. Nor do those subsections apply to transportation directly to or from exhibitions or demonstrations authorized under the law of another jurisdiction, provided that the superintendent has been given 30 days' notice and that the transportation is in compliance with safety regulations the superintendent may promulgate.

e. Nothing in subsections b., c. and d. of N.J.S.2C:39-5 shall be construed to prevent a person keeping or carrying about his place of business, residence, premises or other land owned or possessed by him, any firearm, or from carrying the same, in the manner specified in subsection g. of this section, from any place of purchase to his residence or place of business, between his dwelling and his place of business, between one place of business or residence and another when moving, or between his dwelling or place of business and place where such firearms are repaired, for the purpose of repair. For the purposes of this section, a place of business shall be deemed to be a fixed location.

f. Nothing in subsections b., c. and d. of N.J.S.2C:39-5 shall be construed to prevent:

(1) A member of any rifle or pistol club organized in accordance with the rules prescribed by the National Board for the Promotion of Rifle Practice, in going to or from a place of target practice, carrying such firearms as are necessary for said target practice, provided that the club has filed a copy of its charter with the superintendent and annually submits a list of its members to the superintendent and provided further that the firearms are carried in the manner specified in subsection g. of this section;

(2) A person carrying a firearm or knife in the woods or fields or upon the waters of this State for the purpose of hunting, target practice or fishing, provided that the firearm or knife is legal and appropriate for hunting or fishing purposes in this State and he has in his possession a valid hunting license, or, with respect to fresh water fishing, a valid fishing license;

(3) A person transporting any firearm or knife while traveling:

(a) Directly to or from any place for the purpose of hunting or fishing, provided the person has in his possession a valid hunting or fishing license; or

(b) Directly to or from any target range, or other authorized place for the purpose of practice, match, target, trap or skeet shooting exhibitions, provided in all cases that during the course of the travel all firearms are carried in the manner specified in subsection g. of this section and the person has complied with all the provisions and requirements of Title 23 of the Revised Statutes and any amendments thereto and all rules and regulations promulgated thereunder; or

(c) In the case of a firearm, directly to or from any exhibition or display of firearms which is sponsored by any law enforcement agency, any rifle or pistol club, or any firearms collectors club, for the purpose of displaying the firearms to the public or to the members of the organization or club, provided, however, that not less than 30 days prior to the exhibition or display, notice of the exhibition or display shall be given to the Superintendent of the State Police by the sponsoring organization or club, and the sponsor has complied with such reasonable safety regulations as the superintendent may promulgate. Any firearms transported pursuant to this section shall be transported in the manner specified in subsection g. of this section;

(4) A person from keeping or carrying about a private or commercial aircraft or any boat, or from transporting to or from such vessel for the purpose of installation or repair a visual distress signaling device approved by the United States Coast Guard.

g. All weapons being transported under paragraph (2) of subsection b., subsection e., or paragraph (1) or (3) of subsection f. of this section shall be carried unloaded and contained in a closed and fastened case, gunbox, securely tied package, or locked in the trunk of the automobile in which it is being transported, and in the course of travel shall include only such deviations as are reasonably necessary under the circumstances.

h. Nothing in subsection d. of N.J.S.2C:39-5 shall be construed to prevent any employee of a public utility, as defined in R.S.48:2-13, doing business in this State or any United States Postal Service employee, while in the actual performance of duties which specifically require regular and frequent visits to private premises, from possessing, carrying or using any device which projects, releases or emits any substance specified as being noninjurious to canines or other animals by the Commissioner of Health and Senior Services and which immobilizes only on a temporary basis and produces only temporary physical discomfort through being vaporized or otherwise dispensed in the air for the sole purpose of repelling canine or other animal attacks.

The device shall be used solely to repel only those canine or other animal attacks when the canines or other animals are not restrained in a fashion sufficient to allow the employee to properly perform his duties.

Any device used pursuant to this act shall be selected from a list of products, which consist of active and inert ingredients, permitted by the Commissioner of Health and Senior Services.

i. Nothing in N.J.S.2C:39-5 shall be construed to prevent any person who is 18 years of age or older and who has not been convicted of a felony, from possession for the purpose of personal self-defense of one pocket-sized device which contains and releases not more than three-quarters of an ounce of chemical substance not ordinarily capable of lethal use or of inflicting serious bodily injury, but rather, is intended to produce temporary physical discomfort or disability through being vaporized or otherwise dispensed in the air. Any person in possession of any device in violation of this subsection shall be deemed and adjudged to be a disorderly person, and upon conviction thereof, shall be punished by a fine of not less than \$100.00.

j. A person shall qualify for an exemption from the provisions of N.J.S.2C:39-5, as specified under subsections a. and c. of this section, if the person has satisfactorily completed a firearms training course approved by the Police Training Commission.

Such exempt person shall not possess or carry a firearm until the person has satisfactorily completed a firearms training course and shall annually qualify in the use of a revolver or similar weapon. For purposes of this subsection, a "firearms training course" means a course of instruction in the safe use, maintenance and storage of firearms which is approved by the Police Training Commission. The commission shall approve a firearms training course if the requirements of the course are substantially equivalent to the requirements for firearms training provided by police training courses which are certified under section 6 of P.L.1961, c.56 (C.52:17B-71). A person who is specified in paragraph (1), (2), (3) or (6) of subsection a. of this section shall be exempt from the requirements of this subsection.

k. Nothing in subsection d. of N.J.S.2C:39-5 shall be construed to prevent any financial institution, or any duly authorized personnel of the institution, from possessing, carrying or using for the protection of money or property, any device which projects, releases or emits tear gas or other substances intended to produce temporary physical discomfort or temporary identification.

l. Nothing in subsection b. of N.J.S.2C:39-5 shall be construed to prevent a law enforcement officer who retired in good standing, including a retirement because of a disability pursuant to section 6 of P.L.1944, c.255

(C.43:16A-6), section 7 of P.L.1944, c.255 (C.43:16A-7), section 1 of P.L.1989, c.103 (C.43:16A-6.1) or any substantially similar statute governing the disability retirement of federal law enforcement officers, provided the officer was a regularly employed, full-time law enforcement officer for an aggregate of four or more years prior to his disability retirement and further provided that the disability which constituted the basis for the officer's retirement did not involve a certification that the officer was mentally incapacitated for the performance of his usual law enforcement duties and any other available duty in the department which his employer was willing to assign to him or does not subject that retired officer to any of the disabilities set forth in subsection c. of N.J.S.2C:58-3 which would disqualify the retired officer from possessing or carrying a firearm, who semi-annually qualifies in the use of the handgun he is permitted to carry in accordance with the requirements and procedures established by the Attorney General pursuant to subsection j. of this section and pays the actual costs associated with those semi-annual qualifications, who is 75 years of age or younger, and who was regularly employed as a full-time member of the State Police; a full-time member of an interstate police force; a full-time member of a county or municipal police department in this State; a full-time member of a State law enforcement agency; a full-time sheriff, undersheriff or sheriff's officer of a county of this State; a full-time State or county corrections officer; a full-time county park police officer; a full-time county prosecutor's detective or investigator; a full-time federal law enforcement officer; or is a qualified retired law enforcement officer, as used in the federal "Law Enforcement Officers Safety Act of 2004," Pub.L. 108-277, domiciled in this State from carrying a handgun in the same manner as law enforcement officers exempted under paragraph (7) of subsection a. of this section under the conditions provided herein:

(1) The retired law enforcement officer shall make application in writing to the Superintendent of State Police for approval to carry a handgun for one year. An application for annual renewal shall be submitted in the same manner.

(2) Upon receipt of the written application of the retired law enforcement officer, the superintendent shall request a verification of service from the chief law enforcement officer of the organization in which the retired officer was last regularly employed as a full-time law enforcement officer prior to retiring. The verification of service shall include:

- (a) The name and address of the retired officer;
- (b) The date that the retired officer was hired and the date that the officer retired;

(c) A list of all handguns known to be registered to that officer;
(d) A statement that, to the reasonable knowledge of the chief law enforcement officer, the retired officer is not subject to any of the restrictions set forth in subsection c. of N.J.S.2C:58-3; and

(e) A statement that the officer retired in good standing.

(3) If the superintendent approves a retired officer's application or re-application to carry a handgun pursuant to the provisions of this subsection, the superintendent shall notify in writing the chief law enforcement officer of the municipality wherein that retired officer resides. In the event the retired officer resides in a municipality which has no chief law enforcement officer or law enforcement agency, the superintendent shall maintain a record of the approval.

(4) The superintendent shall issue to an approved retired officer an identification card permitting the retired officer to carry a handgun pursuant to this subsection. This identification card shall be valid for one year from the date of issuance and shall be valid throughout the State. The identification card shall not be transferable to any other person. The identification card shall be carried at all times on the person of the retired officer while the retired officer is carrying a handgun. The retired officer shall produce the identification card for review on the demand of any law enforcement officer or authority.

(5) Any person aggrieved by the denial of the superintendent of approval for a permit to carry a handgun pursuant to this subsection may request a hearing in the Superior Court of New Jersey in the county in which he resides by filing a written request for such a hearing within 30 days of the denial. Copies of the request shall be served upon the superintendent and the county prosecutor. The hearing shall be held within 30 days of the filing of the request, and no formal pleading or filing fee shall be required. Appeals from the determination of such a hearing shall be in accordance with law and the rules governing the courts of this State.

(6) A judge of the Superior Court may revoke a retired officer's privilege to carry a handgun pursuant to this subsection for good cause shown on the application of any interested person. A person who becomes subject to any of the disabilities set forth in subsection c. of N.J.S.2C:58-3 shall surrender, as prescribed by the superintendent, his identification card issued under paragraph (4) of this subsection to the chief law enforcement officer of the municipality wherein he resides or the superintendent, and shall be permanently disqualified to carry a handgun under this subsection.

(7) The superintendent may charge a reasonable application fee to retired officers to offset any costs associated with administering the application process set forth in this subsection.

m. Nothing in subsection d. of N.J.S.2C:39-5 shall be construed to prevent duly authorized personnel of the New Jersey Division of Fish and Wildlife, while in the actual performance of duties, from possessing, transporting or using any device that projects, releases or emits any substance specified as being non-injurious to wildlife by the Director of the Division of Animal Health in the Department of Agriculture, and which may immobilize wildlife and produces only temporary physical discomfort through being vaporized or otherwise dispensed in the air for the purpose of repelling bear or other animal attacks or for the aversive conditioning of wildlife.

n. Nothing in subsection b., c., d. or e. of N.J.S.2C:39-5 shall be construed to prevent duly authorized personnel of the New Jersey Division of Fish and Wildlife, while in the actual performance of duties, from possessing, transporting or using hand held pistol-like devices, rifles or shotguns that launch pyrotechnic missiles for the sole purpose of frightening, hazing or aversive conditioning of nuisance or depredating wildlife; from possessing, transporting or using rifles, pistols or similar devices for the sole purpose of chemically immobilizing wild or non-domestic animals; or, provided the duly authorized person complies with the requirements of subsection j. of this section, from possessing, transporting or using rifles or shotguns, upon completion of a Police Training Commission approved training course, in order to dispatch injured or dangerous animals or for non-lethal use for the purpose of frightening, hazing or aversive conditioning of nuisance or depredating wildlife.

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

Approved January 13, 2008.

CHAPTER 315

AN ACT concerning county juvenile detention facilities and supplementing P.L.1995, c.284 (C.52:17B-169 et seq.) and Title 2A of the New Jersey Statutes.

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

C.52:17B-171.1 Standards for suicide, mental health screening in county juvenile detention facilities.

1. The Juvenile Justice Commission shall establish standards for suicide and mental health screening in county juvenile detention facilities in accordance with the provisions of this act. The standards shall require that each county detention facility develop written policies concerning mental health screening, suicide screening, suicide prevention protocols and other mental and emotional health-related issues and that each county juvenile detention facility make psychological or psychiatric services available to juveniles as needed.

C.52:17B-171.2 Suicide risk screening for juveniles admitted to county juvenile detention facility.

2. a. Upon admission to a county juvenile detention facility, a juvenile shall be screened for risk of suicide in accordance with the facility's suicide prevention protocols and written policies required by section 1 of this act. The suicide risk screening shall include, but not be limited to, the use of a standardized suicide risk questionnaire designated and made available by the Juvenile Justice Commission. The findings shall be recorded and brought to the attention of the appropriate medical or mental health staff as soon as possible.

b. If a juvenile shows evidence of suicide risk, the facility's suicide prevention protocols shall be immediately implemented. The policies shall include an increased level of supervision of a juvenile showing evidence of suicide risk until appropriate mental health services can be obtained. The facility administrator, or the administrator's designee, shall be immediately notified if a juvenile:

(1) is suspected of being at risk of attempting suicide or in emotional distress;

(2) has made a suicidal gesture or attempt; or

(3) scores in a suicide caution or warning range in a screening.

c. Every suicide gesture or attempt shall be reported to the Juvenile Justice Commission.

C.52:17B-171.3 Mental health screening for juveniles admitted to county juvenile detention facility.

3. Between 24 and 48 hours following admission to a county juvenile detention facility, a juvenile shall undergo mental health screening using a mental health screening tool designated by the Juvenile Justice Commission and in accordance with the facility's written policies required by section 1 of this act. If the screening tool indicates that a referral for additional

screening or mental health services is appropriate, that referral shall occur as soon as possible. If the screening indicates a warning or caution, the juvenile shall be placed on, and remain under, increased supervision until it is determined by a mental health clinician that a heightened level of supervision is no longer needed to ensure the safety of the juvenile.

C.2A:4A-60.2 Disclosure, use of juvenile's statement made in course of screening.

4. Except as otherwise required by law, any statement made by a juvenile in the course of a suicide or mental health screening, conducted with or without the juvenile's consent, or reports or records produced pursuant to such suicide or mental health screening, shall not be:

- a. disclosed, except by an attorney representing the juvenile and with the juvenile's consent, to the court, prosecutor, or any law enforcement officer; or
- b. used in any investigation or delinquency or criminal proceeding involving the juvenile that is currently pending or subsequently initiated.

C.52:17B-171.4 Screening before placement in isolation.

5. No juvenile shall be placed in isolation before undergoing screening for risk of suicide and mental health screening required by sections 2 and 3 of this act.

C.52:17B-171.5 Certification for person conducting screening.

6. No person shall perform a suicide risk screening pursuant to section 2 of this act or a mental health screening pursuant to section 3 of this act unless that person has been certified by the Juvenile Justice Commission as qualified to perform such screening.

C.52:17B-171.6 Establishment, maintenance of Statewide database of screenings.

7. The Juvenile Justice Commission, in conjunction with the Department of Children and Families, shall establish and maintain a confidential Statewide database of the suicide risk screenings required by section 2 of this act and the mental health screenings required by section 3 of this act to be used exclusively by persons performing suicide risk and mental health screenings.

C.52:17B-171.7 Monitoring of suicides occurring at county juvenile detention facilities.

8. a. The Juvenile Justice Commission shall monitor the number of suicides that occur at each county juvenile detention facility.

b. Upon an initial suicide at a facility, the commission shall conduct an evaluation of the facility's compliance with the provisions of this act, an accountability assessment and an action report.

c. If a second suicide occurs within seven years of the initial suicide, the Juvenile Justice Commission shall, within 30 days, and with the ap-

proval of the Attorney General, evaluate the facility for compliance with the provisions of this act. A facility shall not admit additional juveniles until the Attorney General has certified that the facility is in compliance with the provisions of this act.

d. If a third or subsequent suicide occurs within seven years of an initial suicide, the facility shall be immediately closed and shall not reopen until the Governor determines that it shall reopen. A task force comprised of the following seven members shall assist the Governor in making this determination: the Executive Director of the Juvenile Justice Commission, or a designee; the Attorney General, or a designee; the Child Advocate, or a designee; the Commissioner of Children and Families, or a designee; one public member; a director of a county juvenile detention facility, but not of the county facility being evaluated; and a member of the board of chosen freeholders of the county within which the facility being evaluated is located.

C.52:17B-171.8 Information on JJC website.

9. The Juvenile Justice Commission shall include the following information on the commission's website:

a. All reports monitoring the operations of county juvenile detention centers, including, but not limited to, any corrective actions taken against or penalties imposed on a center, if applicable; and

b. The rated census capacity and the average monthly population for each county juvenile detention center.

C.52:17B-171.9 Training curriculum for juvenile detention officers on mental health needs of juvenile detention population.

10. The Juvenile Justice Commission shall, in conjunction with the Police Training Commission and mental health experts, develop a training curriculum for juvenile detention officers and youth workers focusing on the mental health needs of the juvenile detention population.

C.52:17B-171.10 Annual report to Governor, Legislature.

11. The Juvenile Justice Commission, in conjunction with the Department of Children and Families, shall annually submit to the Governor and the Legislature, for seven years following the effective date of this act, a report detailing:

a. the number of suicides and suicide attempts at each county juvenile detention facility;

b. the number of suicide and mental health screenings that have been conducted at each facility and the number of juveniles whose screenings have indicated a warning or caution;

- c. the number of juveniles who have been referred for additional screening or evaluation; and
- d. a summary of the diagnoses for juveniles who have received treatment.

C.52:17B-171.11 Rules, regulations; penalties, fines.

12. The Juvenile Justice Commission, 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, which may include:

- a. penalties for continued violations of the manual of standards applicable to county detention centers; and
- b. a graduated system of intermediate fines and penalties for violations of the provisions of the act.

C.2A:4A-60.3 Disclosure of juvenile's information to court; conditions.

13. Reports or records relating to mental health services provided to a juvenile prior to an adjudication of delinquency or a finding of guilt, regardless of whether such mental health services were provided with or without the consent of the juvenile, may be disclosed to the court only after an adjudication of delinquency or a finding of guilt has been entered; provided however, an attorney representing a juvenile, with the juvenile's consent, may disclose such reports or records prior to the adjudication of delinquency or finding of guilt. The provisions of this section shall not be construed to limit in any manner the applicability of any privilege or law that otherwise prohibits disclosure of a juvenile's mental health records.

14. This act shall take effect immediately.

Approved January 13, 2008.

CHAPTER 316

AN ACT concerning informed consent for medical research and supplementing Title 26 of the Revised Statutes.

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

C.26:14-1 Short title.

1. This act shall be known and may be cited as the "Access to Medical Research Act."

C.26:14-2 Findings, declarations relative to informed consent for medical research.

2. The Legislature finds and declares that:
 - a. Access to the latest treatments developed through medical research is essential to provide the citizens of this State with the best health care services available;
 - b. The advancement of the scientific understanding of health, behavior, disease, and treatment is a vital endeavor for the benefit of humankind;
 - c. Ground-breaking research is currently being conducted in New Jersey by a wide variety of health professionals in the diagnosis, intervention and monitoring of all aspects of health and medical care; and
 - d. All research involving human participants, regardless of the setting, must be conducted with profound respect for their health, safety, and dignity.

C.26:14-3 Applicability of act; minimal risk defined.

3. The provisions of this act shall apply to medical research on persons with cognitive impairments, lack of capacity, or serious physical or behavioral conditions and life-threatening diseases that is approved and monitored by an institutional review board that holds an assurance with the United States Department of Health and Human Services and either:

- a. offers the prospect of direct benefit to the individual subject, provided that the institutional review board has determined that the risk is justified by the anticipated benefits to the subject and that the relation of the anticipated benefit to the risk is at least as favorable to the subject as that presented by available alternative approaches. If a currently recognized treatment exists, the subject or his guardian or authorized representative, as applicable, shall be presented with the choice of the recognized treatment and the research protocol; or
- b. does not offer the prospect of direct benefit to the individual subject, provided that the institutional review board has determined that it: (1) is likely to yield generalizable knowledge about the subject's disorder or condition; (2) by its very nature cannot be conducted without the participation of decisionally incapacitated persons as subjects; and (3) involves no more than a minor increase over minimal risk.

For purposes of this section, "minimal risk" means that the probability and magnitude of harm or discomfort anticipated in the research are not greater than those ordinarily encountered in daily life or during the performance of routine physical or psychological exams or tests.

C.26:14-4 Informed consent defined; use.

4. As used in this act, “informed consent” means the authorization given pursuant to this act to participate in medical research performed on a subject after each of the following conditions has been satisfied:

a. The subject or his guardian, or authorized representative as provided in section 5 of this act, as applicable, is informed both verbally and within the written consent form, in nontechnical terms and in a language in which the subject or the subject’s guardian or authorized representative is fluent, of the following facts that include:

(1) an explanation of the procedures to be followed in the research and any drugs or devices to be utilized, including the purposes of the procedures, drugs, or devices and, when applicable, the use of placebo controls and the process by which persons will be assigned to control groups;

(2) a description of any attendant discomfort and reasonably foreseeable risks to the subject;

(3) an explanation of any potential direct benefits to the subject. If no such direct benefits are reasonably expected, that fact should be made clear;

(4) a disclosure of any appropriate alternative procedures, drugs or devices that might be advantageous to the subject, and their relative risks and benefits;

(5) an estimate of the expected duration of the research procedure or study;

(6) an offer to answer any inquiries concerning the research or the procedures involved and an explanation of whom to contact for answers to pertinent questions about the research and the research subject’s rights, and whom to contact in the event of a research-related injury;

(7) an instruction to the subject or his guardian or authorized representative, as applicable, that he is free to withdraw his prior consent to the medical experiment and discontinue participation in the research at any time, without prejudice to the subject;

(8) the name, institutional affiliation, if any, and address of the person or persons actually performing and primarily responsible for the conduct of the research;

(9) the name of the sponsor or funding source, if any, or manufacturer if the research involves a drug or device, and the organization, if any, under whose general aegis the research is being conducted;

(10) the name, address, and phone number of an impartial third party, not associated with the research, to whom the subject may address complaints about the research and the contact information for the institutional review board connected with the research; and

(11) the material financial stake or interest, if any, that the investigator or research institution has in the research. For purposes of this section, “material” means \$10,000 or more in securities or other assets valued at the date of disclosure, or in relevant cumulative salary or other income, regardless of when it is earned or expected to be earned or as otherwise determined by the research institution.

b. The subject or his guardian or authorized representative, as applicable, has signed and dated a written consent form.

c. The written consent form is signed and dated by a person, who is not the subject, his guardian or authorized representative, or the researcher, and who can attest that the requirements for informed consent to the medical research have been satisfied.

d. Consent is given voluntarily and freely by the subject or his guardian or authorized representative without the intervention of force, fraud, deceit, duress, coercion or undue influence.

C.26:14-5 Obtaining surrogate informed consent; conditions.

5. a. For purposes of obtaining informed consent required for medical research, if a person who may be the subject of the research is unable to consent and does not express dissent or resistance to participation, surrogate informed consent may be obtained from an authorized representative with reasonable knowledge of the subject, who shall include any of the following persons, in the following descending order of priority:

(1) the guardian of the subject who has the authority to make health care decisions for the subject;

(2) the health care representative of the subject pursuant to an advance directive for health care;

(3) the spouse or civil union partner, as applicable, of the subject;

(4) the domestic partner, as defined in section 3 of P.L.2003, c.246 (C.26:8A-3), of the subject;

(5) an adult son or daughter of the subject;

(6) a custodial parent of the subject;

(7) an adult brother or sister of the subject;

(8) an adult grandchild of the subject;

(9) an available adult relative with the closest degree of kinship to the subject.

b. For purposes of this section, inability to consent shall mean that a subject is unable to consent if he is unable to voluntarily reason, understand, and appreciate the nature and consequences of proposed health research interventions, including the subject’s diagnosis and prognosis, the

burdens, benefits, and risks of, and alternatives to, any such research, and to reach an informed decision.

All adults are presumed to have the ability to consent unless determined otherwise pursuant to this section or other provisions of State law.

A determination that a subject is unable to consent, as well as the extent of his incapacity and the likelihood that he will regain decision-making capacity, shall be made by an attending physician with no connection to the proposed research and shall be made to a reasonable degree of medical certainty.

A determination of incapacity shall promptly be given to the subject and to at least one person at the highest level reasonably available on the list of surrogates contained in subsection a. of this section.

Notwithstanding a determination of incapacity made pursuant to this section, a subject's objection to a determination of incapacity or objection to the proposed research intervention shall be binding, unless a court of competent jurisdiction determines that the subject lacks decision-making capacity.

c. For the purposes of this section:

(1) when there are two or more available persons who may give surrogate informed consent and who are in the same order of priority, if any of those persons expresses dissent as to the participation of the person in the research, consent shall not be considered as having been given; and

(2) when there are two or more available persons who are in different orders of priority, refusal to consent by a person who is a higher priority authorized representative shall not be superseded by the consent of a person who is a lower priority authorized representative.

d. An authorized representative described in this section shall make decisions about participation in accordance with the subject's individual health care instructions, if any, and other wishes, to the extent known to the authorized representative. If the authorized representative does not have knowledge of any health care instructions or other wishes of the subject, or if the instructions or wishes do not clearly indicate what decision should be made, he shall make the decision in accordance with the subject's personal values and his best estimation of what the subject would have chosen if he were capable of making a decision.

e. The requirement for obtaining informed consent for medical research pursuant to this act shall not apply to any medical research with respect to a person who is subject to a life-threatening emergency in accordance with the conditions set forth in 21 C.F.R.s.50.24.

f. The requirements for obtaining informed consent for medical research pursuant to this act may be altered or waived in accordance with the

conditions set forth in 45 C.F.R.s.46.116(d).

g. A person who provides surrogate consent pursuant to this section may not receive financial compensation for providing the consent.

h. Except as otherwise provided by law, the provisions of this section shall not override an advance directive for health care executed pursuant to P.L.1991, c.201 (C.26:2H-53 et seq.).

6. This act shall take effect immediately.

Approved January 13, 2008.

CHAPTER 317

AN ACT concerning certain disabled veterans' property tax exemption claims and amending P.L.1948, c.259.

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

1. Section 1 of P.L.1948, c.259 (C.54:4-3.30) is amended to read as follows:

C.54:4-3.30 Disabled veteran's exemption.

1. a. The dwelling house and the lot or curtilage whereon the same is erected, of any citizen and resident of this State, now or hereafter honorably discharged or released under honorable circumstances, from active service, in time of war, in any branch of the Armed Forces of the United States, who has been or shall be declared by the United States Veterans Administration or its successor to have a service-connected disability from paraplegia, sarcoidosis, osteochondritis resulting in permanent loss of the use of both legs, or permanent paralysis of both legs and lower parts of the body, or from hemiplegia and has permanent paralysis of one leg and one arm or either side of the body, resulting from injury to the spinal cord, skeletal structure, or brain or from disease of the spinal cord not resulting from any form of syphilis; or from total blindness; or from amputation of both arms or both legs, or both hands or both feet, or the combination of a hand and a foot; or from other service-connected disability declared by the United States Veterans Administration or its successor to be a total or 100% permanent disability, and not so evaluated solely because of hospitalization or surgery and recuperation, sus-

tained through enemy action, or accident, or resulting from disease contracted while in such active service, shall be exempt from taxation, on proper claim made therefor, and such exemption shall be in addition to any other exemption of such person's real and personal property which now is or hereafter shall be prescribed or allowed by the Constitution or by law but no taxpayer shall be allowed more than one exemption under this act.

b. (1) The surviving spouse of any such citizen and resident of this State, who at the time of death was entitled to the exemption provided under this act, shall be entitled, on proper claim made therefor, to the same exemption as the deceased had, during the surviving spouse's widowhood or widowerhood, as the case may be, and while a resident of this State, for the time that the surviving spouse is the legal owner thereof and actually occupies the said dwelling house or any other dwelling house thereafter acquired.

(2) The surviving spouse of any citizen and resident of this State who was honorably discharged and, after the citizen and resident's death, is declared to have suffered a service-connected disability as provided in subsection a. of this section, shall be entitled, on proper claim made therefor, to the same exemption the deceased would have become eligible for. The exemption shall continue during the surviving spouse's widowhood or widowerhood, as the case may be, and while a resident of this State, for the time that the surviving spouse is the legal owner thereof and actually occupies the dwelling house or any other dwelling house thereafter acquired.

c. The surviving spouse of any citizen and resident of this State, who died in active service in time of war in any branch of the Armed Forces of the United States, shall be entitled, on proper claim made therefor, to an exemption from taxation on the dwelling house and lot or curtilage whereon the same is erected, during the surviving spouse's widowhood or widowerhood, as the case may be, and while a resident of this State, for the time that the surviving spouse is the legal owner thereof and actually occupies the said dwelling or any other dwelling house thereafter acquired.

d. The surviving spouse of any citizen and resident of this State who died prior to January 10, 1972, that being the effective date of P.L.1971, c.398, and whose circumstances were such that, had said law become effective during the deceased's lifetime, the deceased would have become eligible for the exemption granted under this section as amended by said law, shall be entitled, on proper claim made therefor, to the same exemption as the deceased would have become eligible for upon the dwelling house and lot or curtilage occupied by the deceased at the time of death, during the surviving spouse's widowhood or widowerhood, as the case may be, and while a resident of this State, for the time that the surviving spouse is the

legal owner thereof and actually occupies the said dwelling house on the premises to be exempted.

e. Nothing in this act shall be intended to include paraplegia or hemiplegia resulting from locomotor ataxia or other forms of syphilis of the central nervous system, or from chronic alcoholism, or to include other forms of disease resulting from the veteran's own misconduct which may produce signs and symptoms similar to those resulting from paraplegia, osteochondritis, or hemiplegia.

2. Section 2 of P.L.1948, c.259 (C.54:4-3.31) is amended to read as follows:

C.54:4-3.31 Filing of claim.

2. All exemptions from taxation under P.L.1948, c.259 (C.54:4-3.30 et seq.) shall be allowed by the assessor upon the filing with him of a claim in writing under oath, made by or on behalf of the person claiming the same, showing the right to the exemption, briefly describing the property for which exemption is claimed and having annexed thereto a certificate of the claimant's honorable discharge or release under honorable circumstances, from active service, in time of war, in any branch of the armed forces and a certificate from the United States Veterans Administration or its successor, certifying to a service-connected disability of such claimant of the character described in section 1 of P.L.1948, c.259 (C.54:4-3.30). In the case of a claim by a surviving spouse of such veteran, the claimant shall establish in writing under oath that the claimant is the owner of the legal title to the premises on which exemption is claimed; that the claimant occupies the dwelling house on said premises as the claimant's legal residence in this State; that the veteran shall have been declared, either during the veteran's lifetime or after the veteran's death, by the United States Veterans Administration to have or to have had a service-connected disability of a character described in this act, or, in the case of a claim for an exemption under subsection c. of section 1 of P.L.1948, c.259 (C.54:4-3.30), that the veteran shall have been declared to have died in active service in time of war; that the veteran was entitled to an exemption provided for in this act, except for an exemption under paragraph (2) of subsection b. and subsection c. of section 1 hereof, at the time of death; and that the claimant is a resident of this State and has not remarried. Such exemptions shall be allowed and prorated by the assessor for the remainder of any taxable year from the date the claimant shall have acquired title to the real property intended to be exempt by this act. Where a portion of a multiple-family building or structure oc-

cupied by the claimant is the subject of such exemption, the assessor shall aggregate the assessment on the lot or curtilage and building or structure and allow an exemption of that percentage of the aggregate assessment as the value of the portion of the building or structure occupied by the claimant bears to the value of the entire building or structure.

3. Section 3 of P.L.1948, c.259 (C.54:4-3.32) is amended to read as follows:

C.54:4-3.32 Return of certain taxes collected on exempt property.

3. The governing body of each municipality, by appropriate resolution, may return all taxes collected on property which would have been exempt had proper claim in writing been made therefor in the manner provided by P.L.1948, c.259 (C.54:4-3.30 et seq.). The governing body of each municipality, by appropriate resolution, may also return to the veteran or the veteran's surviving spouse all property tax payments made since the time of the veteran's actual disability or since the time of the veteran's death. No refunds shall be made under this section for any year or portion thereof prior to the effective date of P.L.1948, c.259 (C.54:4-3.30 et seq.).

4. This act shall take effect immediately.

Approved January 13, 2008.

CHAPTER 318

AN ACT concerning firearms and supplementing chapter 58 of Title 2C of the New Jersey Statutes.

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

C.2C:58-3.3 "Handgun ammunition" defined; sale, purchase, etc., regulated; violation, fourth degree crime.

1. a. As used in this act, "handgun ammunition" means ammunition specifically designed to be used only in a handgun. "Handgun ammunition" shall not include blank ammunition, air gun pellets, flare gun ammunition, nail gun ammunition, paint ball ammunition, or any non-fixed ammunition.

b. No person shall sell, give, transfer, assign or otherwise dispose of, or receive, purchase, or otherwise acquire handgun ammunition unless the

purchaser, assignee, donee, receiver or holder is licensed as a manufacturer, wholesaler, or dealer under this chapter or is the holder of and possesses a valid firearms purchaser identification card, a valid copy of a permit to purchase a handgun, or a valid permit to carry a handgun and first exhibits such card or permit to the seller, donor, transferor or assignor.

c. No person shall sell, give, transfer, assign or otherwise dispose of handgun ammunition to a person who is under 21 years of age.

d. The provisions of this section shall not apply to a collector of firearms or ammunition as curios or relics who purchases, receives, acquires, possesses, or transfers handgun ammunition which is recognized as being historical in nature or of historical significance.

e. A person who violates this section shall be guilty of a crime of the fourth degree, except that nothing contained herein shall be construed to prohibit the sale, transfer, assignment or disposition of handgun ammunition to or the purchase, receipt or acceptance of ammunition by a law enforcement agency or law enforcement official for law enforcement purposes.

f. Nothing in this section shall be construed to prohibit the transfer of ammunition for use in a lawfully transferred firearm in accordance with the provisions of section 1 of P.L.1992, c.74 (C.2C:58-3.1), section 1 of P.L.1997, c.375 (C.2C:58-3.2) or section 14 of P.L.1979, c.179 (C.2C:58-6.1).

g. Nothing in this section shall be construed to prohibit the sale of a de minimis amount of handgun ammunition at a firearms range operated by a licensed dealer; a law enforcement agency; a legally recognized military organization; or a rifle or pistol club which has filed a copy of its charter with the superintendent for immediate use at that range.

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

Approved January 13, 2008.

CHAPTER 319

AN ACT establishing the Commission on Women Veterans 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:3-38 Commission on Women Veterans.

1. There is created in the New Jersey Department of Military and Veterans' Affairs, the Commission on Women Veterans, hereinafter referred to as "the commission". The commission shall work in collaboration with other State agencies and appropriate groups to study and review the needs, priorities, programs, and policies relating to women veterans, including, but not limited to, housing, health care, job training, and outreach. The commission shall ensure that all service providers and citizens are aware of the needs and services available to women veterans and make recommendations for community education and training programs. The commission shall provide outreach in conjunction with the Department of Military and Veterans' Affairs and other organizations to educate and recruit prospective veterans.

C.38A:3-39 Membership of commission; terms; vacancies.

2. The commission shall consist of 15 members who are New Jersey residents. The Governor shall appoint 12 members and of the 12 appointed, nine shall be women. There shall be appointed one representative from each of the following branches of military service who may also be affiliated with an organization named below: the Army; the Air Force; the Coast Guard, the Marines; and the Navy. There shall also be appointed by the Governor, one representative from the Veterans of Foreign Wars, one representative from the American Legion, one representative from the Disabled American Veterans, one representative from the American Veterans, one representative from the New Jersey Army National Guard, one representative from the New Jersey Air National Guard; and one representative from the Military Order of the Purple Heart. The Commissioner of the Department of Military and Veterans' Affairs, the Commissioner of the Department of Labor and Workforce Development, and the Director of the Division on Women in the Department of Community Affairs, or their respective designees, shall serve as ex-officio members.

The public members shall serve for terms of three years and until the appointment and qualification of their successors, except that of the initial appointment of public members, four shall be appointed for a term of three years, four shall be appointed for a term of two years and four shall be appointed for a term of one year.

If any public member discontinues affiliation with the respective veterans' organization, the member shall immediately resign membership with the commission.

Any vacancy in the membership of the commission shall be filled in the same manner as the original appointments are made.

C.38A:3-40 Reimbursement of members.

3. The members of the commission shall serve without compensation, but may be reimbursed for necessary and reasonable expenses incurred in the performance of their duties within the limits of funds appropriated or otherwise made available to it for its purposes.

C.38A:3-41 Organization, officers.

4. The commission shall organize as soon as may be practicable after the appointment of a majority of its members and shall select from among its members a chairperson and a vice chairperson, who shall be responsible for the coordination of all activities of the commission. The members shall select a secretary, who need not be a member of the commission.

C.38A:3-42 Meetings, hearings.

5. The commission shall meet at the call of the chairperson and hold hearings at such places as it shall designate. A meeting of the commission may also be called upon the request of eight of the commission members and eight members of the commission shall constitute a quorum at any meeting thereof. The commission shall meet not less than quarterly.

C.38A:3-43 Public hearings.

6. The commission may conduct public hearings at such places and at such times as it shall designate, at which it may solicit the testimony of interested persons, groups and the general public.

C.38A:3-44 Assistance, services available to commission.

7. The commission shall be entitled to call to its assistance and avail itself of the services of such 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. The Department of Military and Veterans' Affairs shall provide such organizational and personnel support as the commission may request.

C.38A:3-45 Reports to Governor, Legislature, Deputy Commissioner.

8. The commission shall prepare and submit an initial report to the Governor, the Legislature, pursuant to section 2 of P.L.1991, c.164 (C.52:14-19.1), and the Deputy Commissioner of Veterans' Affairs within six months of the organization of the commission.

The commission shall prepare and submit annual reports containing its findings, activities and recommendations, including any recommendations for administrative and legislative action that it deems appropriate, to the Governor, the Legislature and the Deputy Commissioner of Veterans' Affairs.

The commission shall periodically advise the Deputy Commissioner of Veterans' Affairs on its activities, findings and recommendations.

9. This act shall take effect immediately.

Approved January 13, 2008.

CHAPTER 320

AN ACT concerning the South Jersey Port Corporation and amending P.L.1968, c.60.

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

1. Section 5 of P.L.1968, c. 60 (C.12:11A-5) is amended to read as follows:

C.12:11A-5 "South Jersey Port Corporation," membership, compensation, vacancies.

5. a. There is hereby established in the Department of the Treasury a body corporate and politic, with corporate succession, to be known as the "South Jersey Port Corporation." The corporation is hereby constituted an instrumentality exercising public and essential governmental functions, and the exercise by the corporation of the powers conferred by this act in the establishment, acquisition, construction, rehabilitation, improvement, operation and maintenance of marine terminals shall be deemed and held to be an essential governmental function of the State.

b. The corporation shall consist of the State Treasurer, ex officio, or the Treasurer's designated representative, who shall be a voting member of the corporation, and 10 public members, each of whom shall be a resident of the port district, who shall have been a qualified elector therein for a period of at least 3 years next preceding his appointment. For the purpose of representation on the corporation the port district shall be divided into sub-districts with representation as follows:

(1) The counties of Cape May, Cumberland and Salem shall constitute one subdistrict and shall be represented by two public members on the corporation who shall be appointed from these counties.

(2) The counties of Camden and Gloucester shall constitute one sub-district and shall be represented by five public members on the corporation.

At least three of the public members representing the subdistrict designated under this paragraph shall be appointed from Camden County, and at least one of these public members appointed from Camden County shall be appointed from the City of Camden. At least one of the public members of such subdistrict shall be appointed from the Borough of Paulsboro.

(3) The counties of Burlington and Mercer shall constitute one subdistrict and shall be represented by three public members on the corporation at least one of whom shall be appointed from each county within this subdistrict.

No more than six members shall be of the same political party. Each public member of the corporation shall be appointed by the Governor, with the advice and consent of the Senate, except for the member or members appointed from the City of Camden who shall be appointed by the Governor upon recommendation of the President of the Senate, and the member or members appointed from the Borough of Paulsboro who shall be appointed by the Governor upon recommendation of the Speaker of the General Assembly. Each public member shall be appointed for a term of 5 years and shall serve until his successor is appointed and has qualified; except that of the first appointments hereunder, three shall be for a term of 2 years, two for a term of 3 years, and two for a term of 4 years, and they shall serve until their respective successors are appointed and have qualified. The term of each of the first appointees hereunder shall be designated by the Governor. Each public member of the corporation may be removed from office by the Governor or by the Legislature, for cause, after a public hearing. Each member of the corporation before entering upon his duties shall take and subscribe an oath to perform the duties of his office faithfully, impartially and justly to the best of his ability. A record of such oaths shall be filed in the office of the Secretary of State.

c. Any vacancies in the appointed membership of the corporation occurring other than by expiration of term shall be filled in the same manner as the original appointment, but for the unexpired term only.

d. The Governor shall designate one of the members of the corporation as chairman thereof and another member as vice-chairman thereof. The chairman and vice-chairman of the corporation so designated shall serve as such at the pleasure of the Governor and until their respective successors have been designated. The corporation shall elect a secretary and a treasurer who need not be members. At the option of the corporation the same person may be elected to serve both as secretary and treasurer. Six members of the corporation shall constitute a quorum and the vote of six members shall be necessary for any action taken by the corporation. No vacancy in the mem-

bership of the corporation shall impair the right of a quorum to exercise all the rights and perform all the duties of the corporation.

e. Before the issuance of any bonds or notes under the provisions of this act, each member of the corporation shall execute a surety bond in the penal sum of \$25,000.00, and the treasurer shall execute a surety bond in the penal sum of \$50,000.00, each such surety bond to be conditioned upon the faithful performance of the duties of the office of such member or treasurer, as the case may be, to be executed by a surety company authorized to transact business in the State of New Jersey as surety and to be approved by the Attorney General and filed in the office of the Secretary of State.

f. The members of the corporation shall not receive compensation for their services as members of the corporation. Each member shall be reimbursed by the corporation for his actual expenses necessarily incurred in the performance of his duties.

g. No resolution or other action of the corporation providing for the issuance of bonds, refunding bonds or other obligations or for the fixing, revising or adjusting of tolls for the use of any corporation project or parts thereof shall be adopted or otherwise made effective by the corporation without the prior approval in writing of the Governor and at least one of the following: the State Treasurer and the Director of the Division of Budget and Accounting in the Department of the Treasury. A true copy of the minutes of every meeting of the corporation shall be forthwith delivered by and under the certification of the secretary thereof, to the Governor. No action taken at such meeting by the corporation shall have force or effect until 10 days, exclusive of Saturdays, Sundays and public holidays, after such copy of the minutes shall have been so delivered. If, in said 10-day period, the Governor returns such copy of the minutes with veto of any action taken by the corporation or any member thereof at such meeting, such action shall be null and of no effect. The Governor may approve all or part of the action taken at such meeting prior to said 10-day period. The powers conferred in this subsection g. upon the Governor, the State Treasurer and the Director of the Division of Budget and Accounting shall be exercised with due regard for the rights of the holders of bonds of the corporation at any time outstanding, and nothing in, or done pursuant to, this subsection g. shall in any way limit, restrict or alter the obligation or powers of the corporation or any representative or officer of the corporation to carry out and perform in every detail each and every covenant, agreement or contract at any time made or entered into by or on behalf of the corporation with respect to its bonds for the benefit, protection or security of the holders thereof.

2. This act shall take effect immediately, but the provisions thereof shall not affect the members of the corporation in office on the effective date of this act.

Approved January 13, 2008.

CHAPTER 321

AN ACT concerning certain thefts from grave sites and supplementing Title 2C of the New Jersey Statutes.

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

C.2C:20-2.3 Theft from grave sites, certain; penalty.

1. a. A person is guilty of theft if he unlawfully removes a headstone, headstone marker, flag or flag holder from a grave site or exercises control over a headstone, headstone marker, flag or flag holder without license or privilege to do so under circumstances which would cause a reasonable person to believe that the object was unlawfully removed. For purposes of this section, "flag" includes, but is not limited to, the American flag.

b. Notwithstanding the provisions of N.J.S.2C:43-3 and in addition to any other fine or penalty imposed, a person who commits theft in violation of subsection a. of this section shall be liable to a fine of up to \$1,000 for each headstone, headstone marker, flag or flag holder that the person removed or over which the person exercised control.

c. In addition to imposing any other appropriate penalties established for a crime pursuant to Title 2C of the New Jersey Statutes, the court shall impose a term of community service of up to 30 days.

2. This act shall take effect immediately.

Approved January 13, 2008.

CHAPTER 322

AN ACT concerning the payment of temporary disability benefits and amending P.L.1948, c.110.

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

1. Section 15 of P.L.1948, c.110 (C.43:21-39) is amended to read as follows:

C.43:21-39 Limitation of benefits.

15. Limitation of benefits. Notwithstanding any other provision of the "Temporary Disability Benefits Law," P.L.1948, c.110 (C.43:21-25 et al.), no benefits shall be payable under the State plan to any person:

(a) for the first seven consecutive days of each period of disability; except that if benefits shall be payable for three consecutive weeks with respect to any period of disability commencing on or after January 1, 1968, then benefits shall also be payable with respect to the first seven days thereof;

(b) for more than 26 weeks with respect to any one period of disability;

(c) for any period of disability which did not commence while the claimant was a covered individual;

(d) for any period during which the claimant is not under the care of a legally licensed physician, dentist, optometrist, podiatrist, practicing psychologist, advanced practice nurse, or chiropractor, who, when requested by the division, shall certify within the scope of the practitioner's practice, the disability of the claimant, the probable duration thereof, and, where applicable, the medical facts within the practitioner's knowledge;

(e) (Deleted by amendment, P.L.1980, c.90.)

(f) for any period of disability due to willfully and intentionally self-inflicted injury, or to injury sustained in the perpetration by the claimant of a crime of the first, second, third, or fourth degree, or for any period during which a covered individual would be disqualified for unemployment compensation benefits for gross misconduct under subsection (b) of R.S.43:21-5;

(g) for any period during which the claimant performs any work for remuneration or profit;

(h) in a weekly amount which together with any remuneration the claimant continues to receive from the employer would exceed regular weekly wages immediately prior to disability;

(i) for any period during which a covered individual would be disqualified for unemployment compensation benefits under subsection (d) of R.S.43:21-5, unless the disability commenced prior to such disqualification; and there shall be no other cause of disqualification or ineligibility to receive disability benefits hereunder except as may be specifically provided in this act.

2. This act shall take effect immediately but the provisions of this act shall not apply to any claim for benefits filed before the effective date of the act.

Approved January 13, 2008.

CHAPTER 323

AN ACT concerning the licensure of athletic trainers, amending P.L.1984, c.203, and repealing section 13 of P.L.1984, c.203.

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

1. Section 2 of P.L.1984, c.203 (C.45:9-37.36) is amended to read as follows:

C.45:9-37.36 Definitions.

2. As used in this act:
 - a. "Advisory committee" means the Athletic Training Advisory Committee established in section 5 of P.L.1984, c.203 (C.45:9-37.39);
 - b. "Athlete" means an individual who participates in strenuous physical exercise, physical conditioning, or a sport;
 - c. "Athletic trainer" means a person who practices athletic training;
 - d. "Athletic training" means and includes the practice of physical conditioning and reconditioning of athletes and the prevention of injuries incurred by athletes. Athletic training shall also include the application of physical treatment modalities to athletes under a plan of care designed and overseen by a physician licensed in this State, as recommended by the advisory committee and defined in regulations by the board;
 - e. "Board" means the State Board of Medical Examiners;
 - f. "Supervision" means that a physician licensed in this State is accessible to an athletic trainer, either on-site or through voice communication, during athletic training.

2. Section 3 of P.L.1984, c.203 (C.45:9-37.37) is amended to read as follows:

C.45:9-37.37 Practice of athletic training, licensure.

3. a. No person shall practice or hold himself out as being able to practice athletic training in this State unless licensed in accordance with the provisions of P.L.1984, c.203 (C.45:9-37.35 et seq.).

b. A licensed athletic trainer may provide athletic training only:

(1) (a) to athletes engaged in interscholastic, intercollegiate, or intramural athletic activities which are being conducted by an educational institution licensed in this State; or (b) to professional athletes; or

(2) to athletes in any setting when the athletic trainer is under the supervision of a physician licensed in this State.

c. An athletic trainer shall immediately refer an athlete to an appropriate health care professional licensed in this State if the athletic trainer has reasonable cause to believe that athletic training is contraindicated or symptoms or conditions are present that require services outside the scope of an athletic trainer's practice.

3. Section 5 of P.L.1984, c.203 (C.45:9-37.39) is amended to read as follows:

C.45:9-37.39 Athletic Training Advisory Committee.

5. There is created in the Division of Consumer Affairs of the Department of Law and Public Safety, under the State Board of Medical Examiners, an Athletic Training Advisory Committee. The committee shall consist of seven members, three of whom shall be licensed athletic trainers of this State having at least five years' experience in the practice of athletic training in this State immediately prior to appointment and one of whom shall be a licensed athletic trainer of this State having at least five years' experience in the practice of athletic training in a secondary school in this State immediately prior to appointment. One member of the advisory committee shall be a representative of the Department of Education, one member shall be a physician licensed in this State and one member shall be a representative of the general public. The members of the committee shall be appointed by the Governor, with the advice and consent of the Senate, for terms of three years, except in making the initial appointments the Governor shall designate two members to serve three years, two members to serve two years, and two members to serve one year. In the event of death, incapacity, resignation or removal of any member, the vacancy shall be filled for the unexpired portion of the term in the same manner as the original appointment. Each member shall hold office after the expiration of the term until a successor shall be appointed and qualified. The committee

shall meet at least twice a year and shall also meet upon the call of the board or Attorney General. The committee shall carry out the responsibilities assigned to it under this act and any other matter the board may require. The Attorney General shall provide the committee with facilities and personnel required for the proper conduct of its business. The board, with the approval of the Attorney General, may authorize reimbursement of the members of the committee for their actual expenses incurred in connection with the performance of their duties as members of the committee.

The licensure requirements of this section shall only apply to athletic trainers who are appointed to the committee after the effective date of P.L.2001, c.156.

4. Section 6 of P.L.1984, c.203 (C.45:9-37.40) is amended to read as follows:

C.45:9-37.40 Licensure required for practice of athletic training.

6. a. Beginning on the effective date of P.L.2001, c.156, it shall be unlawful for any person, other than an athletic trainer licensed pursuant to P.L.1984, c.203 (C.45:9-37.35 et seq.) to practice athletic training in this State unless licensed in accordance with the provisions of this act. Nothing in this act, however, shall prohibit any person licensed to practice in this State under any other law from engaging in the practice for which he is licensed.

b. This act shall not prohibit: a candidate for licensure as an athletic trainer from accumulating the mandated number of hours of supervised clinical experience under the direction of a licensed athletic trainer; a student enrolled in a school or educational program of athletic training approved by the board from performing acts of athletic training incidental to the course of study, if the performance is under the direction of a licensed athletic trainer; a student in any educational program in the healing arts approved or accredited under the laws of this State from carrying out prescribed courses of study; a person employed by any agency, bureau or division of the federal government from discharging his official duties; or a person in connection with employment as an athletic trainer by a nonresident athlete, educational institution or recognized athletic organization temporarily visiting in this State, from practicing athletic training for a period not to exceed 90 days in one calendar year provided he is lawfully permitted to work as an athletic trainer in the state of residence of his employer.

c. The provisions of this act are not intended to limit the activities of persons legitimately engaged in the administration of nontherapeutic baths, massage and normal exercise.

5. Section 9 of P.L.1984, c.203 (C.45:9-37.43) is amended to read as follows:

C.45:9-37.43 Examination for licensing as athletic trainer.

9. An applicant who complies with the qualifications for licensure shall successfully complete the examination administered by the National Athletic Trainers' Association Board of Certification, Inc., its successor organization, or a substantially equivalent examination approved by the board. The examination shall test the applicant's knowledge of the basic and clinical sciences that are pertinent to athletic training, emergency care of the injured individual and principles of injury evaluation and conditioning, including the use of various physical modalities and exercise techniques. The examination shall be administered within the State no less than once each year at a time and place the board shall designate.

6. Section 11 of P.L.1984, c.203 (C.45:9-37.45) is amended to read as follows:

C.45:9-37.45 Licensure without examination, conditions.

11. On payment to the board of the application fee as provided in section 14 of P.L.1984, c.203 (C.45:9-37.48), and upon approval of a written application or application for renewal, as the case may be, on forms provided by the board, the board shall issue, without examination, a license to any person who:

- a. (Deleted by amendment, P.L.2001, c.156).
- b. Is licensed, certified or registered as an athletic trainer in any other state or territory of the United States or the District of Columbia, if the requirements for licensure, certification or registration were at the time of the applicant's licensure, certification or registration equivalent to or in excess of the requirements of this act at the date of application for the license as shall be determined by the board in consultation with the committee; or
- c. Is employed in or is a resident of this State and presents evidence of being certified by the National Athletic Trainers' Association Board of Certification, Inc., or its successor organization, as an athletic trainer; or
- d. Is licensed as an athletic trainer pursuant to the provisions of P.L.1984, c.203 (C.45:9-37.35 et seq.) and makes a timely application for renewal, as determined by the board, prior to the expiration of his biennial license.

7. Section 12 of P.L.1984, c.203 (C.45:9-37.46) is amended to read as follows:

C.45:9-37.46 License required to use certain titles, designations.

12. No person shall use the words "athletic trainer" or "licensed athletic trainer" or the letters "AT" or "LAT" unless licensed pursuant to P.L.1984, c.203 (C.45:9-37.35 et seq.).

8. Section 14 of P.L.1984, c.203 (C.45:9-37.48) is amended to read as follows:

C.45:9-37.48 Application fee, expiration, renewal of license.

14. Each initial application under P.L.1984, c.203 (C.45:9-37.35 et seq.) shall be accompanied by a fee as prescribed by the board. Licensure shall expire biennially on January 31 and shall be renewed upon application and payment of a fee as prescribed by the board. If the fee is not paid by that date the license shall automatically expire. A license which has expired may, within three years of its expiration date, be renewed on payment to the board of the prescribed reinstatement fee for each year or part thereof during which the license was ineffective and a restoration fee as prescribed by the board. After the three-year period, the license may be renewed only by complying with the provisions of this act regarding initial licensure and presenting proof of current certification by the National Athletic Trainers Association Board of Certification or its successor organization.

Repealer.

9. Section 13 of P.L.1984, c.203 (C.45:9-37.47) is repealed.

10. This act shall take effect on the 90th day after enactment.

Approved January 13, 2008.

CHAPTER 324

AN ACT concerning certain commercial lines insurance risks and supplementing Title 17 of the Revised Statutes.

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

C.17:36-5.20b Certain commercial lines insurance risks, exclusion from requirements of standard fire policy.

1. a. A fire insurance policy for commercial lines insurance risks which produce minimum annual premiums in excess of \$10,000 shall be excluded from the requirements of section 6 of P.L.1954, c. 268 (C.17:36-5.20).

b. Notwithstanding any other provision of law to the contrary, no person, including, but not limited to, an insurance producer as defined in section 3 of P.L.2001, c.210 (C.17:22A-28), shall be liable in an action for damages on account of an applicant or insured purchasing a commercial lines insurance policy that does not comply with the requirements of section 6 of P.L.1954, c.268 (C.17:36-5.20).

2. This act shall take effect immediately.

Approved January 13, 2008.

CHAPTER 325

AN ACT concerning discrimination of religious practices in the workplace and amending P.L.1945, c.169.

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

1. Section 5 of P.L.1945, c.169 (C.10:5-5) is amended to read as follows:

C.10:5-5 Definitions relative to discrimination.

5. As used in P.L.1945, c.169 (C.10:5-1 et seq.), unless a different meaning clearly appears from the context:

a. "Person" includes one or more individuals, partnerships, associations, organizations, labor organizations, corporations, legal representatives, trustees, trustees in bankruptcy, receivers, and fiduciaries.

b. "Employment agency" includes any person undertaking to procure employees or opportunities for others to work.

c. "Labor organization" includes any organization which exists and is constituted for the purpose, in whole or in part, of collective bargaining, or of dealing with employers concerning grievances, terms or conditions of employment, or of other mutual aid or protection in connection with employment.

d. "Unlawful employment practice" and "unlawful discrimination" include only those unlawful practices and acts specified in section 11 of P.L.1945, c.169 (C.10:5-12).

e. "Employer" includes all persons as defined in subsection a. of this section unless otherwise specifically exempt under another section of

P.L.1945, c.169 (C.10:5-1 et seq.), and includes the State, any political or civil subdivision thereof, and all public officers, agencies, boards or bodies.

f. "Employee" does not include any individual employed in the domestic service of any person.

g. "Liability for service in the Armed Forces of the United States" means subject to being ordered as an individual or member of an organized unit into active service in the Armed Forces of the United States by reason of membership in the National Guard, naval militia or a reserve component of the Armed Forces of the United States, or subject to being inducted into such armed forces through a system of national selective service.

h. "Division" means the "Division on Civil Rights" created by P.L.1945, c.169 (C.10:5-1 et seq.).

i. "Attorney General" means the Attorney General of the State of New Jersey or his representative or designee.

j. "Commission" means the Commission on Civil Rights created by P.L.1945, c.169 (C.10:5-1 et seq.).

k. "Director" means the Director of the Division on Civil Rights.

l. "A place of public accommodation" shall include, but not be limited to: any tavern, roadhouse, hotel, motel, trailer camp, summer camp, day camp, or resort camp, whether for entertainment of transient guests or accommodation of those seeking health, recreation or rest; any producer, manufacturer, wholesaler, distributor, retail shop, store, establishment, or concession dealing with goods or services of any kind; any restaurant, eating house, or place where food is sold for consumption on the premises; any place maintained for the sale of ice cream, ice and fruit preparations or their derivatives, soda water or confections, or where any beverages of any kind are retailed for consumption on the premises; any garage, any public conveyance operated on land or water, or in the air, any stations and terminals thereof; any bathhouse, boardwalk, or seashore accommodation; any auditorium, meeting place, or hall; any theatre, motion-picture house, music hall, roof garden, skating rink, swimming pool, amusement and recreation park, fair, bowling alley, gymnasium, shooting gallery, billiard and pool parlor, or other place of amusement; any comfort station; any dispensary, clinic or hospital; any public library; any kindergarten, primary and secondary school, trade or business school, high school, academy, college and university, or any educational institution under the supervision of the State Board of Education, or the Commissioner of Education of the State of New Jersey. Nothing herein contained shall be construed to include or to apply to any institution, bona fide club, or place of accommodation, which is in its nature distinctly private; nor shall anything herein contained apply to

any educational facility operated or maintained by a bona fide religious or sectarian institution, and the right of a natural parent or one in loco parentis to direct the education and upbringing of a child under his control is hereby affirmed; nor shall anything herein contained be construed to bar any private secondary or post secondary school from using in good faith criteria other than race, creed, color, national origin, ancestry, gender identity or expression or affectional or sexual orientation in the admission of students.

m. "A publicly assisted housing accommodation" shall include all housing built with public funds or public assistance pursuant to P.L.1949, c.300, P.L.1941, c.213, P.L.1944, c.169, P.L.1949, c.303, P.L.1938, c.19, P.L.1938, c.20, P.L.1946, c.52, and P.L.1949, c.184, and all housing financed in whole or in part by a loan, whether or not secured by a mortgage, the repayment of which is guaranteed or insured by the federal government or any agency thereof.

n. The term "real property" includes real estate, lands, tenements and hereditaments, corporeal and incorporeal, and leaseholds, provided, however, that, except as to publicly assisted housing accommodations, the provisions of this act shall not apply to the rental: (1) of a single apartment or flat in a two-family dwelling, the other occupancy unit of which is occupied by the owner as a residence; or (2) of a room or rooms to another person or persons by the owner or occupant of a one-family dwelling occupied by the owner or occupant as a residence at the time of such rental. Nothing herein contained shall be construed to bar any religious or denominational institution or organization, or any organization operated for charitable or educational purposes, which is operated, supervised or controlled by or in connection with a religious organization, in the sale, lease or rental of real property, from limiting admission to or giving preference to persons of the same religion or denomination or from making such selection as is calculated by such organization to promote the religious principles for which it is established or maintained. Nor does any provision under this act regarding discrimination on the basis of familial status apply with respect to housing for older persons.

o. "Real estate broker" includes a person, firm or corporation who, for a fee, commission or other valuable consideration, or by reason of promise or reasonable expectation thereof, lists for sale, sells, exchanges, buys or rents, or offers or attempts to negotiate a sale, exchange, purchase, or rental of real estate or an interest therein, or collects or offers or attempts to collect rent for the use of real estate, or solicits for prospective purchasers or assists or directs in the procuring of prospects or the negotiation or closing of any transaction which does or is contemplated to result in the sale, ex-

change, leasing, renting or auctioning of any real estate, or negotiates, or offers or attempts or agrees to negotiate a loan secured or to be secured by mortgage or other encumbrance upon or transfer of any real estate for others; or any person who, for pecuniary gain or expectation of pecuniary gain conducts a public or private competitive sale of lands or any interest in lands. In the sale of lots, the term "real estate broker" shall also include any person, partnership, association or corporation employed by or on behalf of the owner or owners of lots or other parcels of real estate, at a stated salary, or upon a commission, or upon a salary and commission or otherwise, to sell such real estate, or any parts thereof, in lots or other parcels, and who shall sell or exchange, or offer or attempt or agree to negotiate the sale or exchange, of any such lot or parcel of real estate.

p. "Real estate salesperson" includes any person who, for compensation, valuable consideration or commission, or other thing of value, or by reason of a promise or reasonable expectation thereof, is employed by and operates under the supervision of a licensed real estate broker to sell or offer to sell, buy or offer to buy or negotiate the purchase, sale or exchange of real estate, or offers or attempts to negotiate a loan secured or to be secured by a mortgage or other encumbrance upon or transfer of real estate, or to lease or rent, or offer to lease or rent any real estate for others, or to collect rents for the use of real estate, or to solicit for prospective purchasers or lessees of real estate, or who is employed by a licensed real estate broker to sell or offer to sell lots or other parcels of real estate, at a stated salary, or upon a commission, or upon a salary and commission, or otherwise to sell real estate, or any parts thereof, in lots or other parcels.

q. "Disability" means physical disability, infirmity, malformation or disfigurement which is caused by bodily injury, birth defect or illness including epilepsy and other seizure disorders, and which shall include, but not be limited to, any degree of paralysis, amputation, lack of physical coordination, blindness or visual impediment, deafness or hearing impediment, muteness or speech impediment or physical reliance on a service or guide dog, wheelchair, or other remedial appliance or device, or any mental, psychological or developmental disability resulting from anatomical, psychological, physiological or neurological conditions which prevents the normal exercise of any bodily or mental functions or is demonstrable, medically or psychologically, by accepted clinical or laboratory diagnostic techniques. Disability shall also mean AIDS or HIV infection.

r. "Blind person" means any individual whose central visual acuity does not exceed 20/200 in the better eye with correcting lens or whose visual acuity is better than 20/200 if accompanied by a limit to the field of vi-

sion in the better eye to such a degree that its widest diameter subtends an angle of no greater than 20 degrees.

s. "Guide dog" means a dog used to assist deaf persons or which is fitted with a special harness so as to be suitable as an aid to the mobility of a blind person, and is used by a blind person who has satisfactorily completed a specific course of training in the use of such a dog, and has been trained by an organization generally recognized by agencies involved in the rehabilitation of the blind or deaf as reputable and competent to provide dogs with training of this type.

t. "Guide or service dog trainer" means any person who is employed by an organization generally recognized by agencies involved in the rehabilitation of persons with disabilities as reputable and competent to provide dogs with training, and who is actually involved in the training process.

u. "Housing accommodation" means any publicly assisted housing accommodation or any real property, or portion thereof, which is used or occupied, or is intended, arranged, or designed to be used or occupied, as the home, residence or sleeping place of one or more persons, but shall not include any single family residence the occupants of which rent, lease, or furnish for compensation not more than one room therein.

v. "Public facility" means any place of public accommodation and any street, highway, sidewalk, walkway, public building, and any other place or structure to which the general public is regularly, normally or customarily permitted or invited.

w. "Deaf person" means any person whose hearing is so severely impaired that the person is unable to hear and understand normal conversational speech through the unaided ear alone, and who must depend primarily on a supportive device or visual communication such as writing, lip reading, sign language, and gestures.

x. "Atypical hereditary cellular or blood trait" means sickle cell trait, hemoglobin C trait, thalassemia trait, Tay-Sachs trait, or cystic fibrosis trait.

y. "Sickle cell trait" means the condition wherein the major natural hemoglobin components present in the blood of the individual are hemoglobin A (normal) and hemoglobin S (sickle hemoglobin) as defined by standard chemical and physical analytic techniques, including electrophoresis; and the proportion of hemoglobin A is greater than the proportion of hemoglobin S or one natural parent of the individual is shown to have only normal hemoglobin components (hemoglobin A, hemoglobin A2, hemoglobin F) in the normal proportions by standard chemical and physical analytic tests.

z. "Hemoglobin C trait" means the condition wherein the major natural hemoglobin components present in the blood of the individual are he-

moglobin A (normal) and hemoglobin C as defined by standard chemical and physical analytic techniques, including electrophoresis; and the proportion of hemoglobin A is greater than the proportion of hemoglobin C or one natural parent of the individual is shown to have only normal hemoglobin components (hemoglobin A, hemoglobin A2, hemoglobin F) in normal proportions by standard chemical and physical analytic tests.

aa. "Thalassemia trait" means the presence of the thalassemia gene which in combination with another similar gene results in the chronic hereditary disease Cooley's anemia.

bb. "Tay-Sachs trait" means the presence of the Tay-Sachs gene which in combination with another similar gene results in the chronic hereditary disease Tay-Sachs.

cc. "Cystic fibrosis trait" means the presence of the cystic fibrosis gene which in combination with another similar gene results in the chronic hereditary disease cystic fibrosis.

dd. "Service dog" means any dog individually trained to the requirements of a person with a disability including, but not limited to minimal protection work, rescue work, pulling a wheelchair or retrieving dropped items. This term shall include a "seizure dog" trained to alert or otherwise assist persons subject to epilepsy or other seizure disorders.

ee. "Qualified Medicaid applicant" means an individual who is a qualified applicant pursuant to P.L.1968, c.413 (C.30:4D-1 et seq.).

ff. "AIDS" means acquired immune deficiency syndrome as defined by the Centers for Disease Control and Prevention of the United States Public Health Service.

gg. "HIV infection" means infection with the human immunodeficiency virus or any other related virus identified as a probable causative agent of AIDS.

hh. "Affectional or sexual orientation" means male or female heterosexuality, homosexuality or bisexuality by inclination, practice, identity or expression, having a history thereof or being perceived, presumed or identified by others as having such an orientation.

ii. "Heterosexuality" means affectional, emotional or physical attraction or behavior which is primarily directed towards persons of the other gender.

jj. "Homosexuality" means affectional, emotional or physical attraction or behavior which is primarily directed towards persons of the same gender.

kk. "Bisexuality" means affectional, emotional or physical attraction or behavior which is directed towards persons of either gender.

ll. "Familial status" means being the natural parent of a child, the adoptive parent of a child, the resource family parent of a child, having a

"parent and child relationship" with a child as defined by State law, or having sole or joint legal or physical custody, care, guardianship, or visitation with a child, or any person who is pregnant or is in the process of securing legal custody of any individual who has not attained the age of 18 years.

mm. "Housing for older persons" means housing:

(1) provided under any State program that the Attorney General determines is specifically designed and operated to assist elderly persons (as defined in the State program); or provided under any federal program that the United States Department of Housing and Urban Development determines is specifically designed and operated to assist elderly persons (as defined in the federal program); or

(2) intended for, and solely occupied by persons 62 years of age or older; or

(3) intended and operated for occupancy by at least one person 55 years of age or older per unit. In determining whether housing qualifies as housing for older persons under this subsection, the Attorney General shall adopt regulations which require at least the following factors:

(a) the existence of significant facilities and services specifically designed to meet the physical or social needs of older persons, or if the provision of such facilities and services is not practicable, that such housing is necessary to provide important housing opportunities for older persons; and

(b) that at least 80 percent of the units are occupied by at least one person 55 years of age or older per unit; and

(c) the publication of, and adherence to, policies and procedures which demonstrate an intent by the owner or manager to provide housing for persons 55 years of age or older.

Housing shall not fail to meet the requirements for housing for older persons by reason of: persons residing in such housing as of September 13, 1988 not meeting the age requirements of this subsection, provided that new occupants of such housing meet the age requirements of this subsection; or unoccupied units, provided that such units are reserved for occupancy by persons who meet the age requirements of this subsection.

nn. "Genetic characteristic" means any inherited gene or chromosome, or alteration thereof, that is scientifically or medically believed to predispose an individual to a disease, disorder or syndrome, or to be associated with a statistically significant increased risk of development of a disease, disorder or syndrome.

oo. "Genetic information" means the information about genes, gene products or inherited characteristics that may derive from an individual or family member.

pp. "Genetic test" means a test for determining the presence or absence of an inherited genetic characteristic in an individual, including tests of nucleic acids such as DNA, RNA and mitochondrial DNA, chromosomes or proteins in order to identify a predisposing genetic characteristic.

qq. "Domestic partnership" means a domestic partnership established pursuant to section 4 of P.L.2003, c.246 (C.26:8A-4).

rr. "Gender identity or expression" means having or being perceived as having a gender related identity or expression whether or not stereotypically associated with a person's assigned sex at birth.

ss. "Civil Union" means a legally recognized union of two eligible individuals established pursuant to R.S.37:1-1 et seq. and P.L.2006, c.103 (C.37:1-28 et al.).

tt. "Premium wages" means additional remuneration for night, weekend or holiday work, or for standby or irregular duty.

uu. "Premium benefit" means an employment benefit, such as seniority, group life insurance, health insurance, disability insurance, sick leave, annual leave, or an educational or pension benefit that is greater than the employment benefit due the employee for an equivalent period of work performed during the regular work schedule of the employee.

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, 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 nothing herein contained shall be construed to bar an employer from refusing to accept for employment or to promote any person over 70 years of age; 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.

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 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 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 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, sex, gender identity or expression, affectional or sexual orientation, disability or nationality of such person, or that the patronage or cus-

tom thereof of any person of any particular race, creed, color, national origin, ancestry, marital status, civil union status, domestic partnership status, sex, gender identity or expression, affectional or sexual orientation, disability 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, sex, gender identity, or expression, affectional or sexual orientation, disability 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, sex, gender identity or expression, affectional or sexual orientation, familial status, disability, 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, sex, gender identity or expression, affectional or sexual orientation, familial status, disability, 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, sex, gender identity, or expression, affectional or sexual orientation, familial status, disability, 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 exclu-

sively 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, sex, gender identity or expression, affectional or sexual orientation, 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, sex, gender identity or expression, affectional or sexual orientation, disability 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, sex, gender identity or expression, affectional or sexual orientation, disability, 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, sex, gender identity or expression, affectional or sexual orientation, disability, 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, sex, gender identity or expression, affectional or sexual orientation, disability, 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, sex, gender identity or expression, affectional or sexual orientation, disability, 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, sex, gender identity or expression, affectional or sexual orientation, disability, 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, 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 spouse, 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, 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 spouse, 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, sex, gender identity or expression, affectional or sexual orientation, disability 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.

3. This act shall take effect immediately.

Approved January 13, 2008.

CHAPTER 326

AN ACT concerning money orders and supplementing P.L.1960, c.39 (C.56:8-1 et seq.).

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

C.56:8-182 Money orders, dormancy fee defined, regulated.

1. a. Notwithstanding any other provisions of law to the contrary, a money order sold after the effective date of P.L.2007, c.326 (C.56:8-182 et seq.) shall retain full value until presented for payment, or shall have all conditions and limitations, as permitted in paragraphs (1) and (2) of this subsection, disclosed to the purchaser of the money order at the time of purchase, as provided in subsection b. of this section.

(1) No dormancy fee shall be charged against a money order within the 12 months immediately following the date of sale.

(2) An issuer of a money order may charge a dormancy fee against a money order, as permitted by this subsection, of not more than \$2.00 per month.

b. The terms of any dormancy fee applicable to a money order, as permitted by subsection a. of this section, shall be disclosed by an issuer to a consumer by:

(1) written notice of the dormancy fee on the money order or the sales receipt for the money order; and

(2) written notice on the money order or the sales receipt for the money order, of a telephone number which the consumer may call for information concerning any dormancy fee.

c. As used in this section, "dormancy fee" means a charge imposed against the value of a money order due to inactivity.

C.56:8-183 Violation, unlawful practice.

2. It shall be an unlawful practice and a violation of P.L.1960, c.39 (C.56:8-1 et seq.) to violate the provisions of this act.

C.56:8-184 Regulations.

3. The Director of the Division of Consumer Affairs in the Department of Law and Public Safety shall promulgate regulations pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), to effectuate the provisions of this act.

4. This act shall take effect on the 90th day after enactment.

Approved January 13, 2008.

CHAPTER 327

AN ACT concerning certificates suspending certain employment or occupational disabilities related to criminal conviction and supplementing Chapter 168A of Title 2A of the New Jersey Statutes.

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

C.2A:168A-7 Issuance of certificate suspending certain employment, occupational disabilities, forfeitures related to criminal conviction; definitions.

1. a. Notwithstanding any law to the contrary, a certificate may be issued in accordance with the provisions of this act that suspends certain dis-

abilities, forfeitures or bars to employment or professional licensure or certification that apply to persons convicted of criminal offenses.

b. A certificate issued pursuant to this act shall have the effect of relieving disabilities, forfeitures or bars, except those established or required by federal law, to:

- (1) public employment, as defined in this section;
- (2) qualification for a license or certification to engage in the practice of a profession, occupation or business, except the practice of law; or
- (3) admission to an examination to qualify for such a license or certification, except for the bar examination, or an examination for a law enforcement, homeland security, or emergency management position.

A certificate issued pursuant to this act may be limited to one or more enumerated disabilities, forfeitures or bars, or may relieve the subject of all disabilities, forfeitures or bars that may be affected by the act.

c. For purposes of this act:

(1) "Public employment" shall mean employment by a State, county, or municipal agency, but shall not include elected office, or employment in law enforcement, corrections, the judiciary, in a position related to homeland security or emergency management, or any position that has access to sensitive information that could threaten the public health, welfare, or safety.

(2) "Qualified offender" refers to a person who has one criminal conviction or who has convictions for more than one crime charged in separate counts of one indictment or accusation. Multiple convictions charged in two indictments or two accusations, or one indictment and one accusation filed in the same court prior to entry of judgment under any of them, shall be deemed to be one conviction. Convictions of crimes entered more than 10 years prior to an application for a certificate under this act shall not be considered in determining whether a person has one criminal conviction. In the case of a person seeking relief at the time of sentencing, qualified offender means a person who will have one conviction, as set forth in this paragraph, upon sentencing and issuance of the judgment of conviction.

(3) "Supervising authority" shall mean the court in the case of a person who was subject to probation or who was not required to serve a period of supervision, or the State Parole Board in the case of a person who was under parole supervision.

C.2A:168A-8 Issuance of certificate; conditions.

2. A certificate may be issued pursuant to this act as follows:

a. (1) A court, in its discretion, may issue a certificate at the time of sentencing if the applicant:

(a) is a qualified offender, who is being sentenced to a non-incarcerative sentence for a second, third or fourth degree crime;

(b) has established that a specific licensing or employment disqualification, forfeiture or bar, will apply to him, and may endanger his ability to maintain existing public employment or employment for which he has made application, or to engage in a business enterprise for which a license or certification is required;

(c) has no pending criminal charges, and there is no information presented that such a charge is imminent; and

(d) has established that the relief is consistent with the public interest.

(2) A certificate issued under this subsection shall apply only to the specific disability, forfeiture or bar that is affected, which must be specifically described in the certificate document.

b. (1) A supervising authority may issue a certificate in regard to a qualified offender who is, or had previously been, under supervision by the supervising authority if the supervising authority determines that:

(a) the applicant is convicted of a second, third or fourth degree offense and is eligible for relief under subsection c. of this section;

(b) the applicant has not been convicted of a crime since the conviction for which he is under supervision, has no pending criminal charge, and there is no information presented that such a charge is imminent;

(c) issuing the certificate will not pose a substantial risk to public safety; and

(d) issuing the certificate will assist in the successful reintegration of the offender and is consistent with the public interest.

(2) A certificate issued pursuant to this subsection may suspend disabilities, forfeitures and bars generally within the limits of this act, or only certain disabilities, forfeitures and bars, specifically named in the certificate document.

c. A qualified offender is eligible for relief under subsection b. of this section if the offender has not been convicted of:

(1) a first degree crime;

(2) an offense to which section 2 of P.L.1997, c.117 (C.2C:43-7.2) applies;

(3) a second degree offense defined in chapters 13, 14, 15, 16, 24, 27, 30, 33, 38 of Title 2C of the New Jersey Statutes;

(4) a violation of subsection a. of N.J.S.2C:24-4 or paragraph (4) of subsection b. of N.J.S.2C:24-4;

(5) a crime requiring registration pursuant to section 2 of P.L.1994, c.133 (C.2C:7-2);

(6) a crime committed against a public entity or against a public officer;

(7) a crime enumerated in subsection b. of section 2 of P.L.2007, c.49 (C.43:1-3.1) committed by a public employee, which involves or touches upon the employee's office, position or employment, such that the crime was related directly to the person's performance in, or circumstances flowing from, the specific public office or employment held by the person;

(8) any crime committed against a person 16 years of age or younger, or a disabled or handicapped person; or

(9) a conspiracy or attempt to commit any of the crimes described in this subsection.

d. (1) A supervising authority may issue a certificate in regard to a qualified offender, when three years have passed since the applicant has completed the incarcerative or supervisory portion of his sentence, whichever is later, and the supervising authority finds that:

(a) the applicant is eligible for such relief as defined in subsection e. of this section;

(b) issuing the certificate does not pose a substantial risk to public safety; and

(c) issuing the certificate will assist in the successful reintegration of the offender and is consistent with the public interest.

(2) The certificate issued pursuant to this subsection may suspend disabilities, forfeitures and bars generally within the limits of this act, or only certain disabilities, forfeitures and bars specifically named in the certificate document.

e. A qualified offender is eligible for relief under subsection d. of this section if he has remained without criminal involvement since his conviction, including that he has not subsequently been convicted of a crime, has no pending charges for any crime, and there is no information presented that such a charge is imminent; and is applying for relief from a conviction other than:

(1) a first degree crime;

(2) any of the offenses to which section 2 of P.L.1997, c.117 (C.2C:43-7.2) applies;

(3) a violation of subsection a. of N.J.S.2C:24-4 or paragraph (4) of subsection b. of N.J.S.2C:24-4;

(4) a crime requiring registration pursuant to section 2 of P.L.1994, c.133 (C.2C:7-2);

(5) a crime enumerated in subsection b. of section 2 of P.L.2007, c.49 (C.43:1-3.1) committed by a public employee, which involves or touches upon the employee's office, position or employment, such that the crime was related directly to the person's performance in, or circumstances flowing from, the specific public office or employment held by the person;

- (6) a crime committed against a person 16 years of age or younger, or a disabled or handicapped person; or
- (7) a conspiracy or attempt to commit any offense described in this paragraph.

C.2A:168A-9 Certificate considered presumptive evidence of rehabilitation.

3. A certificate issued pursuant to this act shall be presumptive evidence of the subject's rehabilitation when considered in regard to public employment as defined in this act, or in conjunction with any licensing, or certification process to which this act applies, which in any particular case may or may not be overcome by other evidence or information. A certificate granted under this act shall not prevent any judicial, administrative, licensing or other body, board, authority or public official from relying on grounds other than the fact of the criminal conviction in exercising any discretionary authority, if any, to suspend, revoke, refuse to issue or refuse to renew any license, permit or other authority or privilege or to determine eligibility or suitability for employment.

C.2A:168A-10 Notice to prosecutor of issuance, pendency of certificate.

4. In all cases, the applicant or the supervising authority shall provide notice to the prosecutor of either the issuance of a certificate or the pendency of an application for a certificate, or both, pursuant to procedures that shall be developed and published by the supervising authority within thirty days of the effective date of this act.

C.2A:168A-11 Conditions for invalidating certificate.

5. a. A certificate granted pursuant to this act shall no longer be valid if the person who is the subject of the certificate is indicted for a first or second degree crime or convicted of a crime.

b. Upon presentation of satisfactory proof that the criminal charges or indictment have been dismissed, or of an acquittal after trial, a certificate revoked under the circumstances described in subsection a. of this section may be reinstated by the issuing entity.

c. A certificate may be revoked at any time upon application of the prosecutor or on the supervising authority's own initiative when information is received that circumstances have materially changed such that the relief would not be authorized under this act or is no longer in the public interest. The supervising authority revoking such a certificate shall notify the subject of the certificate of the revocation.

d. In addition to any other offense that may apply, a person who knowingly uses or attempts to use a revoked certificate, or a certificate that is no longer valid, in order to obtain a benefit or avoid a disqualification shall be guilty of a disorderly persons offense. For the purposes of this subsection, "uses or attempts to use," shall include knowing failure to disclose to an employer or other affected public entity the revocation or invalidity of a certificate.

C.2A:168A-12 Inapplicability to private employers.

6. This act shall not apply to private employers. A private employer may, in its sole and complete discretion, consider a certificate issued under this statute in making employment decisions. Nothing in this section shall be construed to create any right, privilege, or duty or to change any right, privilege, or duty existing under law.

C.2A:168A-13 Report to Governor, Legislature; recording system for certificates.

7. The State Parole Board and the Administrative Office of the Courts shall report to the Governor and the Legislature on or before the first day of the thirteenth month after the effective date of this act an evaluation of the effectiveness of the implementation of this act, including the number of applications received, considered and granted under the act. Entities issuing certificates shall develop a system of recording the certificates and provide information to prospective employers regarding whether a certificate has been issued or is valid.

C.2A:168A-14 Report on impact of prior criminal conviction on private employment opportunities.

8. The Department of Labor and Workforce Development shall prepare a report detailing the impact of a prior criminal conviction on private employment opportunities for ex-offenders. The department shall consult with the State Parole Board, and may consult with and seek the assistance of other executive branch agencies, municipalities, agencies and any interested parties. The report shall include identification of barriers faced by ex-offenders seeking private employment, including those set forth in law, regulation and policies of private employers. The report shall analyze the effect of the hiring policies of employers with more than 100 employees on the employment of ex-offenders. In order to encourage cooperation, identities of employers and entities contacted in the course of preparing the report shall remain confidential. The results of this study shall be reported to the Governor and the Legislature within 180 days from the effective date of this act.

C.2A:168A-15 Pardons unaffected.

9. Nothing in this act shall be deemed to alter, limit or affect the manner of applying for pardons to the Governor, and a certificate issued under this act shall not be deemed or construed to be a pardon.

C.2A:168A-16 Regulations, guidelines, rules.

10. The State Parole Board shall promulgate any regulations or issue guidelines necessary to effectuate the provisions of this act. The court may publish rules or guidelines to implement this act.

11. This act shall take effect on the first day of the seventh month after enactment, except that section 8 shall take effect immediately. State departments and agencies may take such anticipatory administrative action in advance thereof as shall be necessary for the implementation of this act.

Approved January 13, 2008.

CHAPTER 328

AN ACT broadening the small business exception under the UEZ sales tax rebate program, and amending P.L.1983, c.303.

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

1. Section 20 of P.L.1983, c.303 (C.52:27H-79) is amended to read as follows:

C.52:27H-79 Sales tax procedure relative to sales to enterprise zone business; definitions; evaluation.

20. a. Retail sales of personal property (except motor vehicles and energy) and sales of services (except telecommunications 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.).

b. Notwithstanding the provisions of subsection a. of this section, the seller shall charge and collect from a purchaser that is not a small qualified business the tax at the rate then in effect, and the tax shall be refunded to the purchaser by the filing, within one year following the date of sale, of a

claim with the New Jersey Division of Taxation for a refund of sales and use taxes paid for the goods and materials. Proof of claim for refund shall be made by the submission of auditable receipts and such other documentation as the Director of the Division of Taxation may require.

c. As used in this section:

"Qualified business" includes a business that becomes qualified by the time the refund application is filed pursuant to subsection b. of this section; and

"Small qualified business" means a qualified business that has been determined and certified by the director to have had less than \$3,000,000 in annual gross receipts in that business prior annual tax period.

d. The director shall submit to the Senate Legislative Oversight Committee and the Assembly Regulatory Oversight Committee any rules or regulations to effectuate amendments made to this section by P.L.2006, c.34 that are proposed for publication in the New Jersey Register. The director shall evaluate the effectiveness of the amendments made to this section by P.L.2006, c.34 and report any findings and recommendations regarding the amendments to the Senate Legislative Oversight Committee and the Assembly Regulatory Oversight Committee before the Governor presents a budget proposal for Fiscal Year 2008.

2. This act shall take effect immediately.

Approved January 13, 2008.

CHAPTER 329

AN ACT concerning winemaking and amending R.S.33:1-10 and R.S.33:1-75.

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

1. R.S.33:1-10 is amended to read as follows:

Class A licenses; subdivisions; fees.

33:1-10. Class A licenses shall be subdivided and classified as follows:

Plenary brewery license. 1a. The holder of this license shall be entitled, subject to rules and regulations, to brew any malt alcoholic beverages

and to sell and distribute his products to wholesalers and retailers licensed in accordance with this chapter, and to sell and distribute without this State to any persons pursuant to the laws of the places of such sale and distribution, and to maintain a warehouse. The fee for this license shall be \$10,625.

Limited brewery license. 1b. The holder of this license shall be entitled, subject to rules and regulations, to brew any malt alcoholic beverages in a quantity to be expressed in said license, dependent upon the following fees and not in excess of 300,000 barrels of 31 fluid gallons capacity per year and to sell and distribute this product to wholesalers and retailers licensed in accordance with this chapter, and to sell and distribute without this State to any persons pursuant to the laws of the places of such sale and distribution, and to maintain a warehouse. The fee for this license shall be graduated as follows: to so brew not more than 50,000 barrels of 31 fluid gallons capacity per annum, \$1,250; to so brew not more than 100,000 barrels of 31 fluid gallons capacity per annum, \$2,500; to so brew not more than 200,000 barrels of 31 fluid gallons capacity per annum, \$5,000; to so brew not more than 300,000 barrels of 31 fluid gallons capacity per annum, \$7,500.

Restricted brewery license. 1c. The holder of this license shall be entitled, subject to rules and regulations, to brew any malt alcoholic beverages in a quantity to be expressed in such license not in excess of 3,000 barrels of 31 fluid gallons capacity per year. Notwithstanding the provisions of R.S.33:1-26, the director shall issue a restricted brewery license only to a person or an entity which has identical ownership to an entity which holds a plenary retail consumption license issued pursuant to R.S.33:1-12, provided that such plenary retail consumption license is operated in conjunction with a restaurant regularly and principally used for the purpose of providing meals to its customers and having adequate kitchen and dining room facilities, and that the licensed restaurant premises is immediately adjoining the premises licensed as a restricted brewery. The holder of this license shall only be entitled to sell or deliver the product to that restaurant premises. The fee for this license shall be \$1,250, which fee shall entitle the holder to brew up to 1,000 barrels of 31 fluid gallons per annum. The licensee also shall pay an additional \$625 for every additional 1,000 barrels of 31 fluid gallons produced. No more than two restricted brewery licenses shall be issued to a person or entity which holds an interest in a plenary retail consumption license. If the governing body of the municipality in which the licensed premises will be located should file a written objection, the director shall hold a hearing and may issue the license only if the director finds that the issuance of the license will not be contrary to the public interest.

All fees related to the issuance of both licenses shall be paid in accordance with statutory law.

Plenary winery license. 2a. Provided that the holder is engaged in growing and cultivating grapes or fruit used in the production of wine on at least three acres on, or adjacent to, the winery premises, the holder of this license shall be entitled, subject to rules and regulations, to produce any fermented wines, and to blend, fortify and treat wines, and to sell and distribute his products to wholesalers and retailers licensed in accordance with this chapter and to churches for religious purposes, and to sell and distribute without this State to any persons pursuant to the laws of the places of such sale and distribution, and to maintain a warehouse, and to sell his products at retail to consumers on the licensed premises of the winery for consumption on or off the premises and to offer samples for sampling purposes only. The fee for this license shall be \$938. The holder of this license shall also have the right to sell such wine at retail in original packages in six salesrooms apart from the winery premises for consumption on or off the premises and for sampling purposes for consumption on the premises, at a fee of \$250 for each salesroom. Additionally, subject to rules and regulations, one salesroom per county may be jointly controlled and operated by at least two plenary or farm winery licensees for the sale of the products of any plenary or farm winery licensee for consumption on or off the premises and for consumption on the licensed premises for sampling purposes at an additional fee of \$625 per county salesroom. For the purposes of this subsection, "sampling" means the selling at a nominal charge or the gratuitous offering of an open container not exceeding one and one-half ounces of any wine.

For the purposes of this subsection, "product" means any wine that is produced, blended, fortified, or treated by the licensee on its licensed premises situated in the State of New Jersey.

Any holder of a plenary winery license who sold wine which was produced, bottled, and labelled by that holder in a place other than its licensed New Jersey premises between July 1, 1992 and June 30, 1993, may continue to sell that wine provided no more than 25,000 cases, each case consisting of 12 750 milliliter bottles or the equivalent, are sold in any single license year. This privilege shall terminate upon, and not survive, any transfer of the license to another person or entity subsequent to the effective date of this 1993 amendatory act or any transfer of stock of the licensed corporation other than to children, grandchildren, parents, spouses or siblings of the existing stockholders.

Farm winery license. 2b. The holder of this license shall be entitled, subject to rules and regulations, to manufacture any fermented wines and fruit juices in a quantity to be expressed in said license, dependent upon the following fees and not in excess of 50,000 gallons per year and to sell and distribute his products to wholesalers and retailers licensed in accordance with this chapter and to churches for religious purposes and to sell and distribute without this State to any persons pursuant to the laws of the places of such sale and distribution, and to maintain a warehouse and to sell at retail to consumers for consumption on or off the licensed premises and to offer samples for sampling purposes only. The license shall be issued only when the winery at which such fermented wines and fruit juices are manufactured is located and constructed upon a tract of land exclusively under the control of the licensee, provided that the licensee is actively engaged in growing and cultivating an area of not less than three acres on or adjacent to the winery premises and on which are growing grape vines or fruit to be processed into wine or fruit juice; and provided, further, that for the first five years of the operation of the winery such fermented wines and fruit juices shall be manufactured from at least 51% grapes or fruit grown in the State and that thereafter they shall be manufactured from grapes or fruit grown in this State at least to the extent required for labeling as "New Jersey Wine" under the applicable federal laws and regulations. The containers of all wine sold to consumers by such licensee shall have affixed a label stating such information as shall be required by the rules and regulations of the Director of the Division of Alcoholic Beverage Control. The fee for this license shall be graduated as follows: to so manufacture between 30,000 and 50,000 gallons per annum, \$375; to so manufacture between 2,500 and 30,000 gallons per annum, \$250; to so manufacture between 1,000 and 2,500 gallons per annum, \$125; to so manufacture less than 1,000 gallons per annum, \$63. No farm winery license shall be held by the holder of a plenary winery license or be situated on a premises licensed as a plenary winery.

The holder of this license shall also have the right to sell his products in original packages at retail to consumers in six salesrooms apart from the winery premises for consumption on or off the premises, and for sampling purposes for consumption on the premises, at a fee of \$250 for each salesroom. Additionally, subject to rules and regulations, one salesroom per county may be jointly controlled and operated by at least two plenary or farm winery licensees for the sale of the products of any plenary or farm winery licensee for consumption on or off the premises and for consumption on the licensed premises for sampling purposes only, at an additional

fee of \$625 per county salesroom. For the purposes of this subsection, "sampling" means the selling at a nominal charge or the gratuitous offering of an open container not exceeding one and one-half ounces of any wine.

Unless otherwise indicated, for the purposes of this subsection, with respect to farm winery licenses, "manufacture" means the vinification, aging, storage, blending, clarification, stabilization and bottling of wine or juice from New Jersey fruit to the extent required by this subsection.

Wine blending license. 2c. The holder of this license shall be entitled, subject to rules and regulations, to blend, treat, mix, and bottle fermented wines and fruit juices with non-alcoholic beverages, and to sell and distribute his products to wholesalers and retailers licensed in accordance with this chapter, and to sell and distribute without this State to any persons pursuant to the laws of the places of such sale and distribution, and to maintain a warehouse. The fee for this license shall be \$625.

Instructional winemaking facility license. 2d. The holder of this license shall be entitled, subject to rules and regulations, to instruct persons in and provide them with the opportunity to participate directly in the process of winemaking and to directly assist such persons in the process of winemaking while in the process of instruction on the premises of the facility. The holder of this license also shall be entitled to manufacture wine on the premises not in excess of an amount of 10% of the wine produced annually on the premises of the facility, which shall be used only to replace quantities lost or discarded during the winemaking process, to maintain a warehouse, and to offer samples produced by persons who have received instruction in winemaking on the premises by the licensee for sampling purposes only on the licensed premises for the purpose of promoting winemaking for personal or household use or consumption. Wine produced on the premises of an instructional winemaking facility shall be used, consumed or disposed of on the facility's premises or distributed from the facility's premises to a person who has participated directly in the process of winemaking for the person's personal or household use or consumption. The holder of this license may sell mercantile items traditionally associated with winemaking and novelty wearing apparel identified with the name of the establishment licensed under the provisions of this section. The holder of this license may use the licensed premises for an event or affair, including an event or affair at which a plenary retail consumption licensee serves alcoholic beverages in compliance with all applicable statutes and regulations promulgated by the director. The fee for this license shall be \$1,000. For the purposes of this subsection, "sampling" means the gratuitous offering of an open container not exceeding one and one-half ounces of any wine.

Plenary distillery license. 3a. The holder of this license shall be entitled, subject to rules and regulations, to manufacture any distilled alcoholic beverages and rectify, blend, treat and mix, and to sell and distribute his products to wholesalers and retailers licensed in accordance with this chapter, and to sell and distribute without this State to any persons pursuant to the laws of the places of such sale and distribution, and to maintain a warehouse. The fee for this license shall be \$12,500.

Limited distillery license. 3b. The holder of this license shall be entitled, subject to rules and regulations, to manufacture and bottle any alcoholic beverages distilled from fruit juices and rectify, blend, treat, mix, compound with wine and add necessary sweetening and flavor to make cordial or liqueur, and to sell and distribute to wholesalers and retailers licensed in accordance with this chapter, and to sell and distribute without this State to any persons pursuant to the laws of the places of such sale and distribution and to warehouse these products. The fee for this license shall be \$3,750.

Supplementary limited distillery license. 3c. The holder of this license shall be entitled, subject to rules and regulations, to bottle and rebottle, in a quantity to be expressed in said license, dependent upon the following fees, alcoholic beverages distilled from fruit juices by such holder pursuant to a prior plenary or limited distillery license, and to sell and distribute his products to wholesalers and retailers licensed in accordance with this chapter, and to sell and distribute without this State to any persons pursuant to the laws of the places of such sale and distribution, and to maintain a warehouse. The fee for this license shall be graduated as follows: to so bottle and rebottle not more than 5,000 wine gallons per annum, \$313; to so bottle and rebottle not more than 10,000 wine gallons per annum, \$625; to so bottle and rebottle without limit as to amount, \$1,250.

Rectifier and blender license. 4. The holder of this license shall be entitled, subject to rules and regulations, to rectify, blend, treat and mix distilled alcoholic beverages, and to fortify, blend, and treat fermented alcoholic beverages, and prepare mixtures of alcoholic beverages, and to sell and distribute his products to wholesalers and retailers licensed in accordance with this chapter, and to sell and distribute without this State to any persons pursuant to the laws of the places of such sale and distribution, and to maintain a warehouse. The fee for this license shall be \$7,500.

Bonded warehouse bottling license. 5. The holder of this license shall be entitled, subject to rules and regulations, to bottle alcoholic beverages in bond on behalf of all persons authorized by federal and State law and regulations to withdraw alcoholic beverages from bond. The fee for this license shall be \$625. This license shall be issued only to persons holding permits

to operate Internal Revenue bonded warehouses pursuant to the laws of the United States.

The provisions of section 21 of P.L.2003, c.117 amendatory of this section shall apply to licenses issued or transferred on or after July 1, 2003, and to license renewals commencing on or after July 1, 2003.

2. R.S.33:1-75 is amended to read as follows:

Special permit for manufacture of wine, malt alcoholic beverages, instructional wine making facility; certain circumstances.

33:1-75. a. The director may, subject to rules and regulations, issue special permits authorizing the manufacture by a person who is 21 years of age or older, within a home or other noncommercial premises, of wines or malt alcoholic beverages in quantities not exceeding 200 gallons per calendar year for the person's personal or household use or consumption.

b. The director may, subject to rules and regulations, issue special permits authorizing the manufacture of wines in an instructional winemaking facility by a person who is 21 years of age or older, residing within or without this State, in quantities not exceeding 200 gallons per calendar year for the person's personal or household use or consumption.

c. The director shall, by regulation, establish a reasonable fee to cover the costs incurred in issuing the special permits required by this section.

d. A person manufacturing wines or malt alcoholic beverages pursuant to this section shall not be liable for any tax imposed under the "Alcoholic beverage tax law," R.S.54:41-1 et seq.

3. This act shall take effect on the first day of the third month after enactment.

Approved January 13, 2008.

CHAPTER 330

AN ACT concerning health information technology and supplementing Title 17B of the New Jersey Statutes and Title 26 of the Revised Statutes.

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

C.26:1A-132 Short title.

1. This act shall be known and may be cited as the “New Jersey Health Information Technology Act.”

C.26:1A-133 Findings, declarations relative to health information technology.

2. The Legislature finds and declares that:

a. It is in the public interest for New Jersey residents to have all appropriate personal health information available to them and to their treating health care professionals in a medical office, hospital emergency room, other health care facility setting, or pharmacy;

b. Natural disasters and other public health emergencies have demonstrated the need for timely, secure, and accessible health information, in particular for our most vulnerable populations, including senior citizens, persons with disabilities, and those with limited financial means;

c. Health information technology has great potential as one means of furthering progress towards achieving affordable, safe, and accessible health care for all persons by: ensuring that health information is available at the point of care for all patients, while protecting the confidentiality and privacy of the information; improving safety, reducing medical errors, and avoiding duplicative and unnecessary medical tests and procedures; improving coordination of care among hospitals, clinics, nursing homes, home health agencies, pharmacies, and health care professionals; and providing consumers with their own health information in order to encourage greater participation in decisions concerning their own health care;

d. The federal Department of Health and Human Services has estimated that health information technology, in addition to improving the quality of chronic care management and reducing medical errors, could achieve potential savings of almost 10% of total health care spending in the United States;

e. The many different and conflicting standards for collecting and reporting personal health information within the health care community currently hinder the appropriate sharing of patient health care information, and health information technology can eliminate these different standards;

f. State leadership can promote public policy, encourage coordinated efforts in the private health care sector, further public and private partnerships, and maximize federal and regional financial participation, in support of adopting an electronic health information infrastructure;

g. It is desirable to implement an electronic health information infrastructure in the context of a Statewide health information technology plan that includes standards and protocols designed to promote patient educa-

tion, patient privacy, physician best practices, electronic connectivity to health care data, and generally a more efficient and less costly means of delivering quality health care in New Jersey, in order to provide for an interoperative environment among health care providers, health care payers, employers, and patients in New Jersey;

h. It is time for this State to clearly and unequivocally move its public policy in the direction of establishing an electronic health information infrastructure through a vehicle that provides for a collaborative planning and implementation strategy and includes the relevant public and private stakeholders in developing and achieving a sustainable model for an electronic health information network for New Jersey; and

i. In order to conserve and efficiently use funds for the effective delivery of quality medical care to all persons, it is the policy of the State to lessen the expenditure of resources on unnecessarily repeated medical tests, while maintaining the highest quality of medical care for our citizens.

C.26:1A-134 Definitions relative to health information technology.

3. As used in this act:

“Health information technology” means technology that is used to electronically collect, store, retrieve, and transfer clinical, administrative, and financial health information.

“Interoperative” means that entities are able to exchange data accurately, effectively, securely, and consistently with different information technology systems, software applications, and networks in such a way that the clinical or operational purposes and meaning of the data are preserved and unaltered.

“Office for e-HIT” means the Office for the Development, Implementation, and Deployment of Electronic Health Information Technology, established in the Department of Banking and Insurance, pursuant to section 8 of this act (C.17:1D-1).

“Plan” means the Statewide health information technology plan that is developed and implemented pursuant to this act.

C.26:1A-135 Statewide health care information infrastructure.

4. It is the public policy of this State to promote, encourage, facilitate, and support the development, utilization, and improvement of health information technology and electronic health records, including the effectuation of a secure, integrated and interoperative Statewide health care information infrastructure in accordance with a Statewide health information technology plan that is developed and implemented pursuant to this act.

C.26:1A-136 New Jersey Health Information Technology Commission.

5. a. There is established the New Jersey Health Information Technology Commission. For the purpose of complying with the provisions of Article V, Section IV, paragraph 1 of the New Jersey Constitution, the commission is established within the Department of Health and Senior Services, but, notwithstanding the establishment, the commission shall be independent of any supervision or control by the department or any board or officer thereof.

b. The commission shall collaborate with the Office for e-HIT established pursuant to section 8 of this act (C.17:1D-1), concerning all activities related to the development, implementation, and oversight of the plan.

The commission shall be responsible for approving the Statewide health information technology plan.

c. In providing advice on the development of the plan, the commission shall, at a minimum, consider the following:

(1) the importance of the education of the general public and health care professionals about the value of an electronic health infrastructure for improving the delivery of patient care;

(2) the means for the creation of an effective, efficient, Statewide use of electronic health information in patient care, health care policymaking, clinical research, health care financing, and continuous quality improvements;

(3) the means for the promotion of the use of national standards for the development of an interoperative system, including provisions relating to security, privacy, data content, structures and format, vocabulary, and transmission protocols;

(4) the nature of proper strategic investments in equipment and other infrastructure elements that will facilitate the ongoing development of a Statewide infrastructure;

(5) funding needs for the ongoing development of health information technology projects;

(6) actions needed to incorporate existing health care information technology initiatives into the plan in order to avoid incompatible systems and duplicative efforts;

(7) the proper means for the review and integration of the recommendations, findings, and conclusions of the New Jersey Health Information Security and Privacy Collaboration;

(8) the importance of recommending steps for the proper resolution of issues related to data ownership, governance, and confidentiality and security of patient information;

(9) the importance of promoting the deployment of health information technology in primary care provider settings; and

(10) the roles that the development and use of open-source electronic medical record software and the use of application service provider software can play in effectuating the purposes of paragraph (9) of this subsection.

d. The commission shall review the plan submitted by the Office for e-HIT and notify it of any changes needed to approve the plan.

C.26:1A-137 Membership of commission; terms; authority.

6. a. The New Jersey Health Information Technology Commission shall be comprised of 19 members as follows:

(1) the Commissioners of Health and Senior Services, Banking and Insurance, Children and Families, and Human Services, and the State Treasurer, or their designees, who shall serve ex officio; and

(2) 14 public members, who shall be appointed by the Governor no later than the 60th day after the effective date of this act, as follows: three physicians engaged in private practice in this State, one of whom is a pediatrician and one a psychiatrist; two persons who represent acute care hospitals in this State, one of whom represents a teaching hospital and the other a non-teaching hospital; a registered professional nurse practicing in this State; a pharmacist practicing in this State; a person who represents a clinical laboratory operating in this State; an attorney practicing in this State with demonstrated expertise in health privacy issues; a person who represents a health insurance carrier operating in this State; a person who represents a Quality Improvement Organization located in New Jersey that contracts with the federal Centers for Medicare and Medicaid Services to improve the efficiency and effectiveness, economy, and quality of services provided to Medicare beneficiaries; and three members of the public with a demonstrated professional expertise in issues relating to the work of the commission, including one member with expertise in electronic health information technology.

(3) The Governor shall designate a public member as chair of the commission.

b. The public members shall serve for a term of three years; except that, of the public members first appointed, five shall serve for a term of three years, five for a term of two years, and four for a term of one year. Vacancies in the membership of the commission shall be filled in the same manner as the original appointments were made.

c. The commission shall organize as soon as may be practicable, but no later than the 45th day after the appointment of its members. The public

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

d. A majority of the total authorized membership of the commission shall constitute a quorum at any meeting thereof. Action may be taken and motions and resolutions adopted by the commission at any meeting of the commission by the affirmative vote of a majority of the quorum of the members who are present. A vacancy in the membership of the commission shall not impair the right of a quorum of the members to exercise all the powers and perform all the duties of the commission.

e. The commission shall meet and confer with the Office for e-HIT at least quarterly and may meet at other times at the call of the commission chair. The meetings of the commission shall 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.).

f. In addition to any other powers authorized by law, the commission shall have the authority, in accordance with State law, to:

- (1) make and enter into contracts to purchase services and supplies;
- (2) develop and submit a proposed budget, not to exceed \$1 million annually;
- (3) apply for, receive, and expend grants from governmental or private nonprofit sources;
- (4) recommend to the Department of Banking and Insurance the necessary charges and assessments to be levied to collect payments from persons and entities for the provision of services or as the Office for e-HIT otherwise determines necessary to effectuate the purposes of this act;
- (5) receive and expend appropriations;
- (6) provide such other services and perform such other functions as the commission deems necessary to fulfill its responsibilities under this act; and
- (7) appoint, retain, or employ consultants on a contract basis or otherwise, who are deemed necessary, and as may be within the limits of funds appropriated or otherwise made available to it for its purposes.

g. In collaboration with the Office for e-HIT, the commission shall, no later than 18 months after its initial meeting and annually thereafter, submit a joint report to the Governor, and to the Legislature pursuant to section 2 of P.L.1991, c.164 (C.52:14-19.1), concerning its activities and the status of, and actions taken regarding development, implementation, and oversight of the Statewide health information technology plan. The commission shall include in that report any findings and recommendations that it desires to make, along with any legislative bills that it desires to recommend for adoption by the Legislature.

h. The commission shall develop and submit a proposed budget to the Commissioner of Health and Senior Services to effectuate its duties as set forth in this act.

The budget shall be subject to approval by the Commissioner of Health and Senior Services.

i. The commission shall appoint a full-time executive director, who shall serve as secretary to the commission. The executive director shall serve at the pleasure of the commission and shall be qualified by training and experience to perform the duties of the position. The executive director shall be in the unclassified service of the Civil Service and may hire properly qualified employees, within the limits of funds appropriated or otherwise made available to the commission, who shall also be employed in the unclassified service of the Civil Service; except that employees performing stenographic or clerical duties shall be in the career service and appointed pursuant to Title 11A of the New Jersey Statutes.

C.26:1A-138 Certification of amount allocable to expenses of the commission.

7. The New Jersey Health Information Technology Commission shall annually, on or before October 1, certify to the State Treasurer and the Commissioner of Banking and Insurance an amount allocable to the expenses of the commission for the preceding fiscal year, not to exceed \$1 million annually, which amount shall be transferred to the commission by the State Treasurer from the amounts assessed and collected by the Department of Banking and Insurance pursuant to section 9 of P.L.2007, c.330 (C.17:1D-2).

C.17:1D-1 Office for e-HIT.

8. a. There is established in the Department of Banking and Insurance the Office for the Development, Implementation, and Deployment of Electronic Health Information Technology in New Jersey, to be known as the Office for e-HIT.

b. The Office for e-HIT, in collaboration with the Health Information Technology Commission, shall develop, implement, and oversee the operation of a Statewide health information technology plan. The plan shall provide for, but not be limited to, a mechanism designed to support the establishment of a secure, integrated, interoperative, and Statewide electronic health information infrastructure for the sharing of electronic health information and electronic health records among health care facilities, health care professionals, public and private payers, and patients, which complies with all State and federal privacy requirements and links all components of the health care delivery system through secure and appropriate exchanges

of health information for the purpose of enhancing health care quality, patient safety, communication of patient information, disease management capabilities, patient and provider satisfaction, clinical and administrative cost reductions, fraud and abuse prevention and detection, and public health emergency preparedness. The plan shall also provide for the designation of a custodian for all protected health information that meets federal and State privacy and security laws and is accredited by a national standard setting organization recognized by the department.

c. The Office for e-HIT shall submit the plan to the Health Information Technology Commission for the commission's review and approval.

d. In collaboration with the commission, the Office for e-HIT shall, no later than 18 months after its initial meeting and annually thereafter, submit a joint report to the Governor, and to the Legislature pursuant to section 2 of P.L.1991, c.164 (C.52:14-19.1), concerning its activities and the status, and actions taken regarding development, implementation, and oversight, of the Statewide health information technology plan. The office shall include in that report any findings and recommendations that it desires to make, along with any legislative bills that it desires to recommend for adoption by the Legislature.

C.17:1D-2 Funding of commission budget.

9. The Department of Banking and Insurance shall fund the approved budget of the commission established pursuant to section 6 of P.L.2007, c.330 (C.26:1A-137) from fines, sanctions, and civil penalties assessed by the department on entities regulated by the department pursuant to subtitle 3 of Title 17 of the Revised Statutes, Title 17B of the New Jersey Statutes, and P.L.1973, c.337 (C.26:2J-1 et seq.).

C.17:1D-3 Rules, regulations.

10. The Office for e-HIT in the Department of Banking and Insurance, pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), shall adopt rules and regulations necessary to effectuate the purposes of this act.

11. This act shall take effect on the 180th day after enactment; except that the Commissioner of Banking and Insurance may take such anticipatory administrative action in advance thereof as shall be necessary for the implementation of the act, and sections 5, 6, 7 and 9 of this act shall expire five years after the date of enactment.

Approved January 13, 2008.

CHAPTER 331

AN ACT concerning special education and supplementing chapter 46 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:46-1.1 Burden of proof, production on school district relative to special education due process hearings.

1. Whenever a due process hearing is held pursuant to the provisions of the "Individuals with Disabilities Education Act," 20 U.S.C. s.1400 et seq., chapter 46 of Title 18A of the New Jersey Statutes, or regulations promulgated thereto, regarding the identification, evaluation, reevaluation, classification, educational placement, the provision of a free, appropriate public education, or disciplinary action, of a child with a disability, the school district shall have the burden of proof and the burden of production.

2. This act shall take effect immediately and shall apply to due process hearings requested in writing after the effective date of this act.

Approved January 13, 2008.

CHAPTER 332

AN ACT concerning the purchase of environmentally sound materials and services and amending and supplementing P.L.1971, c.198.

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

1. Section 9 of P.L.1971, c.198 (C.40A:11-9) is amended to read as follows:

C.40A:11-9 Purchasing agent, department or board; establishment; powers; criteria for authorization; "green product" defined.

9. a. The governing body of any contracting unit may by ordinance, in the case of a municipality, by ordinance or resolution, as the case may be, in the case of a county, or by resolution in all other cases, establish the of-

fice of purchasing agent, or a purchasing department or a purchasing board, with the authority, responsibility, and accountability as its contracting agent, for the purchasing activity for the contracting unit, to prepare public advertising for bids and to receive bids for the provision or performance of goods or services on behalf of the contracting unit and to award contracts permitted pursuant to subsection a. of section 3 of P.L.1971, c.198 (C.40A:11-3) in the name of the contracting unit, and conduct any activities as may be necessary or appropriate to the purchasing function of the contracting unit.

b. The Director of the Division of Local Government Services, after consultation with the Commissioner of Education, shall establish criteria to qualify individuals who have completed appropriate training and possess such purchasing experience as deemed necessary to exercise such supplemental authority as may be set forth in subsection a. of section 3 of P.L.1971, c.198 (C.40A:11-3). These criteria also shall authorize county purchasing agents certified pursuant to P.L.1981, c.380 (C.40A:9-30.1 et seq.) to exercise such supplemental authority.

c. The criteria established by the director to authorize purchasing agents, pursuant to subsection b. of this section, shall include, but are not limited to, completion of a course in green product purchasing, as established by the director pursuant to regulation. Any person qualified pursuant to subsection b. of this section prior to the establishment of the course in green product purchasing, shall in order to continue to be qualified, take and successfully complete the course within four years from the date the course is established. For the purposes of P.L.2007, c.332 (C.40A:11-9.1 et al.), "green product" means any commodity or service that has a lesser or reduced negative effect on human health and the environment when compared with competing commodities or services. Items considered in this comparison may include, but are not limited to: raw materials acquisition, production, manufacturing, packaging, distribution, reuse, operation, maintenance, disposal, energy efficiency, recycled content resource use, transportation, and durability.

C.40A:11-9.1 List of sources for green product purchasing.

2. The State Treasurer, through the Division of Purchase and Property, in consultation with the Department of Environmental Protection and any other appropriate State agencies, shall develop a list of sources for green product purchasing by contracting units, and provide regular revisions of the list, on the Internet web page of the Department of the Treasury and shall have the authority to specify appropriate and reasonable standards for the identification of a list of sources for green products.

3. This act shall take effect immediately.

Approved January 13, 2008.

CHAPTER 333

AN ACT to amend and supplement the "Waterfront Commission Act," approved June 30, 1953 (P.L. 1953, c.202).

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

1. Section 8 of P.L. 1954, c.14 (C.32:23-92) is amended to read as follows:

C.32:23-92 Denial of applications; definitions.

8. 5-h. In addition to the grounds elsewhere set forth in this act, the commission may deny an application for a license or registration for any of the following:

(1) Conviction by a court of the United States or any State or territory thereof of coercion;

(2) Conviction by any such court, after having been previously convicted by any such court of any crime or of the offenses hereinafter set forth, of a misdemeanor or any of the following offenses: assault, malicious injury to property, malicious mischief, unlawful taking of a motor vehicle, corruption of employees or possession of lottery or number slips;

(3) Fraud, deceit or misrepresentation in connection with any application or petition submitted to, or any interview, hearing or proceeding conducted by the commission;

(4) Violation of any provision of this act or commission of any offense thereunder;

(5) Refusal on the part of any applicant, or prospective licensee, or of any member, officer or stockholder required by section 2 of article VI of the compact to sign or be identified in an application for a stevedore license, to answer any material question or produce any material evidence in connection with his application or any application made on his behalf for a license or registration pursuant to this compact;

(6) Association with a person who has been identified by a federal, State or local law enforcement agency as a member or associate of an organized crime group, a terrorist group, or a career offender cartel, or who is

a career offender, under circumstances where such association creates a reasonable belief that the participation of the applicant in any activity required to be licensed or registered under this act would be inimical to the policies of this act.

For purposes of this subsection, a "terrorist group" shall mean a group associated, affiliated or funded in whole or in part by a terrorist organization designated by the United States Secretary of State in accordance with section 219 of the Immigration and Nationality Act, as amended from time to time, or any other organization which assists, funds, or engages in crimes or acts of terrorism as defined in the laws of the United States, or of either of the states of New Jersey or New York; a "career offender" shall mean a person whose behavior is pursued in an occupational manner or context for the purpose of economic gain, utilizing such methods as are deemed criminal violations against the public policy of the states of New Jersey and New York; and a "career offender cartel" shall mean a number of career offenders acting in concert, and may include what is commonly referred to as an organized crime group; or

(7) Conviction of a racketeering activity or knowing association with a person who has been convicted of a racketeering activity by a court of the United States, or any state or territory thereof under circumstances where such association creates a reasonable belief that the participation of the applicant in any activity required to be licensed or registered under this act would be inimical to the policies of this act.

2. Section 9 of P.L. 1954, c.14 (C.32:23-93) is amended to read as follows:

C.32:23-93 Revocation, suspension of licenses and registrations; definitions.

9. 5-i. In addition to the grounds elsewhere set forth in this act any license or registration issued or made pursuant thereto may be revoked or suspended for such period as the commission deems in the public interest or the licensee or registrant may be reprimanded, for:

(1) Conviction of any crime or offense in relation to gambling, book-making, pool selling, lotteries or similar crimes or offenses if the crime or offense was committed at or on a pier or other waterfront terminal or within 500 feet thereof; or

(2) Willful commission of, or willful attempt to commit at or on a waterfront terminal or adjacent highway, any act of physical injury to any other person or of willful damage to or misappropriation of any other person's property, unless justified or excused by law; or

(3) Receipt or solicitation of anything of value from any person other than a licensee's or registrant's employer as consideration for the selection or retention for employment of such licensee or registrant; or

(4) Coercion of a licensee or registrant by threat of discrimination or violence or economic reprisal, to make purchases from or to utilize the services of any person; or

(5) Refusal to answer any material question or produce any evidence lawfully required to be answered or produced at any investigation, interview or other proceeding conducted by the commission pursuant to the provisions of this act, or, if such refusal is accompanied by a valid plea of privilege against self-incrimination, refusal to obey an order to answer such question or produce such evidence made by the commission pursuant to the provisions of subdivision 5 of section 5-b of P.L.1954, c.14 (C.32:23-86); or

(6) Association with a person who has been identified by a federal, state or local law enforcement agency as a member or associate of an organized crime group, a terrorist group, or a career offender cartel, or who is a career offender, under circumstances where such association creates a reasonable belief that the participation of the licensee or registrant in any activity required to be licensed or registered under this act would be inimical to the policies of this act.

For the purposes of this subsection, a "terrorist group" shall mean a group associated, affiliated or funded in whole or in part by a terrorist organization designated by the United States Secretary of State in accordance with section 219 of the Immigration and Nationality Act, as amended from time to time, or any other organization which assists, funds, or engages in crimes or acts of terrorism as defined in the laws of the United States, or of either of the states of New Jersey or New York; a "career offender" shall mean a person whose behavior is pursued in an occupational manner or context for the purpose of economic gain utilizing such methods as are deemed criminal violations against the public policy of the states of New Jersey and New York; and a "career offender cartel" shall mean a number of career offenders acting in concert, and may include what is commonly referred to as an organized crime group; or

(7) Conviction of a racketeering activity or knowing association with a person who has been convicted of a racketeering activity by a court of the United States, or any state or territory thereof under circumstances where such association creates a reasonable belief that the participation of the licensee or registrant in any activity required to be licensed or registered under this act would be inimical to the policies of this act.

3. Section 1 of P.L. 1976, c.102 (C.32:23-118) is amended to read as follows:

C.32:23-118 Temporary suspension of permits, licenses and registrations for indictment or other charge of crime.

1. 5-q. (1) The commission may temporarily suspend a temporary permit or a permanent license or a temporary or permanent registration pursuant to the provisions of section 4 of Article XI of this act until further order of the commission or final disposition of the underlying case, only where the permittee, licensee or registrant has been indicted for, or otherwise charged with, a crime which is equivalent to a felony in the State of New York or to a crime of the third, second, or first degree in the State of New Jersey or only where the permittee or licensee is a port watchman who is charged by the commission pursuant to Article XI of this act with misappropriating any other person's property at or on a pier or other waterfront terminal.

(2) In the case of a permittee, licensee or registrant who has been indicted for, or otherwise charged with, a crime, the temporary suspension shall terminate immediately upon acquittal or upon dismissal of the criminal charge. A person whose permit, license or registration has been temporarily suspended may, at any time, demand that the commission conduct a hearing as provided for in Article XI of this act. Within 60 days of such demand, the commission shall commence the hearing and, within 30 days of receipt of the administrative law judge's report and recommendation, the commission shall render a final determination thereon; provided, however, that these time requirements, shall not apply for any period of delay caused or requested by the permittee, licensee or registrant. Upon failure of the commission to commence a hearing or render a determination within the time limits prescribed herein, the temporary suspension of the permittee, licensee or registrant shall immediately terminate. Notwithstanding any other provision of this subsection, if a federal, state, or local law enforcement agency or prosecutor's office shall request the suspension or deferment of any hearing on the ground that such a hearing would obstruct or prejudice an investigation or prosecution, the commission may in its discretion, postpone or defer such hearing for a time certain or indefinitely. Any action by the commission to postpone a hearing shall be subject to immediate judicial review as provided in section 7 of Article XI of this act.

(3) The commission may, within its discretion, bar any permittee, licensee or registrant who has been suspended pursuant to the provisions of subsection (1) above, from any employment by a licensed stevedore or a

carrier of freight by water, if that individual has been indicted or otherwise charged in any federal, state or territorial proceeding with any crime involving the possession with intent to distribute, sale or distribution of a controlled dangerous substance or controlled dangerous substance analog, racketeering or theft from a pier or waterfront terminal.

4. If any part or provision of this act or the application thereof to any person or circumstances be adjudged invalid by any court of competent jurisdiction, such judgment shall be confined in its operation to the part, provision or application directly involved in the controversy in which such judgment shall have been rendered and shall not affect or impair the validity of the remainder of this act or the application thereof to other persons or circumstances and the two states hereby declare that they would have entered into this act or the remainder thereof had the invalidity of such part or provision, or application thereof, been apparent.

5. This act constitutes an agreement between the states of New Jersey and New York, supplementary to the waterfront commission compact and amendatory thereof, and shall be liberally construed to effectuate the purposes of the compact, and the powers vested in the waterfront commission shall be construed to be in aid of and supplemental to and not in limitation of or in derogation of any of the powers heretofore conferred upon or delegated to the waterfront commission.

6. This act shall take effect upon the enactment of substantially similar legislation by the State of New York or, if the State of New York should enact legislation of a similar substance and effect of any section of this act, that section of this act shall take effect upon that enactment; but if legislation substantially similar to this act or any section thereof has been enacted, this act or the section in question shall take effect immediately.

Approved January 13, 2008.

CHAPTER 334

AN ACT concerning electors for president and vice-president of the United States in New Jersey and amending various parts of the statutory law and supplementing Title 19 of the Revised Statutes.

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

C.19:36-4 “Agreement Among the States to Elect the President by National Popular Vote.”

1. The State of New Jersey hereby enacts into law and enters into the “Agreement Among the States to Elect the President by National Popular Vote” as set forth in this section, and substantially as follows:

a. Article I—Membership

Any State of the United States and the District of Columbia may become a member of this agreement by enacting this agreement.

b. Article II—Right of the People in Member States to Vote for President and Vice President.

Each member state shall conduct a statewide popular election for President and Vice President of the United States.

c. Article III—Manner of Appointing Presidential Electors in Member States

(1) Prior to the time set by law for the meeting and voting by the presidential electors, the chief election official of each member state shall determine the number of votes for each presidential slate in each State of the United States and in the District of Columbia in which votes have been cast in a statewide popular election and shall add such votes together to produce a “national popular vote total” for each presidential slate.

(2) The chief election official of each member state shall designate the presidential slate with the largest national popular vote total as the “national popular vote winner.”

(3) The presidential elector certifying official of each member state shall certify the appointment in that official’s own state of the elector slate nominated in that state in association with the national popular vote winner.

(4) At least six days before the day fixed by law for the meeting and voting by the presidential electors, each member state shall make a final determination of the number of popular votes cast in the state for each presidential slate and shall communicate an official statement of such determination within 24 hours to the chief election official of each other member state.

(5) The chief election official of each member state shall treat as conclusive an official statement containing the number of popular votes in a state for each presidential slate made by the day established by federal law for making a state’s final determination conclusive as to the counting of electoral votes by Congress.

(6) In event of a tie for the national popular vote winner, the presidential elector certifying official of each member state shall certify the appointment of the elector slate nominated in association with the presidential slate receiving the largest number of popular votes within that official's own state.

(7) If, for any reason, the number of presidential electors nominated in a member state in association with the national popular vote winner is less than or greater than that state's number of electoral votes, the presidential candidate on the presidential slate that has been designated as the national popular vote winner shall have the power to nominate the presidential electors for that state and that state's presidential elector certifying official shall certify the appointment of such nominees. The chief election official of each member state shall immediately release to the public all vote counts or statements of votes as they are determined or obtained.

(8) This article shall govern the appointment of presidential electors in each member state in any year in which this agreement is, on July 20, in effect in states cumulatively possessing a majority of the electoral votes.

d. Article IV—Other Provisions

(1) This agreement shall take effect when states cumulatively possessing a majority of the electoral votes have enacted this agreement in substantially the same form and the enactments by such states have taken effect in each state.

(2) Any member state may withdraw from this agreement, except that a withdrawal occurring six months or less before the end of a President's term shall not become effective until a President or Vice President shall have been qualified to serve the next term.

(3) The chief executive of each member state shall promptly notify the chief executive of all other states of when this agreement has been enacted and has taken effect in that official's state, when the state has withdrawn from this agreement, and when this agreement takes effect generally.

(4) This agreement shall terminate if the electoral college is abolished.

(5) If any provision of this agreement is held invalid, the remaining provisions shall not be affected.

e. Article V—Definitions

For purposes of this agreement:

“Chief executive” means the Governor of a State of the United States or the Mayor of the District of Columbia;

“Elector slate” means a slate of candidates who have been nominated in a state for the position of presidential elector in association with a presidential slate;

“Chief election official” means the state official or body that is authorized to certify the total number of popular votes for each presidential slate;

“Presidential elector” means an elector for President and Vice President of the United States;

“Presidential elector certifying official” means the state official or body that is authorized to certify the appointment of the state’s presidential electors;

“Presidential slate” means a slate of two persons, the first of whom has been nominated as a candidate for President of the United States and the second of whom has been nominated as a candidate for Vice President of the United States, or any legal successors to such persons, regardless of whether both names appear on the ballot presented to the voter in a particular state;

“State” means a State of the United States and the District of Columbia; and

“Statewide popular election” means a general election in which votes are cast for presidential slates by individual voters and counted on a statewide basis.

2. R.S.19:13-15 is amended to read as follows:

Presidential and vice presidential electors; certificate of nomination, acceptance.

19:13-15. In presidential years the State committee of a political party shall meet at the call of its chairman, within 1 week following the closing of the party’s national convention, for the purpose of nominating candidates for electors of President and Vice-President of the United States and shall certify such nomination in a written or printed or partly written and partly printed certificate of nomination.

The certificate of nomination shall contain the name of each person nominated, his residence and post-office address, the office for which he is named, and shall also contain in not more than 3 words the designation of the party the nominating body represents. The names of the candidates for President and Vice-President for whom such electors are to vote may be included in the certificate. The State committee may also appoint a committee to whom shall be delegated the power to fill vacancies occurring prior to the election of the electors, howsoever caused, and the names and addresses of such committee shall be included in the certificate.

The certificate shall be signed by the State chairman who shall make oath before an officer authorized to administer the same that he is the State chairman of the political party and that the certificate and statements

therein contained are true to the best of his knowledge and belief. A certificate that such oath has been taken shall be made and signed by the officer administering the same and indorsed upon or attached to the certificate of nomination. Inclosed upon or attached to the certificate shall be statements in writing that the persons named therein accept such nominations and the oath of allegiance prescribed in section 41:1-1 of the Revised Statutes duly taken and subscribed by each or all of them before an officer or officers authorized to take oaths in this State.

The certificate of nomination and the acceptance thereof shall be filed with the Secretary of State not later than 1 week after the nomination of such electors of President and Vice-President of the United States.

The procedure for all objections to the certificates of nomination, the determination of the validity of such objections, the correction of defective certificates, and the presentation of such certificates and any documents attached thereto, shall be the same as herein provided for direct petitions of nominations.

3. R.S.19:22-8 is amended to read as follows:

Certificates of election of presidential, vice presidential electors, certifications as elector slate.

19:22-8. In case of an election for electors of president and vice president of the United States:

a. The secretary shall prepare a general certificate of the election of such electors, and lay the same before the Governor, who shall sign his name thereto, in the presence of such secretary, which the secretary shall attest by signing his name thereto, and shall thereupon affix the seal of the State thereto, and deliver the same to the president of the college of electors of this State, on the day and at the time and place appointed for the meeting of such college;

b. The secretary shall also prepare a general certificate or certificates, as the case may be, of the electors who were not elected, and lay the same before the Governor, who shall sign his name thereto, in the presence of such secretary, which the secretary shall attest by signing his name thereto, and shall thereupon affix the seal of the State thereto, and deliver the same to the president of the college of electors of this State, on the day and at the time and place appointed for the meeting of such college;

c. Only one general certificate shall be certified as the elector slate for the purpose of electing the president and vice president of the United States. In any year in which, on July 20, the "Agreement Among the States

to Elect the President by National Popular Vote” is in effect in states cumulatively possessing a majority of the electoral votes, and the State of New Jersey remains a member of that agreement, the elector slate for the purpose of electing the president and vice president shall be certified in accordance with section 1 of this act, P.L.2007, c.334 (C.19:36-4).

4. R.S.19:36-1 is amended to read as follows:

Time and place of meeting.

19:36-1. The electors of president and vice president shall convene at the State House at Trenton, on the day appointed by congress for that purpose, at the hour of three o'clock in the afternoon of that day, and constitute an electoral college. In any year in which, on July 20, the “Agreement Among the States to Elect the President by National Popular Vote” is in effect in states cumulatively possessing a majority of the electoral votes, and the State of New Jersey remains a member of that agreement, the electors for president and vice president shall be those electors certified as the elector slate in accordance with section 1 of this act, P.L.2007, c.334 (C.19:36-4).

5. R.S.19:36-2 is amended to read as follows:

Vacancies; filling.

19:36-2. a. When a vacancy shall happen in the college of electors, or when an elector shall fail to attend, by the hour of three o'clock in the afternoon of the day fixed by congress for the meeting of the college of electors, at the place of holding such meeting, those of such electors who shall be assembled at the hour and place shall immediately proceed to fill by a majority of votes such vacancy.

b. If the members of the electoral college shall have been nominated and elected as representing different political parties, any vacancy occurring shall be filled by the elector or electors representing the same political party as the absent elector; and if there shall be no elector present representing the same political party as the absent elector, then such vacancy shall be filled by a majority of the electors present, who shall choose some person of the political party which the absent elector represents.

c. Notwithstanding the provisions of subsections a. and b. of this section, in any year in which, on July 20, the “Agreement Among the States to Elect the President by National Popular Vote” is in effect in states cumulatively possessing a majority of the electoral votes, and the State of New Jersey remains a member of that agreement, any vacancy in the college of

electors shall be filled in accordance with the provisions of section 1 of this act, P.L.2007, c.334 (C.19:36-4).

6. R.S.19:36-3 is amended to read as follows:

Organization, performance of duties.

19:36-3. After choosing a president and secretary from their own body, such electors shall proceed to perform the duties required of them by the constitution and laws of the United States, and in accordance with the provisions of section 1 of this act, P.L.2007, c.334 (C.19:36-4) in any year in which, on July 20, the "Agreement Among the States to Elect the President by National Popular Vote" is in effect in states cumulatively possessing a majority of the electoral votes, and the State of New Jersey remains a member of that agreement.

7. This act shall take effect immediately.

Approved January 13, 2008.

CHAPTER 335

AN ACT concerning the New Jersey Motor Vehicle Commission and revising various parts of the statutory law.

WHEREAS, In 2003, motor vehicle services in this State underwent a major transformation as the New Jersey Motor Vehicle Commission was created to replace the Division of Motor Vehicles as the agency with responsibility for issuing and certifying motor vehicle driver's licenses, ensuring the proper registration of motor vehicles, and for conducting safety and emissions inspections of motor vehicles; and

WHEREAS, Since its creation, the commission has been successful in making great improvements in the way in which the commission operates, especially in the areas of safety, security, and customer service; and

WHEREAS, In striving to better serve the residents of New Jersey, the commission is committed to continuously evaluating and addressing the need for improving its services and operations to achieve and sustain a level of excellence for the motoring public; and

WHEREAS, To advance these efforts, the commission has recommended making certain changes to the current organizational structure of the commission by establishing the current members of the commission as

the "board" of the commission with the function of governing the commission and permitting the board to increase certain fees and surcharges by regulation; and

WHEREAS, The commission released the "MVC Forward" report in 2007, in which it identified the areas of the commission's operations that require improvement and created a roadmap for the commission's future; and

WHEREAS, It is therefore in the public interest for the Legislature to make certain improvements recommended by the commission and in the MVC Forward report to support the commission in its mission to continue to improve its services and operations to better serve the residents of this State; now, therefore

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

1. Section 3 of P.L.2003, c.13 (C.39:2A-3) is amended to read as follows:

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

3. As used in this act:

"Agency" or "motor vehicle agency" means that enterprise run by an agent designated by the commission to be the commission's agent for the registering of motor vehicles, issuing registration certificates and licensing of drivers, as provided in R.S.39:3-3 and R.S.39:10-25.

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

"Board" means the board established by section 12 of P.L.2003, c.13 (C.39:2A-12).

"Chair" means the chair of the board.

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

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

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

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

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

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

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

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

2. Section 12 of P.L.2003, c.13 (C.39:2A-12) is amended to read as follows:

C.39:2A-12 Board; membership; appointment; terms; vacancies.

12. a. Except as otherwise provided by law, the commission shall be governed by a board which shall consist of the following eight members:

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

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

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

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

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

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

b. Appointments of public members to the board shall be for terms of four years, except that in filling each vacancy, among the several public members, that first arises by expiration of the respective terms of those members following the effective date of P.L.2007, c.335 (C.39:2A-36.1 et al.), appointments shall be for terms as follows: one member for four years, one member for three years, one member for two years, and one member for one year. A public member may be appointed for any number of successive terms. The board may elect a secretary and a treasurer, who need not be members, and the same person may be elected to serve both as secretary and treasurer.

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

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

e. A vacancy in the membership of the 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.

3. Section 13 of P.L.2003, c.13 (C.39:2A-13) is amended to read as follows:

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

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

- (1) Make, amend and repeal bylaws not inconsistent with State and federal law;
- (2) Adopt an official seal;
- (3) Maintain an office at such place or places within the State as it may designate;

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

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

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

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

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

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

b. The board is further authorized to:

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

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

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

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

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

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

Additionally, the board shall suggest alternatives to the legislation which it deems may be appropriate; and

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

c. Except as provided in this section and section 21 of P.L.2003, c.13 (C.39:2A-21), all administrative functions, powers and duties of the commission may be exercised by the administrator and any reference to the commission in any law, rule or regulation may for this purpose be deemed to refer to the administrator.

4. Section 14 of P.L.2003, c.13 (C.39:2A-14) is amended to read as follows:

C.39:2A-14 Election of vice-chair.

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

5. Section 15 of P.L.2003, c.13 (C.39:2A-15) is amended to read as follows:

C.39:2A-15 Member compensation.

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

6. Section 16 of P.L.2003, c.13 (C.39:2A-16) is amended to read as follows:

C.39:2A-16 Meetings of board.

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

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

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

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

7. Section 17 of P.L.2003, c.13 (C.39:2A-17) is amended to read as follows:

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

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

8. Section 18 of P.L.2003, c.13 (C.39:2A-18) is amended to read as follows:

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

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

9. Section 19 of P.L.2003, c.13 (C.39:2A-19) is amended to read as follows:

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

19. Each appointed member of the board may be removed from office by the Governor for cause, after a public hearing and may be suspended by the Governor pending the completion of the hearing. Before assuming the

duties of board membership, each member shall take and subscribe an oath to perform the duties of the office faithfully, impartially and justly to the best of the member's ability. A record of the oaths shall be filed in the office of the Secretary of State.

10. Section 21 of P.L.2003, c.13 (C.39:2A-21) is amended to read as follows:

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

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

11. Section 22 of P.L.2003, c.13 (C.39:2A-22) is amended to read as follows:

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

22. a. On or before January 31 of each year, the commission shall file with the Governor, the presiding officer of each House of the Legislature, and the Senate Transportation Committee and the Assembly Transportation and Public Works Committee, or their successors, a report setting forth the operational, capital and financial expenditures of the previous year, and the operational, capital, and financial plan, and the table of organization and staffing plan, for the current year.

The commission shall include in this report the latest audited annual financial statement. In this statement, the commission shall disclose all revenues remitted to the commission and provide a detailed listing of the various categories in which it receives revenue, including any surplus revenue from the prior year.

The commission shall also include in the report an assessment of the service provided by the commission. The assessment shall include information or data or both relating to security improvements, annual transactions performed, customer wait times, and criminal complaints.

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

c. (Deleted by amendment, P.L.2007, c.335).

12. Section 23 of P.L.2003, c.13 (C.39:2A-23) is amended to read as follows:

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

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

13. Section 26 of P.L.2003, c.13 (C.39:2A-26) is amended to read as follows:

C.39:2A-26 Advisory councils.

26. There are created within the commission five advisory councils, which shall provide the board with advice, technical expertise, information, guidance, and recommendations in four general areas. The board shall designate the appropriate State and local government representatives, interest group representatives, technical experts, and constituent representatives as appropriate to serve on the councils. Federal government representatives and representatives of national organizations shall be asked to serve, and if willing, shall be designated by the board to serve. All council members shall be designated by board action and shall serve on rotating terms so as to provide stability and continuity on each council. The Chair, or the Chair's designee, shall serve on each council. The councils shall meet and report to the board as frequently as the board requests. The councils are as follows:

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

b. The Customer Service Advisory Council, which shall advise the board regarding the commission's policies, operating practices, employee communications, regulations, and standards in providing appropriate customer service. The council shall: examine benchmarking performance and

level of service standards for the Contact Center; examine internal communications to ensure consistency and systematic application; make recommendations regarding marketing and the dissemination of information to the public to re-establish a robust marketing and public information program which informs and educates public consumers; and advise on all aspects of customer service at the commission.

c. The Security and Privacy Advisory Council, which shall: advise the board as to how to effectively maintain the commission's system and business processes in the securest manner; help the board to address the commission's most serious security breaches; advise as to new or modified programs needed to achieve heightened security; and recommend methods to curtail fraudulent and criminal activities that present threats to the State's security as well as measures to protect the privacy of driver information, including but not limited to the Driver's Privacy Protection Act of 1994, Pub.L.103-322.

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

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

In addition to the five councils created above, the chief administrator may create and establish as necessary within the commission any other advisory council to examine issues affecting or identified by the commission. The members of such councils shall be designated, serve, meet and report to the board as provided for the members of the five councils created above.

14. Section 28 of P.L.2003, c.13 (C.39:2A-28) is amended to read as follows:

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

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

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

b. Administer and organize the work of the commission in such organizational units, and from time to time alter the plan of organization as

deemed expedient, as necessary for the secure, efficient and effective operation of the commission;

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

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

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

f. Formulate and adopt rules and regulations for the efficient conduct of the work and general administration of the commission, its officers and employees;

g. Prepare an annual budget, and submit it to the board;

h. Prepare annually, a strategic business plan and submit it to the board, including a facilities improvement and management plan and a table of organization;

i. Institute or cause to be instituted such legal proceedings or processes as may be necessary to properly enforce and give effect to any of the powers or duties of the administrator;

j. Report as the Governor shall from time to time request or as may be required by law;

k. Collect all fees, fines, penalties, surcharges, service charges and other charges imposed by this act and the regulations issued pursuant thereto or pursuant to law;

l. Develop and maintain a master list of all assets;

m. Oversee the implementation of the facilities improvement and management plan, in consultation with the State Treasurer; and

n. Perform such other functions as may be prescribed in this act or by any other law or by the board.

15. Section 105 of P.L.2003, c.13 (C.39:2A-36) is amended to read as follows:

C.39:2A-36 Revenues to be remitted to commission, General Fund.

105. a. The first \$200,000,000 of fees and surcharges thereon collected pursuant to the following statutes shall be considered service charges which are revenues to be remitted to the New Jersey Motor Vehicle Commission and the remainder shall be remitted to the General Fund, provided that if

the total amount of such fees and surcharges collected, as verified by the relevant fiscal year New Jersey Comprehensive Annual Financial Report, produce more or less revenue than the sum of \$200,000,000 and the amount anticipated in the fiscal year 2004 Appropriations Act for those statutes, then the \$200,000,000 in revenue from those service charges to the commission shall be increased or lowered proportionately:

Section 4 of P.L.1995, c.401 (C.12:7-73); section 24 of P.L.1984, c.152 (C.12:7A-24); section 28 of P.L.1984, c.152 (C.12:7A-28); section 1 of P.L.1983, c.65 (C.17:29A-33); section 6 of P.L.1983, c.65 (C.17:29A-35); section 9 of P.L.1998, c.108 (C.27:5F-42); R.S.39:2-10; section 1 of P.L.1969, c.301 (C.39:3-4b); section 2 of P.L.1969, c.301 (C.39:3-4c); R.S.39:3-8; section 2 of P.L.1968, c.439 (C.39:3-8.1); section 1 of P.L.1992, c.87 (C.39:3-8.2); R.S.39:3-10; section 23 of P.L.1975, c.180 (C.39:3-10a); section 1 of P.L.1977, c.23 (C.39:3-10b); section 1 of P.L.1979, c.261 (C.39:3-10f); section 22 of P.L.1990, c.103 (C.39:3-10.30); R.S.39:3-13; R.S.39:3-18; R.S.39:3-19; section 2 of P.L.1974, c.162 (C.39:3-19.2); section 12 of P.L.1979, c.224 (C.39:3-19.5); R.S.39:3-20; section 1 of P.L.1973, c.319 (C.39:3-20.1); R.S.39:3-21; R.S.39:3-24; R.S.39:3-25; R.S.39:3-26; section 2 of P.L.1964, c.195 (C.39:3-27.4); section 2 of P.L.1968, c.247 (C.39:3-27.6); section 2 of P.L.1977, c.369 (C.39:3-27.9); section 2 of P.L.1979, c.457 (C.39:3-27.16); section 2 of P.L.1981, c.139 (C.39:3-27.19); R.S.39:3-28; R.S.39:3-30; R.S.39:3-31; section 1 of P.L.1961, c.77 (C.39:3-31.1); R.S.39:3-32; section 1 of P.L.1999, c.192 (C.39:3-33a); section 1 of P.L.2001, c.35 (C.39:3-33b); section 2 of P.L.1959, c.56 (C.39:3-33.4); section 4 of P.L.1959, c.56 (C.39:3-33.6); R.S.39:3-36; section 1 of P.L.1979, c.314 (C.39:3-54.14); section 2 of P.L.1999, c.308 (C.39:3-75.2); R.S.39:3-84; section 2 of P.L.1999, c.396 (C.39:3-84.7); section 3 of P.L.1973, c.307 (C.39:3C-3); section 10 of P.L.1983, c.105 (C.39:4-14.3j); section 23 of P.L.1983, c.105 (C.39:4-14.3w); R.S.39:4-26; R.S.39:4-30; section 11 of P.L.1985, c.14 (C.39:4-139.12); section 1 of P.L.1972, c.38 (C.39:5-30.4); section 31 of P.L.1994, c.60 (C.39:5-36.1); section 20 of P.L.1952, c.173 (C.39:6-42); section 2 of P.L.1983, c.141 (C.39:6B-3); R.S.39:7-3; section 3 of P.L.1975, c.156 (C.39:8-11); section 8 of P.L.1975, c.156 (C.39:8-16); section 9 of P.L.1975, c.156 (C.39:8-17); section 15 of P.L.1975, c.156 (C.39:8-23); section 5 of P.L.1995, c.112 (C.39:8-45); section 7 of P.L.1995, c.112 (C.39:8-47); section 12 of P.L.1995, c.112 (C.39:8-52); section 11 of P.L.1995, c.157 (C.39:8-69); section 13 of P.L.1995, c.112 (C.39:8-53); section 14 of P.L.1995, c.112 (C.39:8-54); R.S.39:10-11; R.S.39:10-12; R.S.39:10-14; R.S.39:10-16; R.S.39:10-19; R.S.39:10-25; section 5 of

P.L.1983, c.323 (C.39:10-35); section 8 of P.L.1983, c.455 (C.39:10A-15); R.S.39:11-8; section 2 of P.L.1951, c.216 (C.39:12-2); section 5 of P.L.1951, c.216 (C.39:12-5); and section 2 of P.L.1983, c.360 (C.39:13-2).

Proportional revenues remitted to the commission for the fiscal years beginning July 1, 2004 and thereafter shall have the same proportion as the proportional revenues remitted to the commission for the fiscal year beginning July 1, 2003, and this calculation shall not be impacted by the acceleration of revenue attributable to new passenger automobile registrations implemented pursuant to P.L.2004, c.64.

b. In addition to the proportionately increased or lowered revenue provided for in subsection a. of this section, the commission shall receive 100 percent of the revenues collected from any new service charge and 100 percent of the increased revenues collected from any existing service charge increased by law or regulation. Any new or increased service charge shall not be included in the calculation of the proportional revenue remitted to the commission.

c. In addition to the revenues provided for in subsections a. and b. of this section, all fees collected pursuant to Chapter 3 of Title 39 of the Revised Statutes required to defray the costs of the commission with respect to producing, issuing, renewing, and publicizing license plates, or related computer programming shall be considered revenues of the commission notwithstanding any other provision of law.

d. Revenues of the commission shall not be subject to appropriation as direct State services by the Legislature. In addition, the revenues of the commission shall not be restricted from use by the commission in any manner except as provided by law. Revenues of the commission may be used in the furtherance of any purpose of the commission or as otherwise provided for by law.

C.39:2A-36.1 Increase in fees, surcharges.

16. a. On and after the effective date of P.L.2007, c.335 (C.39:2A-36.1 et al.), the board may, by regulation adopted pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), increase fees and surcharges collected pursuant to the following statutes, notwithstanding any law, rule, or regulation to the contrary:

Section 4 of P.L.1995, c.401 (C.12:7-73); section 24 of P.L.1984, c.152 (C.12:7A-24); section 28 of P.L.1984, c.152 (C.12:7A-28); section 1 of P.L.1983, c.65 (C.17:29A-33); section 6 of P.L.1983, c.65 (C.17:29A-35); section 9 of P.L.1998, c.108 (C.27:5F-42); R.S.39:2-10; section 1 of P.L.1969, c.301 (C.39:3-4b); section 2 of P.L.1969, c.301 (C.39:3-4c); sec-

tion 2 of P.L.1968, c.439 (C.39:3-8.1); section 1 of P.L.1992, c.87 (C.39:3-8.2); section 23 of P.L.1975, c.180 (C.39:3-10a); section 1 of P.L.1977, c.23 (C.39:3-10b); section 1 of P.L.1979, c.261 (C.39:3-10f); section 22 of P.L.1990, c.103 (C.39:3-10.30); R.S.39:3-13; R.S.39:3-18; R.S.39:3-19; section 2 of P.L.1974, c.162 (C.39:3-19.2); section 12 of P.L.1979, c.224 (C.39:3-19.5); R.S.39:3-20; section 1 of P.L.1973, c.319 (C.39:3-20.1); R.S.39:3-21; R.S.39:3-24; R.S.39:3-25; R.S.39:3-26; section 2 of P.L.1964, c.195 (C.39:3-27.4); section 2 of P.L.1968, c.247 (C.39:3-27.6); section 2 of P.L.1977, c.369 (C.39:3-27.9); section 2 of P.L.1979, c.457 (C.39:3-27.16); section 2 of P.L.1981, c.139 (C.39:3-27.19); R.S.39:3-28; R.S.39:3-30; R.S.39:3-31; section 1 of P.L.1961, c.77 (C.39:3-31.1); R.S.39:3-32; section 1 of P.L.1999, c.192 (C.39:3-33a); section 1 of P.L.2001, c.35 (C.39:3-33b); section 2 of P.L.1959, c.56 (C.39:3-33.4); section 4 of P.L.1959, c.56 (C.39:3-33.6); R.S.39:3-36; section 1 of P.L.1979, c.314 (C.39:3-54.14); section 2 of P.L.1999, c.308 (C.39:3-75.2); R.S.39:3-84; section 2 of P.L.1999, c.396 (C.39:3-84.7); section 3 of P.L.1973, c.307 (C.39:3C-3); section 10 of P.L.1983, c.105 (C.39:4-14.3j); section 23 of P.L.1983, c.105 (C.39:4-14.3w); R.S.39:4-26; R.S.39:4-30; section 11 of P.L.1985, c.14 (C.39:4-139.12); section 1 of P.L.1972, c.38 (C.39:5-30.4); section 31 of P.L.1994, c.60 (C.39:5-36.1); section 20 of P.L.1952, c.173 (C.39:6-42); section 2 of P.L.1983, c.141 (C.39:6B-3); R.S.39:7-3; section 3 of P.L.1975, c.156 (C.39:8-11); section 8 of P.L.1975, c.156 (C.39:8-16); section 9 of P.L.1975, c.156 (C.39:8-17); section 15 of P.L.1975, c.156 (C.39:8-23); section 5 of P.L.1995, c.112 (C.39:8-45); section 7 of P.L.1995, c.112 (C.39:8-47); section 12 of P.L.1995, c.112 (C.39:8-52); section 11 of P.L.1995, c.157 (C.39:8-69); section 13 of P.L.1995, c.112 (C.39:8-53); section 14 of P.L.1995, c.112 (C.39:8-54); R.S.39:10-11; R.S.39:10-12; R.S.39:10-14; R.S.39:10-16; R.S.39:10-19; R.S.39:10-25; section 5 of P.L.1983, c.323 (C.39:10-35); section 8 of P.L.1983, c.455 (C.39:10A-15); R.S.39:11-8; section 2 of P.L.1951, c.216 (C.39:12-2); section 5 of P.L.1951, c.216 (C.39:12-5); and section 2 of P.L.1983, c.360 (C.39:13-2).

b. (1) In determining an appropriate increase of any fee or surcharge pursuant to subsection a. of this section, the board shall consider at least the following factors: (a) the year in which the fee or surcharge was last increased; (b) the actual costs to the State of New Jersey for administering any transaction, process, filing, registration, inspection, audit, or any license, permit, or other document issuance, for which the fee or surcharge is collected; and (c) the annual percentage increase in the Consumer Price Index or other similar relevant index.

No fee or surcharge set forth in this section shall be increased by regulation more than once during any five-year period, and no such fee or surcharge shall be increased beyond an amount that exceeds the actual costs to the State of New Jersey for administering any transaction, process, filing, registration, inspection, audit, or any license, permit, or other document issuance, for which the fee or surcharge is collected.

(2) All increases in a fee or surcharge after the first increase shall also be subject to the following limitation: the increase shall not exceed the cumulative annual percentage increase in the Consumer Price Index for the five fiscal years prior to the date of the proposed subsequent increase.

(3) All increases in fees or surcharges imposed by regulation proposed to be adopted in a calendar year shall be consolidated in one single regulatory proposal in that calendar year.

(4) As used in this section, the "Consumer Price Index" means the consumer price index for all urban consumers in the New York City and Philadelphia areas as reported by the Department of Labor or successor index.

c. Pursuant to subsection b. of section 105 of P.L.2003, c.13 (C.39:2A-36), 100 percent of the increased revenues collected from such increase shall be remitted to the commission.

17. Section 110 of P.L.2003, c.13 (C.39:2A-38) is amended to read as follows:

C.39:2A-38 Additional fees as security surcharge; commission revenue.

110. In addition to the vehicle registration fees imposed pursuant to the provisions of chapters 3, 4, and 8 of Title 39 of the Revised Statutes, the commission shall impose and collect an additional \$7 for each new and renewal vehicle registration as a security surcharge, which surcharge shall take effect on the enactment of P.L.2003, c.13 (C.39:2A-1 et al.). The security surcharges collected pursuant to this section shall be revenues of the commission and shall not be subject to the calculation of proportional revenue remitted to the commission pursuant to section 105 of P.L.2003, c.13 (C.39:2A-36). The security surcharge shall not be imposed on the registration of passenger vehicles registered to persons possessing a valid handicapped person identification card issued pursuant to section 2 of P.L.1949, c.280 (C.39:4-205) or to persons aged 65 years of age or older at the time of registration or registration renewal. Revenues of the commission shall not be subject to appropriation as direct State services by the Legislature. In addition, the revenues of the commission shall not be restricted from use by the commission in any manner except as provided by law. Revenues of

the commission may be used in the furtherance of any purpose of the commission or as otherwise provided for in law.

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

Motor vehicle agents, appointment, duties; background checks.

39:3-3. A Motor Vehicle Agent (hereinafter "agent") shall administer and ensure the efficient operations of a local commission office. The board shall designate at least one person in each county to be its agent for the registering of motor vehicles, issuing registration certificates and licensing of drivers, subject to the requirements of this subtitle and to any rules and regulations the board imposes. The agent shall so act until the agent's authority is revoked by the board. All moneys received by such agents for registrations and licenses granted under the provisions of this chapter shall forthwith be deposited as received with the State Treasurer. Notwithstanding any provision of law to the contrary, all current agent contracts shall remain in effect until their expiration. Until the agent contract expires, the fee allowed the agent for registration certificates issued by him and for every license granted by him shall be fixed by the board on the basis of the registration or license fees collected by the agent. The board may limit the fee so paid to a maximum. Such fee shall be paid to the agent by the State Treasurer upon the voucher of the commission in the same manner as other State expenses are paid until the agent contract expires. At such time as the agent becomes a State employee, the agent shall receive a salary as fixed by the administrator in accordance with the commission table of organization. Future agent appointments shall be in the State unclassified service and the agents shall serve at the pleasure of the administrator. To determine suitability for appointment, all agents shall undergo a background check prior to appointment based upon an examination of State, federal and financial records. No person shall be appointed as an agent who has contributed \$1,000 or more to any gubernatorial or State party committee in any one year during the five years preceding appointment. All agents appointed pursuant to this section shall be qualified by education and experience to administer and ensure the efficient operation of a local commission office. As used in this section, education and experience shall include a background in law enforcement, security services, customer relations or services; business administration, finance or management; or public administration or finance.

19. Section 2 of P.L.1969, c.301 (C.39:3-4c) is amended to read as follows:

C.39:3-4c Rules, regulations relative to issuance of temporary registration certificates, plates.

2. The chief administrator may prescribe rules and regulations governing the issuance of temporary registration certificates and temporary plates by motor vehicle dealers, motorized bicycle dealers, and the Motor Vehicle Commission and may require security in sufficient amount to guarantee payment of all fees and moneys to the State of New Jersey and, upon a finding that any abuse has been practiced by any licensed motor vehicle or motorized bicycle dealer, the chief administrator shall have the right to suspend such dealer's privilege or franchise to issue such temporary registration certificates and plates. Temporary registration certificates for vehicles to be permanently registered in New Jersey shall be valid for a period of 30 days. In the event permanent registration has been delayed by reason of a lost title certificate or failure of a lien holder to timely turn over a certificate of title, a second temporary registration certificate may be issued. A licensed motor vehicle or motorized bicycle dealer shall make a record in the form and manner prescribed by the chief administrator for each such second temporary registration certificate issued and shall pay an enhanced fee to be determined by the chief administrator for each such registration issued. Each licensed motor vehicle or motorized bicycle dealer shall annually determine the fees to be paid pursuant to this section and shall remit annually under certification the amount due to the Motor Vehicle Commission.

No temporary registration certificate shall be issued by a licensed dealer hereunder unless such licensed dealer has confirmed that the vehicle for which the temporary registration is to be issued is insured in accordance with the requirements of the "Motor Vehicle Security-Responsibility Law," P.L.1952, c.173 (C.39:6-23 et seq.), whether by a policy in the name of the purchaser or an endorsement to a policy in the name of the licensed dealer, provided, however, no permanent registration shall be issued unless a policy in the name of the purchaser or someone in the purchaser's household is confirmed.

A temporary registration certificate issued hereunder may be issued by any employee authorized by a licensed dealer to do so; however, the licensee shall be liable for the acts of any such authorized person in issuing temporary registrations, whether the particular unlawful acts were authorized or unauthorized.

20. R.S.39:3-18 is amended to read as follows:

General registration; "D" or temporary plates, use, security, fees.

39:3-18. A manufacturer of motor vehicles, motor-drawn vehicles, motor vehicle bodies, motorized bicycles, or motorcycles doing business in

this State may, with regard to motor or motor-drawn vehicles, motorized bicycles, or motorcycles owned or controlled by him, obtain general registration and registration plates therefor of the style and kind provided for in this subtitle, with the letter "D" stated thereon. Such plates can be placed on any vehicle or cycle owned or controlled by such manufacturer, but only if it is operated only for shop, demonstration or delivery purposes.

A bona fide converter of commercial motor vehicles, motor-drawn vehicles or motor vehicle chassis doing business in this State may, with regard to motor or motor-drawn vehicles owned or controlled by him, obtain general registration and registration plates therefor of the style and kind provided for in this subtitle, with the letter "D" stated thereon. Such plates can be placed on any vehicles owned or controlled by such converter, but only if such vehicles are operated for shop, demonstration or delivery purposes.

A bona fide dealer in motor vehicles, motor-drawn vehicles or motorcycles doing business in this State and having a license to do business as such issued by the chief administrator may, with regard to motor or motor-drawn vehicles or cycles owned by him, obtain general registration and registration plates therefor of the style and kind provided for in this subtitle, with the letter "D" stated thereon. Such plates shall only be placed on any vehicle or cycle owned by such dealer; and provided, such vehicle is not used for hire. Such vehicles may be assigned to dealership principals or employees for product familiarization or compensation purposes, and may be used for any lawful purpose, including personal use, and personal use by persons authorized by those dealership employees or principals. Any person who shall be convicted of a violation of this paragraph shall be subject to a fine not exceeding \$1000.

A bona fide dealer in motorized bicycles, as defined in R.S.39:1-1, who has an established place of business in this State, may, with regard to motorized bicycles owned by him, obtain general registration and registration plates therefor of the style and kind provided for in this subtitle, with the letter "D" stated thereon. The plates can be placed on a motorized bicycle by the dealer, but only if the motorized bicycle is operated only for shop, demonstration, or delivery purposes.

Any person engaged in the business of financing the purchase of motor or motor-drawn vehicles or motorized bicycles or lending money thereon may, with regard to motor or motor-drawn vehicles or motorized bicycles owned or controlled by him, obtain general registration and registration plates therefor of the style and kind provided for in this subtitle, with the word "temporary" stated thereon. Such plates can be placed on any such vehicle only when it is being transported from the place where it has been

kept by the purchaser or borrower to the place where it is to be kept by the reposessor, or when the reposessor desires to operate it for the purpose of demonstration for sale.

Any corporation engaged in the business of insuring motor vehicles, motorized bicycles, or motor-drawn vehicles against theft may, with regard to vehicles owned or controlled by it, obtain general registration and registration plates therefor of the style and kind provided for in this subtitle, with the word "temporary" stated thereon. Such plates can be placed on any such vehicle, if ownership or control thereof has been obtained by virtue of the terms of an insurance against theft contract made by such corporation, and only when the vehicle is to be transported for delivery to the owner thereof from the place where it has been abandoned by or seized from a thief.

Any person, partnership or corporation engaged in the business of transporting motor or motor-drawn vehicles or motorized bicycles from the place of manufacture for delivery to dealers may, with regard to such vehicles, obtain general registration and registration plates therefor of the kind and style provided for in this subtitle, with the word "temporary" stated thereon, but only if the chief administrator is satisfied as to the financial responsibility of such person, partnership or corporation to meet any claim for damages arising out of any automobile accident and satisfactory evidence of such responsibility has been filed with him.

Any person engaged in the business of renting or leasing motor vehicles, motorized bicycles, or motor-drawn vehicles may, with regard to said motor vehicles, motorized bicycles, or motor-drawn vehicles owned by him, obtain general registration and registration plates therefor, provided for in this subtitle, with the word "temporary" stated thereon. Said registration plates may be placed on any motor vehicle, motorized bicycle, or motor-drawn vehicle owned by such person while said vehicle is not individually registered and not in use as a rented or leased vehicle.

A bona fide dealer in "nonconventional" type motor vehicles, as defined in R.S.39:10-2, who has an established place of business in this State, may, with regard to "nonconventional" type motor vehicles owned by him, obtain general registration and registration plates therefor of the style and kind provided for in this subtitle, with the letter "D" stated thereon. Such plates can be placed on any "nonconventional" type motor vehicle by such dealer, but only if such "nonconventional" type motor vehicle is operated only for shop, demonstration or delivery purposes.

Any person, partnership or corporation engaged in the business of conducting a wholesale automobile auction block in this State for duly licensed dealers only, at least once each week, may, with regard to vehicles con-

trolled by it, obtain general registration and registration plates therefor of the style and kind provided for in this subtitle, with the word "temporary" stated thereon. Such plates can be placed on any vehicle controlled by the auction block, which is to be transported from the place where stored by the owner to the auction block. Such plates may not be displayed on a vehicle sold at the auction block for delivery to the purchaser. Application for such plates shall be approved only if the chief administrator is satisfied as to the financial responsibility of such person, partnership or corporation to meet any claim for damages arising out of any automobile accident and satisfactory proof of such responsibility has been filed with him.

Registration plates issued pursuant to this section shall be a single plate and shall be issued in sets of five and shall bear the letter "D" or the word "temporary" and shall bear a number corresponding to the number on the certificate of registration. The single registration plate shall be displayed in accordance with the provisions of R.S.39:3-33.

The annual fee for the issuance of a certificate of registration, four duplicates thereof and one set of five single "D" or "temporary" plates bearing a number corresponding to the number on the certificate of registration shall be \$100.00; but the annual fee for the issuance of a certificate of registration for motorcycles or motorized bicycles, two duplicates thereof and one set of three single "D" plates bearing a number on the certificate of registration shall be \$20.00.

Following the effective date of P.L.2007, c.335 (C.39:2A-36.1 et al.), the chief administrator may, as a condition for the issuance of general registration and registration plates, require security in an amount deemed sufficient by the chief administrator to secure the prompt return of such plates to the Motor Vehicle Commission when the use and possession of such plates by any person or entity previously entitled to the plates pursuant to this section is no longer necessary or proper in the determination of the chief administrator. Any security amount held by the Motor Vehicle Commission as security for any returned plates shall be refunded to the person or entity to whom the plates were issued.

21. R.S.39:10-6 is amended to read as follows:

Ownership, registration certificates, other documentation.

39:10-6. Every person shall have for each motor vehicle in his possession in this State: (a) certificate of ownership therefor in conformity with this chapter, and (b) the registration certificate for the motor vehicle, if it is registered by the chief administrator and a registration certificate has been

issued therefor. He shall produce either the certificate of ownership or registration certificate, at the discretion of the chief administrator, upon demand for production thereof by the chief administrator. If he fails to do so, the chief administrator may seize and take possession of the motor vehicle and hold and dispose of it in accordance with R.S.39:10-21.

If a motor vehicle is registered in or bears the registration plates of another state or country and is being used or operated in this State, the person in possession of it or using or operating it in this State must be entitled to ownership or possession in accordance with the laws of the state or country where it is registered or the registration plates of which it bears, and shall produce to the chief administrator documents showing title to, or right of possession in, the motor vehicle in that person or in the person who has authorized him to use and operate it, or registration certificate or other evidence of registration, besides plates, issued by the state or country or department thereof to that person, or to the person who has authorized him to use and operate the motor vehicle, evidencing the registration of the motor vehicle in that state or country.

When a motor vehicle is in the possession of a garage keeper, motor vehicle dealer, both new and used, or motor vehicle service station in this State, the production of a writing signed by the person delivering possession of the motor vehicle to the garage keeper, dealer or service station, stating that the person is the owner or entitled to the possession of the motor vehicle and has title papers or the registration certificate therefor, shall be deemed a compliance with this section insofar as the garage keeper, dealer and service station are concerned. In the case of a licensed motor vehicle dealer, the production of a writing signed by the person or persons delivering possession of the motor vehicle to the dealer, assigning to that dealer the right to title or possession or both of and to the vehicle, or in the case of a new vehicle, a copy of the manufacturer's certificate of origin, shall constitute compliance with this section.

22. R.S.39:10-8 is amended to read as follows:

Certificate of origin, title; security interests.

39:10-8. When a new motor vehicle is delivered in this State by the manufacturer to his agent or a dealer, or a person purchasing directly from the manufacturer, the manufacturer shall execute and deliver to his agent or a dealer, or a person purchasing directly from the manufacturer, a certificate of origin in the form prescribed by the chief administrator of the New Jersey Motor Vehicle Commission, and no person shall bring into this State

any new motor vehicle unless he has in his possession the certificate of origin as prescribed by the chief administrator. The certificate of origin shall contain the manufacturer's vehicle identification number and the motor number when used of the motor vehicle sold, name of the manufacturer, the manufacturer's shipping weight, a general description of the body, if any, the type and model and the gross vehicle weight rating.

When a new motor vehicle is sold in this State, the manufacturer, his agent or a dealer shall execute and deliver to the purchaser an assignment of the certificate of origin, with the genuine names and business or residence addresses of both stated thereon, and certified to have been executed with full knowledge of the contents and with the consent of both purchaser and seller. If, in connection with such sale, a security interest is taken or retained by the seller to secure all or a part of the purchase price of the motor vehicle, or is taken by a person who by making an advance or incurring an obligation gives value to enable the purchaser to acquire rights in the motor vehicle, the original certificate of origin need not be delivered to the buyer at time of sale, and the original certificate of origin, with the name and business address of the secured party noted, may be delivered directly to the Motor Vehicle Commission for issuance of a certificate of title in the name of the purchaser. The name and the business or residence address of the secured party or his assignee shall be noted on the manufacturer's certificate of origin. Nothing in this section shall apply to security interests in motor vehicles which constitute inventory held for sale, but such interests shall be subject to chapter 9 of Title 12A of the New Jersey Statutes.

23. R.S.39:10-9 is amended to read as follows:

Subsequent sales; power of attorney, security interests.

39:10-9. When a used motor vehicle is sold in this State, the seller shall, except as provided in section 39:10-15 of this Title, execute and deliver to the purchaser, an assignment of the certificate of ownership or an assignment of the bill of sale issued prior to October 1, 1946, or, in the event the vehicle is subject to a security interest, or for some other reason the original certificate of ownership is not in the possession of the seller, and where the purchaser is a licensed New Jersey motor vehicle dealer, the seller may execute a secure power of attorney as required under the federal Truth in Mileage Act of 1986, Pub.L.99-579 (49 U.S.C. s.32705) or such other documents as the chief administrator may require, authorizing the licensed dealer to execute the original title upon obtaining possession of same. If a security interest exists at the time of such sale and will continue in effect afterwards or if, in

connection with such sale, a security interest is taken or retained by the seller to secure all or a part of the purchase price of the motor vehicle, or is taken by a person who by making an advance or incurring an obligation gives value to enable the purchaser to acquire rights in the motor vehicle, the name and the business or residence address of the secured party or his assignee shall be noted on the certificate of ownership. If the seller is a licensed New Jersey motor vehicle dealer, the seller shall not be required to deliver an assignment or certificate of ownership at the time of sale, provided that the dealer has satisfied all liens noted on the certificate of title and has the right to title as of the time of sale, and provided that the dealer represents and attests to the same in a writing to be delivered to the purchaser at the time of sale. Nothing in this section shall apply to security interests in motor vehicles which constitute inventory held for sale, but such interests shall be subject to chapter 9 of Title 12A of the New Jersey Statutes.

24. R.S.39:10-19 is amended to read as follows:

Dealer's license; eligibility, term, fee.

39:10-19. No person shall engage in the business of buying, selling or dealing in motor vehicles in this State, nor shall a person engage in activity that would qualify the person as a leasing dealer, as defined in section 2 of P.L.1994, c.190 (C.56:12-61), unless: a. the person is a licensed real estate broker acting as an agent or broker in the sale of mobile homes without their own motor power other than recreation vehicles as defined in section 3 of P.L.1990, c.103 (C.39:3-10.11), or manufactured homes as defined in section 3 of P.L.1983, c.400 (C.54:4-1.4); or b. the person is authorized to do so under the provisions of this chapter. The chief administrator may, upon application in such form as the chief administrator prescribes, license any proper person as such dealer or leasing dealer. A licensed real estate broker shall be entitled to act as an agent or broker in the sale of a mobile or manufactured home as defined in subsection a. of this section without obtaining a license from the chief administrator. For the purposes of this chapter, a "licensed real estate broker" means a real estate broker licensed by the New Jersey Real Estate Commission pursuant to the provisions of chapter 15 of Title 45 of the Revised Statutes. Any sale or transfer of a mobile or manufactured home, in which a licensed real estate broker acts as a broker or agent pursuant to this section, which sale or transfer is subject to any other requirements of R.S.39:10-1 et seq., shall comply with all of those requirements. No person who has been convicted of a crime, arising out of fraud or misrepresentation in the sale, leasing or financing of a motor

vehicle, shall be eligible to receive a license. For the purposes of this section, each applicant for a license shall submit to the chief administrator the applicant's name, address, fingerprints, and written consent for a criminal history record background check to be performed. The chief administrator 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, for purposes of facilitating determinations concerning licensure eligibility. 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 chief administrator in the event a current holder of a license or prospective applicant, 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. Each applicant for a license shall at the time such license is issued have established and maintained, or by that application shall agree to establish and maintain, within 90 days after the issuance thereof, a place of business consisting of a permanent building not less than 1,000 square feet in floor space located in the State of New Jersey to be used principally for the servicing and display of motor vehicles with such equipment installed therein as shall be requisite for the servicing of motor vehicles in such manner as to make them comply with the laws of this State and with any rules and regulations made by the board governing the equipment, use, and operation of motor vehicles within the State. However, a leasing dealer, who is not engaged in the business of buying, selling, or dealing in motor vehicles in the State, shall not be required to maintain a place of business with floor space available for the servicing or display of motor vehicles or to have an exterior sign at the lessor's place of business. A license fee of \$200 shall be paid by an applicant upon the applicant's initial application for a license. The chief administrator may renew an applicant's license upon application for renewal on a form prescribed by the chief administrator and accompanied by a renewal fee of \$200. Every license shall expire 24 months from the date on which it is issued. The chief administrator may, at the chief administrator's discretion and for good cause shown, extend an applicant's license for an additional period not to exceed 12 months from the date on which it is scheduled to expire. The chief administrator may, at the chief administrator's discretion and for good cause shown, issue a license which shall expire on a date fixed by the chief administrator. The fee for licenses with an expiration date fixed by the chief

administrator shall be fixed by the chief administrator in an amount proportionately less or greater than the fee established herein.

For the purposes of this section, a leasing dealer or an assignee of a leasing dealer whose leasing activities are limited to buying motor vehicles for the purpose of leasing them and selling motor vehicles at the termination of a lease shall not be deemed to be engaged in the business of buying, selling, or dealing in motor vehicles in this State.

25. Section 1 of P.L.2005, c.351 (C.39:10-19.1) is amended to read as follows:

C.39:10-19.1 Definitions relative to off-site sale of certain motor vehicles.

1. As used in this act:

"Off-site sale" means the display and sale of new or used recreational vehicles by a recreational vehicle dealer, or used motor vehicles registered in New Jersey by a used motor vehicle dealer, licensed under the provisions of R.S.39:10-19, at a location other than the dealer's established place of business. An "off-site sale" includes any off-site display of vehicles at which a recreational vehicle or used motor vehicle dealer has a sales person or employee present. For the purposes of this act, "off-site sale" does not include:

- a. An off-site display of vehicles at which a recreational vehicle or used motor vehicle dealer has no sales personnel present;
- b. The sale of a vehicle at an auction at which only wholesale purchases are permitted; or
- c. The use of telephones, telephone call-forwarding, email, internet websites or other internet communications which allow a licensed dealer or dealership employee to communicate with customers while either the customer or the dealer or employee thereof is not present at the licensed physical location of the dealership, provided the contract for the sale of a vehicle is finalized and the sale transaction completed at the licensed location.

"Sponsoring organization" means:

- a. a credit union, automobile club, or other such not for profit organization or entity that makes the opportunity to attend and purchase a motor vehicle at an off-site sale available to its members; or
- b. a trade show coordinator, or other such organization, entity, or individual that makes the opportunity to attend and purchase a recreational vehicle at an off-site sale available to ticketed individuals.

26. R.S.39:10-20 is amended to read as follows:

Fine, suspension, revocation of license; rules, regulations.

39:10-20. The chief administrator may impose a fine not to exceed \$500 for a first offense and \$1,000 for any subsequent offense upon the holder of a license for a violation of any provision of this chapter. The board is authorized to adopt rules and regulations, in accordance with the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), implementing the provisions of this chapter and authorizing the chief administrator to impose fines for the violation of these rules and regulations. The chief administrator may suspend for a period less than the unexpired term of a license or revoke a license, after hearing, for a violation of any provision of this chapter, or for a violation of the rules and regulations promulgated pursuant thereto, or upon the final conviction of the licensee of a crime, arising out of fraud or misrepresentation in the sale, leasing or financing of a motor vehicle, or upon proof of the failure of a licensee to make payment of the amount of any final judgment, rendered by a court of competent jurisdiction against such licensee and founded upon a claim arising out of fraud or misrepresentation in the sale or leasing of a motor vehicle, within 90 days after the same is finally entered, or for final conviction of the licensee for violating any provision of chapter 171 of Title 2A or of any supplement thereof (Observance of Sabbath Days). The clerk of the court in which any conviction is rendered, or the court where it has no clerk, shall forward to the chief administrator, immediately upon the entry thereof, a certified copy of the conviction or a transcript thereof. The clerk of the court in which any judgment founded upon fraud or misrepresentation is rendered, or the court where it has no clerk, shall forward to the chief administrator, immediately after the expiration of the 90 days, a certified copy of the judgment, or a transcript thereof, showing it to have been unsatisfied more than 90 days after it became final. The chief administrator shall, before suspending or revoking the license, and at least 10 days prior to the date set for the hearing, notify the holder of the license, in writing, of any charges made, and shall afford him an opportunity to be heard in person or by counsel. The written notice may be served either personally or by registered mail addressed to the last-known address of the licensee. The chief administrator may subpoena and bring before the chief administrator any person in this State, or take testimony by deposition, in the same manner as prescribed by law in judicial proceedings in the courts of this State, and shall also issue and deliver to the dealer such subpoenas as are requested by the chief administrator. The Appellate Division of the Superior Court shall have power to review, by an appeal in lieu of prerogative writ taken by an aggrieved person, a final determination of the chief administrator.

Any fine imposed and collected pursuant to this section shall be remitted to the commission and used to defray the costs of the commission.

27. R.S.39:10-22 is amended to read as follows:

Forms; seizure of papers; dealer to keep, store all forms, papers, records.

39:10-22. The chief administrator may prepare and prescribe any or all forms necessary for the proper administration of this chapter. The chief administrator or his agent may seize and take possession of any certificate of ownership or other title papers to which the chief administrator may be entitled, for which a person is under duty to return to the chief administrator, from any person or place in this State, with all the rights, privileges and immunities conferred by law on an officer executing a writ of replevin.

A licensed dealer shall keep and store all required forms, papers, and records as the Motor Vehicle Commission may by regulation require at the licensed premises. In the event a licensee operates multiple licensed dealerships under common ownership or control, such forms, papers, and records may be stored at a centralized record-keeping facility.

28. Sections 1 through 18, 20, 21, 22, 23, 25, 26, 27 and this section of this act shall take effect on the 30th day after the date of enactment, and the remainder of the act shall take effect on the 180th day after the date of enactment, but the commission may take such anticipatory administrative action in advance as shall be necessary for the implementation of this act.

Approved January 13, 2008.

CHAPTER 336

AN ACT to amend "An Act making appropriations for the support of the State Government and the several public purposes for the fiscal year ending June 30, 2008 and regulating the disbursement thereof," approved June 28, 2007 (P.L.2007, c.111).

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

1. The language provision on page 118 of Section 1 of P.L.2007, c.111, the annual appropriations act for fiscal year 2008, 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 appropriation in the Payments for Medical Assistance Recipients--Clinic Services, Payments for Medical Assistance Recipients--Physician Services, Payments for Medical Assistance Recipients--Medical Supplies and Payments for Medical Assistance Recipients--Other Services shall be conditioned upon the following provision: no funds shall be expended for partial care services, chiropractic services, medical supplies except those sold in a pharmacy, or podiatry services to any provider who was not a Medicaid/NJ FamilyCare approved provider of partial care services, chiropractic services, medical supplies except those sold in a pharmacy, or podiatry services, respectively, prior to July 1, 2006 with the exception of new providers whose services are deemed necessary to meet special needs by the Division of Medical Assistance and Health Services.

2. This act shall take effect immediately.

Approved January 13, 2008.

CHAPTER 337

AN ACT providing for the licensing of massage and bodywork therapists and the registration of certain employers, amending the title and body of P.L.1999, c.19, amending various parts of the statutory law, supplementing P.L.1999, c.19, and repealing sections 4, 5, 6, 13, and 14 of P.L.1999, c.19.

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

1. The title of P.L.1999, c.19 is amended to read as follows:

Title amended.

AN ACT providing for the licensing of massage and bodywork therapists and supplementing P.L.1947, c.262 (C.45:11-23 et seq.).

2. Section 1 of P.L.1999, c.19 (C.45:11-53) is amended to read as follows:

C.45:11-53 Short title.

1. This act shall be known and may be cited as the "Massage and Bodywork Therapist Licensing Act."

3. Section 2 of P.L.1999, c.19 (C.45:11-54) is amended to read as follows:

C.45:11-54 Findings, declarations relative to practice of massage and bodywork therapies.

2. The Legislature finds and declares that:

a. the public interest requires the regulation of the practice of massage and bodywork therapies and the establishment of clear licensure standards for massage and bodywork therapists;

b. the health and welfare of the citizens of this State will be protected by identifying to the public those individuals who are qualified to practice massage and bodywork therapies; and

c. the regulation of massage and bodywork therapists will benefit the public by encouraging it to take advantage of massage and bodywork therapies as a viable complement to traditional medicine.

4. Section 3 of P.L.1999, c.19 (C.45:11-55) is amended to read as follows:

C.45:11-55 Definitions relative to practice of massage and bodywork therapies.

3. As used in P.L.1999, c.19 (C.45:11-53 et seq.) and P.L.2007, c.337 (C.45:11-68 et al.):

"Board" means the New Jersey Board of Massage and Bodywork Therapy established pursuant to section 14 of P.L.2007, c.337 (C.45:11-69).

"Licensee" means any person who holds a license to practice massage and bodywork therapies pursuant to the provisions of P.L.1999, c.19 (C.45:11-53 et seq.) and P.L.2007, c.337 (C.45:11-68 et al.).

"Massage and bodywork therapist" means a person licensed to practice massage and bodywork therapies pursuant to the provisions of P.L.1999, c.19 (C.45:11-53 et seq.) and P.L.2007, c.337 (C.45:11-68 et al.).

"Massage and bodywork therapies" or "massage and bodywork" means systems of activity of structured touch which include, but are not limited to, holding, applying pressure, positioning and mobilizing soft tissue of the body

by manual technique and use of visual, kinesthetic, auditory and palpating skills to assess the body for purposes of applying therapeutic massage and bodywork principles. Such application may include, but is not limited to, the use of therapies such as heliotherapy or hydrotherapy, the use of moist hot and cold external applications, explaining and describing myofascial movement, self-care and stress management as it relates to massage and bodywork therapies. Massage and bodywork therapy practices are designed to affect the soft tissue of the body for the purpose of promoting and maintaining the health and well-being of the client. Massage and bodywork therapies do not include the diagnosis of illness, disease, impairment or disability.

5. Section 7 of P.L.1999, c.19 (C.45:11-59) is amended to read as follows:

C.45:11-59 Duties, responsibilities of board.

7. The board shall:
 - a. Review the qualifications of applicants for licensure;
 - b. Insure the proper conduct and standards of examinations;
 - c. Issue and renew licenses to massage and bodywork therapists pursuant to P.L.1999, c.19 (C.45:11-53 et seq.) and P.L.2007, c.337 (C.45:11-68 et al.);
 - d. Suspend, revoke or fail to renew the license of a massage and bodywork therapist pursuant to the provisions of P.L.1978, c.73 (C.45:1-14 et seq.);
 - e. Establish any standards for the continuing education of licensees as it deems necessary;
 - f. Prescribe or change the charges for examinations, licensures, renewals and other services performed pursuant to P.L.1974, c.46 (C.45:1-3.1 et seq.); and
 - g. Maintain a record of every massage and bodywork therapist licensed in this State, and the date and number of his license, and publish a list of the names and addresses of all licensees annually.

6. Section 8 of P.L.1999, c.19 (C.45:11-60) is amended to read as follows:

C.45:11-60 Eligibility for licensure.

8. To be eligible for licensure as a massage and bodywork therapist, an applicant shall be of good moral character and submit to the board satisfactory evidence of:

- a. Successful completion of a minimum of 500 hours in class study in the field of massage and bodywork therapies approved by the board; or
- b. Successful completion of a written examination approved by the board, which shall consider relevant education, training and practical work experience, to determine the applicant's competence to practice massage and bodywork therapies. The successful completion of any such examination may have been accomplished before the effective date of this act.

7. Section 10 of P.L.1999, c.19 (C.45:11-62) is amended to read as follows:

C.45:11-62 Application; fee; renewal.

10. A fee to be determined by the board shall accompany each application for licensure. Licenses shall expire biennially and may be renewed upon submission of a renewal application provided by the board and payment of a fee. If the renewal fee is not paid by that date, the license shall automatically expire, but may be renewed within two years of its expiration date on payment to the board of a sum determined by the board for each year or part thereof during which the license was expired and an additional restoration fee. After a two-year period, a license may only be renewed by complying with the provisions of P.L.1999, c.19 (C.45:11-53 et seq.) and P.L.2007, c.337 (C.45:11-68 et al.) regarding initial licensure.

8. Section 11 of P.L.1999, c.19 (C.45:11-63) is amended to read as follows:

C.45:11-63 Issuance of license.

11. The board shall issue a license to each applicant for licensure as a massage and bodywork therapist who qualifies pursuant to P.L.1999, c.19 (C.45:11-53 et seq.) and P.L.2007, c.337 (C.45:11-68 et al.) and any rules and regulations promulgated by the board and who is not disqualified for licensure pursuant to the provisions of P.L.1978, c.73 (C.45:1-14 et seq.).

9. Section 12 of P.L.1999, c.19 (C.45:11-64) is amended to read as follows:

C.45:11-64 Licensure without examination based on out-of-State license or certification.

12. Upon payment to the board of a fee and the submission of a written application on forms provided by it, the board shall issue without examina-

tion a license to a massage and bodywork therapist who holds a valid license or certification issued by another state or possession of the United States or the District of Columbia which has education and experience requirements substantially equivalent to the requirements of P.L.1999, c.19 (C.45:11-53 et seq.) and P.L.2007, c.337 (C.45:11-68 et al.).

10. Section 1 of P.L.1971, c.60 (C.45:1-2.1) is amended to read as follows:

C.45:1-2.1 Applicability of act.

1. The provisions of this act shall apply to the following boards and commissions: the New Jersey State Board of Accountancy, the New Jersey State Board of Architects, the New Jersey State Board of Cosmetology and Hairstyling, the Board of Examiners of Electrical Contractors, the New Jersey State Board of Dentistry, the State Board of Mortuary Science of New Jersey, the State Board of Professional Engineers and Land Surveyors, the State Board of Marriage and Family Therapy Examiners, the State Board of Medical Examiners, the New Jersey Board of Nursing, the New Jersey State Board of Optometrists, the State Board of Examiners of Ophthalmic Dispensers and Ophthalmic Technicians, the Board of Pharmacy, the State Board of Professional Planners, the State Board of Psychological Examiners, the State Board of Examiners of Master Plumbers, the New Jersey Real Estate Commission, the State Board of Court Reporting, the State Board of Veterinary Medical Examiners, the Radiologic Technology Board of Examiners, the Acupuncture Examining Board, the State Board of Chiropractic Examiners, the State Board of Respiratory Care, the State Real Estate Appraiser Board, the State Board of Social Work Examiners, the State Board of Examiners of Heating, Ventilating, Air Conditioning and Refrigeration Contractors, the State Board of Physical Therapy Examiners, the Orthotics and Prosthetics Board of Examiners, the New Jersey Cemetery Board, the State Board of Polysomnography, the New Jersey Board of Massage and Bodywork Therapy and any other entity hereafter created under Title 45 to license or otherwise regulate a profession or occupation.

11. Section 1 of P.L.1974, c.46 (C.45:1-3.1) is amended to read as follows:

C.45:1-3.1 Applicability of act.

1. The provisions of this act shall apply to the following boards and commissions: the New Jersey State Board of Accountancy, the New Jersey

State Board of Architects, the New Jersey State Board of Cosmetology and Hairstyling, the Board of Examiners of Electrical Contractors, the New Jersey State Board of Dentistry, the State Board of Mortuary Science of New Jersey, the State Board of Professional Engineers and Land Surveyors, the State Board of Marriage and Family Therapy Examiners, the State Board of Medical Examiners, the New Jersey Board of Nursing, the New Jersey State Board of Optometrists, the State Board of Examiners of Ophthalmic Dispensers and Ophthalmic Technicians, the Board of Pharmacy, the State Board of Professional Planners, the State Board of Psychological Examiners, the State Board of Examiners of Master Plumbers, the State Board of Court Reporting, the State Board of Veterinary Medical Examiners, the Radiologic Technology Board of Examiners, the Acupuncture Examining Board, the State Board of Chiropractic Examiners, the State Board of Respiratory Care, the State Real Estate Appraiser Board, the New Jersey Cemetery Board, the State Board of Social Work Examiners, the State Board of Examiners of Heating, Ventilating, Air Conditioning and Refrigeration Contractors, the State Board of Physical Therapy Examiners, the State Board of Polysomnography, the Orthotics and Prosthetics Board of Examiners, the New Jersey Board of Massage and Bodywork Therapy and any other entity hereafter created under Title 45 to license or otherwise regulate a profession or occupation.

12. Section 2 of P.L.1978, c.73 (C.45:1-15) is amended to read as follows:

C.45:1-15 Application of act.

2. The provisions of this act shall apply to the following boards and all professions or occupations regulated by, through or with the advice of those boards: the New Jersey State Board of Accountancy, the New Jersey State Board of Architects, the New Jersey State Board of Cosmetology and Hairstyling, the Board of Examiners of Electrical Contractors, the New Jersey State Board of Dentistry, the State Board of Mortuary Science of New Jersey, the State Board of Professional Engineers and Land Surveyors, the State Board of Marriage and Family Therapy Examiners, the State Board of Medical Examiners, the New Jersey Board of Nursing, the New Jersey State Board of Optometrists, the State Board of Examiners of Ophthalmic Dispensers and Ophthalmic Technicians, the Board of Pharmacy, the State Board of Professional Planners, the State Board of Psychological Examiners, the State Board of Examiners of Master Plumbers, the State Board of Court Reporting, the State Board of Veterinary Medical Examiners, the

State Board of Chiropractic Examiners, the State Board of Respiratory Care, the State Real Estate Appraiser Board, the State Board of Social Work Examiners, the State Board of Examiners of Heating, Ventilating, Air Conditioning and Refrigeration Contractors, the State Board of Physical Therapy Examiners, the State Board of Polysomnography, the Professional Counselor Examiners Committee, the New Jersey Cemetery Board, the Orthotics and Prosthetics Board of Examiners, the Occupational Therapy Advisory Council, the Electrologists Advisory Committee, the Acupuncture Advisory Committee, the Alcohol and Drug Counselor Committee, the Athletic Training Advisory Committee, the Certified Psychoanalysts Advisory Committee, the Fire Alarm, Burglar Alarm, and Locksmith Advisory Committee, the Home Inspection Advisory Committee, the Interior Design Examination and Evaluation Committee, the Hearing Aid Dispensers Examining Committee, the Landscape Architect Examination and Evaluation Committee, the Perfusionists Advisory Committee, the Physician Assistant Advisory Committee, the Audiology and Speech-Language Pathology Advisory Committee, the New Jersey Board of Massage and Bodywork Therapy and any other entity hereafter created under Title 45 to license or otherwise regulate a profession or occupation.

C.45:11-68 Construction of act.

13. a. Nothing in this amendatory and supplementary act shall be construed to prohibit any person licensed to practice in this State under any other law from engaging in or using titles consistent with the practice for which he is licensed or to prohibit any student enrolled in a program of massage and bodywork therapies recognized by the board from performing massage and bodywork therapies which are necessary to his course of study.

b. Nothing in this amendatory and supplementary act shall be construed to prohibit any person performing massage and bodywork therapies in this State, if those therapies are performed for no more than 45 days in a calendar year and for no more than 30 days in any 60-consecutive day period and provided that the person is duly licensed, certified or registered to practice massage and bodywork therapy in another state or the District of Columbia.

c. Nothing in this amendatory and supplementary act shall be construed to prohibit any person from engaging in the manipulation of soft tissue of the human body contained on hands, feet or ears, provided that the client does not remove any clothing other than shoes or socks.

d. Nothing in this amendatory and supplementary act shall be construed to prohibit any teacher from demonstrating massage and bodywork techniques while teaching a class or workshop if the individual is duly li-

censed by another state or possession of the United States or the District of Columbia to practice massage and bodywork therapies if that state or district of residence requires such licensure for an individual to practice massage and bodywork therapies.

e. Nothing in this amendatory and supplementary act shall be construed to prohibit any person from using touch, words and directed movement to deepen awareness of existing patterns of movement in the body, or to suggest new possibilities of movement provided that these services are not designated or implied to be massage and bodywork therapy and the client is fully clothed.

C.45:11-69 New Jersey Board of Massage and Bodywork Therapy.

14. There is created within the Division of Consumer Affairs in the Department of Law and Public Safety the New Jersey Board of Massage and Bodywork Therapy. The board shall consist of nine members who are residents of the State, two of whom shall be public members appointed pursuant to the provisions of subsection b. of section 2 of P.L.1971, c.60 (C.45:1-2.2) and one of whom shall be a member of the Executive Branch appointed in fulfillment of the requirement of subsection c. of that section. The six remaining members shall have been actively engaged in the practice of massage and bodywork therapies for at least five years immediately preceding their appointment and all of whom, except for the members first appointed, shall be licensed as massage and bodywork therapists pursuant to this amendatory and supplementary act. No more than one member of the board shall be an owner of, or be affiliated with, a school teaching massage and bodywork therapy.

The Governor shall appoint each member, other than the State executive department member, for terms of three years, except that of the massage and bodywork therapists first appointed, two shall serve for a term of three years, two shall serve for terms of two years and two shall serve for terms of one year. Any vacancy in the membership shall be filled for the unexpired term in the manner provided by the original appointment. No member of the board may serve more than two successive terms in addition to any unexpired term to which he has been appointed. The Governor may remove any member of the board, other than the State executive department member, for cause.

C.45:11-70 Compensation for board members.

15. Members of the board shall be compensated and reimbursed for expenses and provided with office and meeting facilities pursuant to section 2 of P.L.1977, c.285 (C.45:1-2.5).

C.45:11-71 Election of officers, meetings.

16. The board shall annually elect from among its members a chairman and a vice-chairman and may appoint a secretary, who need not be a member of the board. The board shall meet at least once every two months and may hold additional meetings as necessary to discharge its duties.

C.45:11-72 Continuing education requirements.

17. a. The board shall require each person licensed as a massage and bodywork therapist, as a condition for biennial license renewal pursuant to section 1 of P.L.1972, c.108 (C.45:1-7), to complete any continuing education requirements imposed by the board pursuant to this section.

b. The board shall:

(1) Establish standards for continuing massage and bodywork therapist education, including: the number of credits, which shall not exceed 24 credit hours biennially; the subject matter and content of courses of study; competency assessments; and the type of continuing education credits required of a licensed massage and bodywork therapist as a condition of license renewal;

(2) Approve educational programs offering credit towards continuing massage and bodywork therapist education requirements; and

(3) Approve other equivalent educational programs and establish procedures for the issuance of credit upon satisfactory proof of the completion of those programs. In the case of continuing education courses and programs, each hour of instruction shall be equivalent to one credit.

c. The board shall only approve programs that are provided on a non-discriminatory basis.

d. (1) The board may, in its discretion, waive requirements for continuing education on an individual basis for reasons of hardship, such as disability, retirement of the license, military service or deployment, or any other good cause.

(2) If a massage and bodywork therapist completes a number of continuing education credit hours in excess of the number required for a biennial period, the board, by rule or regulation, may allow credits to be carried over to satisfy the person's continuing education requirement for the next biennial renewal period, but shall not be applicable thereafter.

C.45:11-73 Licensure required for use of certain titles.

18. a. No person shall engage in the practice of massage and bodywork therapies as a licensed massage and bodywork therapist or present, call or represent himself as a licensed massage and bodywork therapist unless licensed pursuant to this amendatory and supplementary act.

b. No person shall assume, represent himself as, or use the title or designation “massage or bodywork therapist,” “licensed massage and bodywork therapist” or any title or designation which includes the words “massage,” “bodywork,” “masseur,” “masseuse,” “shiatsu,” “acupressure,” “accupressure,” “accu-pressure,” “nuad bo’rarn,” “amma,” “anma,” “chi nei tsang,” “tuina,” “polarity educator,” “polarity therapist,” “polarity therapy,” “polarity practitioner” or any of the abbreviations “MT,” “BT,” “MBT,” “MBST,” “CMBT,” “COBT,” “CMT,” “LBT,” “LMBST,” “LMBT,” “LABT,” “LOBT,” “AB,” “ABT,” “OB,” “RPP,” or “LMT” or similar abbreviations as determined by the board, unless licensed under this amendatory and supplementary act.

C.45:11-74 Certain certified practitioners considered licensed.

19. Any person who is a certified massage, bodywork and somatic therapist pursuant to section 8 or 9 of P.L.1999, c.19 (C.45:11-60 or 45:11-61) on the effective date of P.L.2007, c.337 (C.45:11-68 et al.) shall be a licensed massage and bodywork therapist under and subject to the provisions of P.L.1999, c.19 (C.45:11-53 et seq.) and P.L.2007, c.337 (C.45:11-68 et al.).

C.45:11-75 Certain practitioners eligible for licensure without satisfying education examination requirements.

20. For 360 days after the date procedures are established by the board for applying for licensure under the provisions of P.L.2007, c.337 (C.45:11-68 et al.), any person who engaged in the full-time practice, as determined by the board, of massage and bodywork therapies for two years preceding the enactment date of P.L.2007, c.337 (C.45:11-68 et al.), or in the part-time practice, as determined by the board, of massage and bodywork therapies for five years preceding the enactment date of P.L.2007, c.337 (C.45:11-68 et al.), and has successfully completed a minimum of 200 hours of education or training in massage or bodywork therapies as determined by the board, may acquire a license to practice massage and bodywork therapies without satisfying either the education or examination requirement of section 8 of P.L.1999, c.19 (C.45:11-60).

C.45:11-76 Registration required for advertising as massage, bodywork therapist; application fee.

21. a. No employer shall engage in or advertise or hold itself out as offering massage and bodywork therapies unless the employer is registered with the board.

b. A written application for registration shall be made to the board on the form prescribed by the board and shall contain the following information:

(1) The name and residence of the owner or operator of the entity providing massage and bodywork therapies;

(2) The municipality and location of the owner or operator's primary place of business and the locations of all other branches of business; and

(3) Any other biographical information of the applicant as required by the board.

c. Each applicant for registration and each registrant pursuant to the provisions of this section shall pay to the board a fee for the issuance of a two-year registration in the amount established by the board in accordance with the provisions of P.L.1974, c.46 (C.45:1-3.1 et seq.).

C.45:11-77 Suspension, revocation of registration.

22. The board may suspend or revoke the registration of an employer offering massage and bodywork therapies upon proof showing by a preponderance of the evidence that the employer:

a. Has made false or misleading statements of a material nature in the application for registration; or

b. Failed to demonstrate that each employee of the employer who is engaged in the performance of massage and bodywork therapies is in possession of a license to practice massage and bodywork therapies.

C.45:11-78 Superseding of municipal ordinance, regulation.

23. This act shall supersede any municipal ordinance or regulation that provides for the licensing, certification or registration of massage and bodywork therapists.

Repealer.

24. The following sections are repealed:

Section 4 of P.L.1999, c.19 (C.45:11-56)

Section 5 of P.L.1999, c.19 (C.45:11-57)

Section 6 of P.L.1999, c.19 (C.45:11-58)

Section 13 of P.L.1999, c.19 (C.45:11-65)

Section 14 of P.L.1999, c.19 (C.45:11-66)

C.45:11-79 Effective date; rules required.

25. Section 14 of this act shall take effect immediately. The remaining sections of this act shall not become effective until such time as the New Jersey Board of Massage and Bodywork Therapy, established pursuant to

section 14 of this act, shall adopt rules regulating the practice of massage and bodywork therapies.

Approved January 13, 2008.

CHAPTER 338

AN ACT concerning shellfisheries, amending and repealing various parts of the statutory law, and supplementing Title 50 of the Revised Statutes.

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

1. Section 8 of P.L.1997, c.236 (C.4:27-8) is amended to read as follows:

C.4:27-8 Policies for use of aquaculture leases.

8. Within 180 days after the effective date of P.L.1997, c.236 (C.4:27-1 et al.), the Department of Environmental Protection and the Department of Agriculture, in consultation with the Aquaculture Advisory Council, the Shellfisheries Council and the Pinelands Commission as it affects the pine-lands area designated pursuant to section 10 of P.L.1979, c.111 (C.13:18A-11), jointly shall establish, according to rules and regulations adopted pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), appropriate policies for the use of aquaculture leases in waters of the State and for lands underneath waters of the State, including but not limited to lease specifications, fees, royalty payments, and assignability and termination of lease agreements. The policies shall provide for an expeditious procedure for finalizing lease agreements. Lease agreements shall convey a necessary degree of exclusivity to minimize the risks to the aquaculturists caused by pollution, vandalism, theft, and other forms of encroachment, while protecting common use rights of the public, and assuring the integrity and protection of the natural wild stocks and their habitat.

2. Section 4 of P.L.1979, c.199 (C.23:2B-4) is amended to read as follows:

C.23:2B-4 Marine Fisheries Council.

4. There is hereby created in the department a Marine Fisheries Council, which shall consist of 11 members, nine of whom shall be appointed by

the Governor, with the advice and consent of the Senate, of whom four shall represent and be knowledgeable of the interests of sports fishermen, two shall be active commercial fin fishermen, one shall be an active fish processor, and two shall represent the general public; the other two members shall be the chairmen of the two sections of the Shellfisheries Council.

Of the nine members first to be appointed by the Governor, three shall be appointed for a term of one year, three for a term of two years, and three for a term of three years. Thereafter, all appointments shall be made for terms of three years. All appointed members shall serve after the expiration of their terms until their respective successors are appointed and shall qualify, and any vacancy occurring in the appointed membership of the council, by expiration of term or otherwise, shall be filled in the same manner as the original appointment for the unexpired term only, notwithstanding that the previous incumbent may have held over and continued in office as aforesaid. The Governor may remove any member of the council for cause upon notice and opportunity to be heard.

Members of the council shall serve without compensation, but shall be reimbursed for expenses actually incurred in attending meetings of the council and in the performance of their duties as members thereof.

The Governor shall appoint a chairman, from the citizen members of the council, who shall serve at the Governor's pleasure. Six members of the council shall constitute a quorum to transact its business.

3. Section 63 of P.L.1979, c.199 (C.23:2B-13) is amended to read as follows:

C.23:2B-13 Review of previously adopted rules and regulations.

63. Within one year after the effective date of P.L.1979, c.199 (C.23:2B-1 et al.), the commissioner shall review all rules and regulations previously adopted pursuant to the provisions of Title 50 of the Revised Statutes for conformance to the revisions to that Title contained herein and shall, after consultation with the Shellfisheries Council, amend or repeal any rules and regulations which are not in conformance herewith.

4. Section 8 of P.L.1996, c.112 (C.23:3-12.2) is amended to read as follows:

C.23:3-12.2 "Oyster Resource Development Account."

8. a. There is established within the "hunters' and anglers' license fund," created pursuant to the provisions of R.S.23:3-11 and R.S.23:3-12, a separate and dedicated account to be known as the "Oyster Resource Develop-

ment Account." This account shall be credited with all revenues received from oysters landed from the Delaware River, Delaware Bay and their tributaries, including, but not limited to, all fees collected pursuant to R.S.50:1-18, R.S.50:3-2, and section 4 of P.L.1945, c.39 (C.50:3-20.13), and as provided in subsection c. of this section. The moneys in the account shall be allocated to the Division of Fish and Wildlife within the Department of Environmental Protection and shall be disbursed only for the enhancement and management of the oyster resource in the Delaware Bay in the amounts and manner prescribed by the commissioner, after consultation with the Delaware Bay Section of the Shellfisheries Council.

b. The Department of Environmental Protection shall adopt, pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), rules and regulations necessary to administer the "Oyster Resource Development Account," established pursuant to subsection a. of this section.

c. Upon the adoption of the rules and regulations pursuant to subsection b. of this section, the Department of Environmental Protection shall repeal subchapter 4 of chapter 25A of Title 7 of the New Jersey Administrative Code establishing the "oyster cultch program" and the "Oyster Cultch Fund." The balance of the moneys remaining in the "Oyster Cultch Fund" upon the date of the repeal of the rules and regulations establishing the fund shall be deposited in the "Oyster Resource Development Account," established pursuant to subsection a. of this section.

5. The caption to chapter 1 of Title 50 of the Revised Statutes is amended to read as follows:

Caption amended.

Chapter 1. SHELLFISHERIES – POWERS AND DUTIES OF DEPARTMENT, SHELLFISHERIES COUNCIL, LEASING, AND PLANTING

6. R.S.50:1-5 is amended to read as follows:

Control, direction of shellfish industry, aquaculture; terms defined.

50:1-5. a. The Commissioner of Environmental Protection shall have full control and direction of the shellfish industry and resource and of the protection of shellfish throughout the entire State, subject to the provisions of this Title. The commissioner 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 preservation and improvement of the shellfish industry and resource of the State, after consultation with the Shellfisheries Council and subject to the disapproval, as hereinbefore pro-

vided, of the Marine Fisheries Council. With respect to aquaculture, the commissioner, in consultation with the Secretary of Agriculture and the Shellfisheries Council, shall establish appropriate policies for the use of aquaculture leases in waters of the State and for lands underneath waters of the State, including but not limited to lease specifications, fees, and assignability and termination of lease agreements. The Department of Health and Senior Services, pursuant to R.S.24:2-1, shall regulate the safety of shellfish originating within the growing waters of the State, within interstate commerce and from international sources.

b. For purposes of this Title:

"Commissioner" means the Commissioner of Environmental Protection.

"Council" means the Shellfisheries Council created pursuant to R.S.50:1-18.

"Department" means the Department of Environmental Protection.

"Shellfish" means any species of benthic mollusks, except for conchs (*Busycon carica*, *Busycon contrarium* and *Busycotypus canaliculatum*), the harvest of which is regulated pursuant to section 6 of P.L.1979, c.199 (C.23:2B-6), section 2 of P.L.1941, c.211 (C.23:5-24.2) and the rules and regulations adopted pursuant thereto, and shall include, but not be limited to, hard clams (*Mercenaria mercenaria*), soft clams (*Mya arenaria*), surf clams (*Spisula solidissima*) and oysters (*Crassostrea virginica*).

7. The caption to article 4 of chapter 1 of Title 50 of the Revised Statutes is amended to read as follows:

Caption amended.

Article 4. SHELLFISHERIES COUNCIL

8. R.S.50:1-18 is amended to read as follows:

Shellfisheries Council, membership, duties, division into sections.

50:1-18. a. The Shellfisheries Council shall be composed of 10 members, each of whom shall be a resident of the counties of Atlantic, Burlington, Cape May, Cumberland, Monmouth, Ocean, or Salem.

Each member shall be a licensed and practicing shellfisherman and shall be chosen with due regard to the person's knowledge of and interest in the culture or harvesting of shellfish, the shellfish industry and the conservation and management of shellfish.

Each member of the council shall be appointed by the Governor, with the advice and consent of the Senate, for a term of four years and shall serve until a successor has been appointed and has qualified.

Any vacancies in the membership of the council occurring other than by expiration of term shall be filled by the Governor, with the advice and consent of the Senate, for the unexpired term only. Any member of the council may be removed from office by the Governor, for cause, upon notice and opportunity to be heard.

The members of the council shall serve without compensation but shall be reimbursed for necessary expenses incurred in the performance of their duties.

b. The council shall, subject to the approval of the commissioner, formulate comprehensive policies for the preservation and improvement of the shellfish industry and resource of the State. The council shall also: (1) consult with and advise the commissioner and the Marine Fisheries Council with respect to the implementation of the shellfisheries program; (2) study the activities of the shellfisheries program and hold hearings with respect thereto as it may deem necessary or desirable; and (3) initiate, by resolution of the council, proposed rules and regulations concerning shellfish to the commissioner.

c. No lease of any of the lands of the State under the tidal waters thereof, to be exclusively used and enjoyed by the lessee for the planting and cultivating of shellfish, shall hereafter be allowed except when approved by a majority of the appropriate section of the council; and no such lease shall hereafter in any case be allowed except when approved and signed by the commissioner.

d. The council shall be divided into two sections, one to be known as the "Delaware Bay Section" and the other to be known as the "Atlantic Coast Section." The Delaware Bay Section shall consist of five members from the counties of Cape May, Cumberland, and Salem, with three members residing in Cumberland County and the remaining two members residing in the counties of Cape May or Salem. The Atlantic Coast Section shall consist of five members from the counties of Atlantic, Burlington, Cape May, Ocean, and Monmouth.

Except as provided in subsection e. of this section, the Delaware Bay Section shall, subject to the approval of the commissioner, exercise all the powers and perform all the duties of the council in matters relating to the shellfish industry in the tidal waters of the Delaware River, Delaware Bay and their tributaries.

The Atlantic Coast Section shall, subject to the approval of the commissioner, exercise all the powers and perform all the duties of the council in matters relating to the shellfish industry in all of the tidal waters of the State except in the tidal waters of the Delaware River, Delaware Bay and their tributaries.

Each section of the council shall annually elect a chairman and a vice-chairman of the council. If the chairman is absent, then the vice-chairman shall exercise the powers and perform the duties of the chairman.

e. The commissioner, in consultation with the Delaware Bay Section of the Shellfisheries Council, shall fix fees for all oysters harvested from the natural seed beds, Areas 1, 2 and 3 and those areas defined in R.S.50:3-14 within the Delaware River, Delaware Bay and their tributaries. These fees shall be collected by and allocated to the Division of Fish and Wildlife and shall be deposited in the "Oyster Resource Development Account," established pursuant to section 8 of P.L.1996, c.112 (C.23:3-12.2).

9. R.S.50:1-22 is amended to read as follows:

Offices; locations; records of leases and licenses.

50:1-22. The commissioner shall establish and maintain several offices located at places convenient to persons engaged in the shellfish industry. The records of all leases and licenses issued shall be kept therein. One office shall be located in the area served by the Atlantic Coast Section and one office shall be located in the area served by the Delaware Bay Section of the Shellfisheries Council.

10. R.S.50:1-23 is amended to read as follows:

Power of lease; lands subject to lease.

50:1-23. The Shellfisheries Council may lease to applicants therefor any of the lands of the State under the tidal waters thereof, to be exclusively used and enjoyed by each such lessee for the planting and cultivating of shellfish; except that no lands shall be leased above the southwest line in the Delaware Bay, as defined in R.S.50:3-11, except in Section E, described in subsection a. of this section. Nor shall any lands be leased in any creek tributary to Delaware Bay, nor any lands under the waters of Delaware Bay in the sections known as Areas, 1, 2 and 3, described in subsection b. of this section. However, Area 1 described in section 3 of P.L.1966, c.52 (C.50:3-16.3) may be leased and regulated for aquaculture practices under the authority of the "New Jersey Aquaculture Development Act," P.L.1997, c.236 (C.4:27-1 et al.). In addition, the department, in consultation with the council, may establish aquaculture development zones for approved aquaculture practices in specific creeks or tributaries of the Delaware Bay.

On the Atlantic coast, no additional lands shall be leased at the mouth of the Tuckahoe River and the Great Egg Harbor River, nor the graveling

beds at the mouth of the Mullica River, Parker's beds in Parker's Cove, Forked River beds, Cedar Creek beds and Sloop Creek beds in Barnegat Bay, nor any lands under the waters of the Mullica River above a line extending in a westerly direction from the south end of Deep Point; provided, however, that leases may be granted for lands heretofore leased in that area in the Mullica River, and except that no lands which lie under the waters of the Navesink River or the Shrewsbury River, shall be leased for the planting and cultivating of shellfish.

The council may grant, subject to the approval of the commissioner, leases of new ground to educational institutions for the purpose of research, education, or both. The department may adopt, pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), rules and regulations governing those leases, including, but not limited to, criteria for acquisition, utilization, and renewal.

a. For the purposes of this section, Section E in Delaware Bay shall consist of all of the area within the boundaries described herein:

Beginning at a point (X=80,906.06) (Y=44,868.54) said point being Channel Marker QR "32" and corner #1 of said section and running thence N 62° 00' 30.69" E 2,015.32 meters to corner #2 (X=82,685.62) (Y=45,814.42); thence S 56° 26' 20.6587" E 10,180.43 meters to corner #3 being also corner #1 lot 530 section D leased oyster ground lot (X=91,168.96) (Y=40,186.43) located on or near the southwest line; thence along the southwest line S 55° 22' 47.4875" W 5,858.91 meters to Cross Ledge Shoal Old Lighthouse foundation being corner #4 of the section (X=86,347.45) (Y=36,857.80); thence N 15° 55' 56.8215" W 5,407.14 meters to corner #5 being also GR "WR" buoy marking a wreck in the bay (X=84,863.17) (Y=42,057.23); thence N 42° 36' 15.5936" W 1,078.45 meters to a point in Delaware Bay being corner #6 of section E (X=84,133.13) (Y=42,851.02); thence S 70° 23' 47.4333" W 2,169.15 meters to corner #7 being a point on the east side of the Main Ship Channel in Delaware Bay (X=82,089.71) (Y=42,123.25); thence N 23° 19' 25.1298" W 2,989.59 meters to corner #1 the place of beginning.

b. Areas 1, 2, and 3 in Delaware Bay shall consist of all area within the boundaries described herein:

Southwesterly of a line beginning at a point (X=114225.30) (Y=26636.70) on the shore of Delaware Bay in Cape May County, said point being about 200 meters south-southwest of Rutgers Cape Shore Laboratory, and running thence N 67° 31' 48.1592" W 6439.36 meters to a corner (X=108274.82) (Y=29097.81) said corner being on the line running from Dennis Creek Rear Range Light to Brandywine Lighthouse.

11. R.S.50:1-24 is amended to read as follows:

Exclusive power to lease.

50:1-24. The power granted by this Title to the council, subject to the provisions of R.S.50:1-18, to lease lands under the tidal waters of this State for the planting and culture of shellfish is exclusive, and no other State agency may, in the name of the State or otherwise, give, grant or convey to any person the exclusive right to plant or take shellfish from any of those waters; and no grant or lease of lands under tidewater, whereon there are natural oyster beds, shall be made by any other State agency except for the purpose of building wharves, bulkheads or piers.

12. R.S.50:1-25 is amended to read as follows:

Residency requirement for leases.

50:1-25. No lease shall be granted to any person who is not at the time of granting the lease legally domiciled or incorporated in this State.

13. R.S.50:1-27 is amended to read as follows:

Fixing term, rental and acreage.

50:1-27. The council, with the approval of the commissioner, shall fix the term for which leases may be granted, the rental to be paid, the maximum size of any single ground to be leased, and the total acreage which may be leased to any person or persons.

14. R.S.50:1-28 is amended to read as follows:

Measuring and mapping of leased lands.

50:1-28. The commissioner shall cause the leased lands to be measured, and the metes and bounds thereof ascertained and recorded so that the limits thereof may be accurately fixed and easily located. The official survey base shall be the "New Jersey system of plane coordinates" as defined in article 2 of chapter 3 of Title 51 of the Revised Statutes. The department shall survey parcels of bottom not leased at the time of application.

The commissioner shall cause the leased lands to be mapped, and the maps to be filed in the office of the department.

The expense of surveying, measuring, locating and mapping any ground or grounds shall be paid by the applicant therefor before the applicant shall be entitled to a lease or leases for the ground or grounds.

15. R.S.50:1-29 is amended to read as follows:

Recording of leases and assignments thereof.

50:1-29. The commissioner shall cause leases, and assignments and transfers thereof, to be recorded in books kept in the offices of the department. No assignment or transfer of any ground or lease therefor shall be valid unless approved by the commissioner and the council and forthwith recorded in the office of the department.

16. R.S.50:1-30 is amended to read as follows:

Lease of condemned lands.

50:1-30. The council, with the approval of the commissioner, may lease to applicants therefor any of the lands of this State that have been or may hereafter be condemned pursuant to the provisions of chapter 24 of Title 58 of the Revised Statutes.

17. R.S.50:1-31 is amended to read as follows:

Removal of shellfish from leased condemned lands.

50:1-31. The commissioner may adopt, pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), such rules and regulations for the removal and distribution of shellfish from lands leased under R.S.50:1-30, as in the commissioner's judgment will be in accord with the object of the condemnation. The rules and regulations shall not be inconsistent with those adopted pursuant to the provisions of chapter 24 of Title 58 of the Revised Statutes.

18. R.S.50:1-33 is amended to read as follows:

Fishing rights preserved; lessees' remedies.

50:1-33. Nothing contained in this Title shall be construed to prevent the catching and taking of free swimming fish from the tidal waters of this State in any lawful manner. Nothing in this section shall be construed to prevent or prohibit lessees from pursuing either criminal or civil actions, or both, that may be available for damage to aquaculture gear and aquatic livestock on shellfish leases.

19. The caption to article 6 of chapter 1 of Title 50 of the Revised Statutes is amended to read as follows:

Caption amended.**Article 6. PLANTING OF FOREIGN SHELLFISH**

20. R.S.50:1-34 is amended to read as follows:

Permission required to plant, lodge foreign shellfish; rules, regulations.

50:1-34. a. No shellfish, native to, or brought directly or indirectly from, any foreign country or any other state, shall be planted or lodged in the waters of this State without written permission issued by the commissioner, after notice to the council. Application for such permission shall be made in writing, and shall state:

- (1) The species of shellfish;
- (2) The location from which they were, or are to be, immediately taken;
- (3) The source from which they were originally obtained; and
- (4) The geographic area to which the species or strain is native.

The same information shall be shown upon a tag attached to or upon the billing accompanying each shipment upon its arrival in this State.

b. The department shall adopt, pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.) and in accordance with the provisions of the "New Jersey Aquaculture Development Act," P.L.1997, c.236 (C.4:27-1 et al.), rules and regulations governing the importation and transportation of the products of commercial aquaculture.

21. R.S.50:1-35 is amended to read as follows:

Permission for planting, lodging foreign shellfish; conditions.

50:1-35. The commissioner may issue such permission after due inspection and examination of the nature, species, quantity, source, location of proposed planting or lodging, and the condition of the shellfish and after the commissioner's determination that the same will not be detrimental to the native shellfish or to the shellfish industry of this State.

The permission shall specify the nature, species, quantity and proposed location of planting or lodgment of the shellfish.

22. R.S.50:1-36 is amended to read as follows:

Costs of inspection.

50:1-36. The commissioner shall charge, and collect in advance, for the issuance of such permission, such sum of money as may be necessary to defray the cost of the inspection, examination and certification.

23. The caption to article 1 of chapter 2 of Title 50 of the Revised Statutes is amended to read as follows:

Caption amended.

Article 1. LICENSE FOR TAKING SHELLFISH

24. R.S.50:2-1 is amended to read as follows:

License required for catching, taking shellfish, conditions.

50:2-1. No person shall catch or take shellfish from any of the natural grounds in the waters of this State, without first obtaining a license from the commissioner. Such licenses shall grant the privilege of taking shellfish upon any natural ground of this State in waters classified as "Approved" or "Seasonally Approved," as defined in rules and regulations adopted by the department pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), except such as may be leased by the council.

Any person whose shellfish license or harvesting privileges have been revoked or suspended in another state shall not be eligible for any New Jersey shellfish license during the period of revocation or suspension in the other state.

This section shall not preclude the department from establishing licenses for the harvest of specific shellfish from specific areas by specific means.

25. R.S.50:2-2 is amended to read as follows:

Recreational, commercial shellfish licenses; aquatic farmer license.

50:2-2. The licenses required for the various categories of harvesting, collecting, or culture of shellfish shall be as follows:

a. Recreational shellfish license. No resident's recreational shellfish license shall be granted to any applicant who does not present satisfactory evidence that the person is legally domiciled in this State and pay the license fee required pursuant to R.S.50:2-3. A nonresident's recreational shellfish license shall be effective only in the months of June, July, August, and September in any calendar year and shall not be granted to a nonresident of this State without the payment of the license fee required pursuant to R.S.50:2-3.

No holder of any recreational shellfish license may take more than 150 shellfish per day or shall sell or offer for sale shellfish taken under the license and any such sale or offer for sale shall constitute ground for the revocation of the license. No person shall take or catch more than 150 shellfish per day or sell any shellfish unless the person is a holder of a commercial shellfish license.

b. Commercial shellfish license. No resident's commercial shellfish license shall be granted to any applicant who does not present satisfactory evidence that the person is legally domiciled or incorporated in this State and pay the license fee required pursuant to R.S.50:2-3. No nonresident's commercial shellfish license shall be granted to any applicant who does not pay the license fee required pursuant to R.S.50:2-3.

c. Aquatic farmer license. No aquatic farmer license shall be granted to any applicant except as provided pursuant to the "New Jersey Aquaculture Development Act," P.L.1997, c.236 (C.4:27-1 et al.) and any rules or regulations adopted pursuant thereto.

26. R.S.50:2-3 is amended to read as follows:

License fees.

50:2-3. The license fee shall be fixed by the commissioner, with the approval of the council, at not less than \$10 or more than \$20 for a resident's recreational shellfish license, at not less than \$20 or more than \$40 for a nonresident's recreational shellfish license, at not less than \$50 or more than \$100 for a resident's commercial shellfish license, and at not less than \$250 or more than \$500 for a nonresident's commercial shellfish license. No fee shall be charged for a recreational shellfish license to a person who is 62 or more years of age, provided the person is a resident of this State. A juvenile recreational shellfish license shall be available for \$2 for resident or nonresident persons under 14 years of age.

27. Section 3 of P.L.1988, c.35 (C.50:2-3.1) is amended to read as follows:

C.50:2-3.1 "Shellfisheries Law Enforcement Fund."

3. The "Shellfisheries Law Enforcement Fund" is established in the Department of Environmental Protection. All shellfish license fees collected pursuant to R.S.50:2-3 shall be deposited in the fund. Moneys in the fund shall be allocated by the Commissioner of Environmental Protection to the Division of Fish and Wildlife to enforce the laws necessary for the protection of the shellfish resources of the State, to enforce the prohibition of taking shellfish from any shellfish bed condemned by the department pursuant to section 2 of P.L.1979, c.321 (C.58:24-2), to increase the effectiveness of the relay and depuration programs, and to enhance the productivity of the shellfish beds in the State.

28. R.S.50:2-4 is amended to read as follows:

Terms, requisites, record of license.

50:2-4. Each license shall be for the term of one year from January 1 of the year of issue, and shall be granted by the commissioner. Each license shall be numbered and shall state the name and residence of the licensee, and a record thereof shall be kept by the commissioner.

29. R.S.50:2-5 is amended to read as follows:

Accessibility, inspection of license.

50:2-5. Each licensee shall have the license readily accessible and shall exhibit it immediately for inspection to any officer or employee of the department or other person requesting to see the license.

30. Section 1 of P.L.1950, c.310 (C.50:2-6.1) is amended to read as follows:

C.50:2-6.1 License required for taking surf clams; exceptions, regulations.

1. No person shall take, harvest or dredge for surf clams (*Spisula solidissima*) from any waters of this State without first obtaining a surf clam license from the commissioner, except that the holder of a recreational shellfish license may harvest up to 150 surf clams per day from waters classified as "Approved," as defined in rules and regulations adopted by the department pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), with hand implements only. The commissioner may issue licenses for the harvesting of surf clams within the waters of this State. The license shall be issued on a seasonal basis pursuant to rules and regulations adopted by the commissioner.

Such licenses shall grant the privilege of gathering surf clams by dredging, but only in the Atlantic Ocean, but not in the Delaware Bay north and west of the COLREGS demarcation line which runs from Cape May Point Lighthouse in Cape May, New Jersey to Harbor of Refuge Lighthouse at Cape Henlopen, Delaware or in the Sandy Hook Bay west of a line from the west point of Sandy Hook to Roamer Shoal Lighthouse. No boat or vessel shall be licensed under P.L.1950, c.310 (C.50:2-6.1 et seq.) unless its bona fide owner is an individual or entity legally domiciled or incorporated in this State.

The commissioner may adopt rules and regulations regarding the issuance procedures of such licenses.

The commissioner may issue permits for surf clam research, inventory and educational projects. Nothing in this section shall be construed to limit the activities of those projects.

31. Section 2 of P.L.1950, c.310 (C.50:2-6.2) is amended to read as follows:

C.50:2-6.2 Dredging license, limitations; seasons.

2. Any such licensed dredging operation shall be limited to the use of dredges that shall conform to any limits established by the commissioner by rule or regulation adopted pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.). Notwithstanding any other provision of law, the commissioner may adopt rules or regulations fixing the hours during which dredging will be permitted. No such dredging operation shall be permitted at any time between June 1 and September 30 in each year, unless changed by emergency order or regulation. Unless otherwise provided by rule or regulation, all surf clams harvested within the waters of New Jersey (three nautical miles) shall not be taken into another state or the waters thereof until the clams have been first landed in New Jersey. It shall be prima facie evidence of a violation of this section if a harvest vessel is observed by radar or other means leaving the waters of New Jersey and entering the waters of another state any time prior to landing.

32. Section 3 of P.L.1950, c.310 (C.50:2-6.3) is amended to read as follows:

C.50:2-6.3 Rules, regulations; fee.

3. The Commissioner of Environmental Protection with the advice of the Shellfisheries Council shall adopt, pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), rules and regulations and amend or repeal such rules and regulations from time to time as required for the conservation, protection, management, and improvement of the surf clam resource and industry. These rules and regulations may include the imposition and collection of a per bushel fee for all surf clams harvested within the waters of this State, provided that the fee shall be in an amount not less than \$0.125 nor more than \$0.25 per bushel. Emergency rules or regulations may be adopted where immediate danger exists to the resource or industry.

The surf clam license fee shall be fixed pursuant to rule or regulation in an amount not less than \$600 or more than \$1,000 per license issued to an individual or entity legally domiciled or incorporated in New Jersey. The surf clam bait license fee shall be fixed pursuant to rule or regulation in an amount not less than \$100 or more than \$200.

33. R.S.50:2-7 is amended to read as follows:

Culling immediately after emptying tongs or dredges.

50:2-7. All oysters, oyster shells and other material dredged, tonged or in any manner raised or taken from any of the beds and grounds above what is known as the southwest line in Delaware Bay, except in that area known as Section "E" as defined in R.S.50:1-23, or from any natural oyster bed or ground, shell bed or reef, where oysters naturally spawn and grow under the tidal waters of the State, shall be culled as soon as they are emptied out of the tongs or dredges on the culling board, conveyor, culling device, or deck of the boat or vessel employed for the purpose, and before they are shoveled back from the culling board or portion of the deck used for emptying the tongs or dredges.

C.50:2-7.1 Rules, regulations.

34. The department, in consultation with the Shellfisheries Council, may adopt, pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), rules and regulations regarding the use of leased bottom, including the removal of shell.

35. R.S.50:2-8 is amended to read as follows:

Percentage of shells; throwing back culled material.

50:2-8. Such culling shall be so close that three bushels of oysters, oyster shells and other material taken from any part of a boat or vessel, after having been shoveled back from the culling board, conveyor, culling device or that part of the boat or vessel used for emptying the tongs and dredges, shall not contain more than 15% of shells and other material.

All shells and other material, except oysters and clams, shall be immediately thrown back upon the beds or grounds from which they were taken.

36. R.S.50:2-9 is amended to read as follows:

Revocation of licenses on refusal to permit examination.

50:2-9. When the person in charge of any boat or vessel licensed under the provisions of this Title, or any person holding a tonger's license, is hailed or signaled by any officer or other representative of the department and refuses to stop and permit the officers or representatives to board the boat, vessel or other craft and examine the oysters, oyster shells and other material thereon or if having permitted the officers or representatives to board, and a violation of R.S.50:2-7 or R.S.50:2-8 having been found, refuses to comply with an order to recull the oysters and oyster shells or im-

mediately throw them upon the beds or grounds from which they were taken, the commissioner, in addition to the penalties provided in section 73 of P.L.1979, c.199 (C.23:2B-14), may revoke the license of the boat or vessel and the license of the tonger and the department may seize and secure the boat, vessel and equipment. The commissioner shall immediately thereafter give notice thereof to the Superior Court which shall summarily hear and determine whether there was a violation of this section, and if it does so determine, it may direct the confiscation and forfeiture of the vessel, boat and equipment for the use of the department. The commissioner may dispose of the confiscated and forfeited property at the commissioner's discretion.

37. R.S.50:2-10 is amended to read as follows:

Taking shellfish with power boat.

50:2-10. No boat, or vessel, propelled wholly or in part by steam, naphtha, gasoline, electricity or any other mechanical motive power, shall engage in the catching or taking of shellfish from any of the natural beds, under the tidal waters of this State, while so mechanically propelled, except as otherwise specifically provided in R.S.50:3-6 and R.S.50:4-2.

38. R.S.50:2-10.1 is amended to read as follows:

Taking clams with power boats; permits.

50:2-10.1. No person shall use or employ any boat or other vessel propelled wholly or in part by steam, naphtha, gasoline, electricity or any other mechanical motive power, or any motor driven apparatus, for the purpose of catching or taking of clams from any of the waters of this State, whereby the soil or bottom on or in which the clams are found is agitated or disturbed by the propeller wheel or wheels of the boat or vessel or by any other motor or mechanically driven apparatus thereon for the purpose of catching or taking clams as aforesaid, except by permit issued by the department with the approval of the council for taking clams from the waters of the Delaware Bay.

39. R.S.50:2-11 is amended to read as follows:

Taking shellfish after sunset, before sunrise or on Sunday; prohibited, limited exceptions for Sunday.

50:2-11. No person shall dredge upon, or throw, cast or drag an oyster dredge or any other instrument or appliance used for catching shellfish, or

assist in so doing, or collect shellfish by any means, upon any of the lands lying under the tidal waters of this State before sunrise or after sunset, or at any time on Sunday, except that clams may be taken from the waters of Raritan Bay, Sandy Hook Bay, Shrewsbury River or Navesink River on Sunday. The department, in consultation with the council, may adopt, pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), rules and regulations for the harvest of oysters on Sunday during specific times, in specific areas, and using specific methods of harvest. The maintenance of leases, limited to the moving and planting of shell, oyster and clam seed and the use of bagless oyster scrapes, shall be permitted on Sunday.

40. R.S.50:2-12 is amended to read as follows:

Sale, transport, etc. certain shellfish out-of-State prohibited; exceptions.

50:2-12. Seed oysters of any size and hard shell clams measuring less than 1.5 inches (38 millimeters) in length caught and taken from any of the unleased shellfish beds or grounds under the tidal waters of this State shall not be sold, purchased, transported, or taken out of this State, except for shellfish seed produced under an aquatic farmer license in a hatchery or on leased bottom using aquaculture methods approved by the commissioner.

41. The caption to chapter 3 of Title 50 of the Revised Statutes is amended to read as follows:

Caption amended.

Chapter 3. REGULATIONS APPLICABLE TO DELAWARE RIVER, DELAWARE BAY AND THEIR TRIBUTARIES, AND MAURICE RIVER COVE

42. R.S.50:3-1 is amended to read as follows:

Necessity for license and issuance thereof.

50:3-1. No boat or vessel shall be used or employed in the catching or taking of oysters in the Delaware River, Delaware Bay or their tributaries in this State, without a license for that purpose issued by the commissioner.

43. R.S.50:3-2 is amended to read as follows:

License, fee, issuance, disposition of fees.

50:3-2. The Delaware Bay Section of the Shellfisheries Council may fix the license fee at any sum, except that the fee shall be not less than \$10,

or less than \$2 per gross ton of the boat or vessel, whichever is greater, for boats or vessels required to be licensed under R.S.50:3-1.

No license shall be issued for a period longer than one year.

All licenses shall be numbered and recorded by the commissioner.

All fees for licenses collected pursuant to this section shall be deposited in the "Oyster Resource Development Account," established pursuant to section 8 of P.L.1996, c.112 (C.23:3-12.2), and shall be subject to all the terms and conditions of that section.

44. R.S.50:3-3 is amended to read as follows:

State residence, incorporation of vessel owners; statement; revocation of license.

50:3-3. The commissioner, before issuing a license to any boat or vessel as provided in this article, shall cause the owner thereof to file with the commissioner a statement that the boat or vessel is wholly owned by legally domiciled residents or by any entity incorporated in this State; and no boat or vessel owned wholly or in part by a nonresident and licensed in any other state to catch oysters on natural beds or grounds in that other state shall be licensed in this State within the same year in which the license to catch oysters in the other state shall have been or shall be issued. The commissioner may revoke a license issued by reason of a false statement filed by any applicant.

45. R.S.50:3-5 is amended to read as follows:

Revocation of license.

50:3-5. The commissioner may revoke the license of any boat or vessel issued as provided in this article, the owner, captain, master or person in charge of which boat or vessel shall violate or cause or permit to be violated any of the provisions of this Title or any rule or regulation of the department, and the commissioner may refuse thereafter to allow any license to be issued to the boat or vessel for such period of time as the commissioner shall fix.

46. R.S.50:3-6 is amended to read as follows:

Dredging equipment, taking of shellfish; regulated.

50:3-6. No boat or vessel shall be operated in the catching or taking of shellfish from any of the natural beds under the tidal waters of the Delaware River, Delaware Bay and their tributaries, in this State, while equipped with

more than two dredges at any one time. No dredging shall be permitted within the beds, creeks and rivers, described in R.S.50:3-14, with the exception of the Cohansey River and the lands under the waters of Delaware Bay in the section known as Areas 1, 2 and 3, described in R.S.50:1-23.

Shellfish may be caught and taken from the Cohansey River and Areas 1, 2, and 3 by means of such boats and dredges beginning at 6:00 Ante Meridian Standard Time, quitting at 2:30 Post Meridian Standard Time Monday through Friday during the months of May and June, subject to the power of the Shellfisheries Council, by rule or regulation, to prohibit the taking or catching of shellfish in such manner from any of those beds and for such time as, in the judgment of the council, may be necessary in order to close the beds for purposes of conservation.

47. R.S. 50:3-7 is amended to read as follows:

Size of dredge regulated.

50:3-7. No person shall use any dredge for the purpose of catching or taking shellfish from any of the natural beds or grounds in Delaware Bay or Delaware River above the line running direct from the mouth of Straight Creek to Cross Ledge Shoal Old Lighthouse, commonly known and hereinafter referred to as the "southwest line," except in that area known as Section "E" as defined in R.S.50:1-23, the tooth bar of which dredge measures more than 54 inches across from center of bolt hole to center of bolt hole where the frame thereof is fastened to the tooth bar, or any dredge which measures more than 5 feet 2 inches in width from the extreme outside to outside of frame, or any dredge which measures more than 21 inches from center of tooth bar to center of cross bar, or any dredge the bag of which contains more than 17 rows of 2 inch rings, or any dredge the rings of which are less than 2 inches in diameter, inside measurement, or any dredge the bag of which measures more than 5 feet around the bag from center of tooth bar to center of cross bar, or any dredge which weighs more than 250 pounds.

48. R.S.50:3-8 is amended to read as follows:

Season for taking oysters.

50:3-8. Except in that area known as Section "E" as defined in R.S.50:1-23, no person shall catch, take, or attempt to catch or take oysters from any of the lands lying under the tidal waters of the Delaware River, Delaware Bay or their tributaries, above the southwest line, except at the times and in the manner prescribed by the commissioner after consultation with the Delaware Bay Section of the Shellfisheries Council.

49. R.S.50:3-9 is amended to read as follows:

Possession, sale of oysters taken out of season; prohibition.

50:3-9. No person shall possess, sell or offer for sale any oysters caught or taken from any natural oyster bed or ground where oysters naturally spawn and grow under the tidal waters of the Delaware River, Delaware Bay or Maurice River Cove above the southwest line, except from and including April first to and including June thirtieth of each year or as otherwise determined by the commissioner after consultation with the Delaware Bay Section of the Shellfisheries Council.

50. R.S.50:3-10 is amended to read as follows:

Title to lands under tidal waters.

50:3-10. Nothing in this Title shall strengthen, confirm or verify the title of any person to any lands lying under the tidal waters of the Delaware River or Delaware Bay, above the southwest line.

51. R.S.50:3-11 is amended to read as follows:

Season for limit to taking oysters from certain areas; exception.

50:3-11. No oysters shall be dredged for, caught or taken from that area known as Section "E" as defined in R.S.50:1-23 or from any of the lands lying under the tidal waters of the Delaware Bay and Maurice River Cove below a line running direct from the mouth of Straight Creek to Cross Ledge Shoal Old Lighthouse, commonly known and hereinafter referred to as the "southwest line," at any time except from September 1 to June 30 then next, both inclusive, of each year; unless authorized by the commissioner after consultation with the Delaware Bay Section of the Shellfisheries Council.

52. R.S.50:3-12 is amended to read as follows:

Permission to inspect unleased grounds.

50:3-12. The department, after consultation with the council, may upon application give permission, in writing, to any prospective lessee to examine and inspect, with proper appliances, any of the unleased lands of the State below the southwest line and the area known as Section "E" as defined in R.S.50:1-23 for the purpose of determining their suitability or adaptability for oyster culture or propagation; but no oysters shall be permanently removed from any of those lands by virtue of any such permit. Any individual given such permission shall be required to notify the department via telephone each day prior to conducting an inspection.

53. R.S.50:3-13 is amended to read as follows:

Dredging by person other than lessee prohibited in certain areas; exceptions.

50:3-13. No person shall dredge upon or throw, cast or drag an oyster or clam dredge, or any other instrument or appliance used for catching shellfish, in that area known as Section "E" as defined in R.S.50:1-23 or upon any of the land of the State lying under the tidal waters of the Delaware Bay, in this State, below the southwest line, other than land or ground for which the person then holds a lease from the Shellfisheries Council under this Title. A lessee may, however, authorize another individual to dredge for shellfish on the lease using authorized gear during the authorized season. Any such authorization shall be in writing, signed by all parties on forms provided by the Division of Fish and Wildlife, and shall be in the dredger's possession at all times during dredging operations.

54. R.S.50:3-14 is amended to read as follows:

Hand tongs required in certain beds.

50:3-14. a. No person shall use or cause to be used any dredge, drag, scrape or other instrument, except hand tongs, for the purpose of catching shellfish from the following named beds, creeks, and rivers of this State, along the shore of Delaware Bay, the areas of which are described by coordinates and bearings taken from the official survey base known as the "New Jersey system of plane coordinates" as defined in article 2 of chapter 3 of Title 51 of the Revised Statutes, viz.:

(1) Elder point beds, Andrews ditch beds, East point beds, described as follows: Beginning at a point with coordinates (X=104,451.54) (Y=40,377.57) said point being now or formerly East Point Lighthouse and running thence N 48° 16' 48.910" W 2865.15 meters to a point (X=102,312.9) (Y=42,284.30) on or near the east bank of the mouth of New England Creek; thence following in an easterly direction the shore line and crossing the mouth of the Maurice River and following the shore line to the point of beginning;

(2) High beds and Pepper beds, described as follows: Beginning at a point with coordinates (X=104,451.5) (Y=40,377.57) said point being now or formerly East Point Lighthouse and running thence S 55° 06' 44.5440" W 2022.82 meters to a corner (X=102,792.2) (Y=39,220.58) in Delaware Bay the same being corner number 2 of oyster ground number 48 section C now or formerly leased by Robbins and Robbins Inc.; thence N 76° 47' 57.9276" W 324.19 meters to a corner (X=102,476.6) (Y=39,294.61) the same being corner No. 3 of oyster ground No. 22 section C now or for-

merly leased by Robbins and Robbins Inc.; thence N 03° 08' 00.7977" W 2994.17 meters to a point (X=102,312.9) (Y=42,284.30) on the east bank of the mouth of New England Creek; thence S 48°-23 ' -07 " E 2,865 meters to the point of beginning;

(3) Dividing Creek beds and Oranoken beds, described as follows: Beginning at a point with coordinates (X=99,599.58) (Y=41,933.40) said point being located on the meadow land at Kenny's Point about 1,829 meters east south east of the mouth of Dividing Creek and running thence S 39° 32' 52.0432" W 2,276.59 meters to a corner in Delaware Bay (X=98,158.25) (Y=40,237.93); thence N 69° 00' 23.9963" W 2179.71 meters to a corner (X=96,123.23)(Y=41,018.83) on the meadow land said corner being about 880 meters south west of the mouth of Oranoken Creek; thence following the shore line in a north east and east south east direction, crossing the mouths of Oranoken Creek and Dividing Creek to the point of beginning;

(4) Nantuxent Creek beds, Beach Creek beds, Goshen Creek, Dennis Creek, East Creek, West Creek, West Creek beds at the mouth of West Creek, Dividing Creek and its tributaries, Oranoken Creek and its tributaries, Little Brothers and Big Brothers Creeks, Straight Creek, Fishing Creek in Cumberland County, Oyster Creek, Fortescue Creek, Beadons Creek, Sow and Pigs Creek, Dare's Creek, Padgett's Creek, Nantuxent Creek, Cedar Creek, Back Creek, Middle Marsh Creek, Stow Creek, Bidwell Creek, Nantuxent beds at the mouth of Nantuxent Creek, Back Creek beds at the mouth of Back Creek, the Nantuxent beds and Back Creek beds taking in that area north of a line running direct from Nantuxent Point to Ben Davis Point, Cohansey beds at the mouth of Cohansey River, said beds taking in that area north of a line extending from the south bank of the mouth of Middle Marsh Creek direct to Cohansey Point, and Maurice River and Cohansey River; except that during May and June in any year oysters may be taken from the beds in the Cohansey River and Stow Creek by means of dredges.

b. No licenses shall be issued by the Division of Fish and Wildlife contrary to this section. The department, in consultation with the council, may permit the use of hand scrapes or mechanically-retrieved oyster scrapes in certain beds, creeks and tributaries to harvest specific quantities of oysters, provided such use will not be detrimental to the resource in those areas.

55. R.S.50:3-15 is amended to read as follows:

Closed season; exceptions.

50:3-15. No person shall gather, scrape, rake or tong any oysters in or upon the beds, rivers or creeks of this State named in R.S.50:3-14, for and

during the period from June 30 until September 1 in each and every year. This closed season shall not apply to the following beds, from which oysters may be taken only during the months of April, May, June, September, October and November between sunrise and sunset, except on Sunday:

a. at the mouth of Maurice River, described as follows: Beginning at a point with coordinates (X=104,451.5)(Y=40,377.57) said point being now or formerly East Point Lighthouse and running thence N 48° 16' 48.4910" W 2865.15 meters to a point (X=102,312.9)(Y=42,284.30) on or near the east bank of the mouth of New England Creek; thence following in an easterly direction the shore line and crossing the mouth of the Maurice River and following the shore line to the point of beginning, and in Maurice River; or

b. the Nantuxent beds in that area at the mouth of Nantuxent Creek, Back Creek and Cedar Creek and the Cohansey beds at the mouth of Cohansey River, provided, however, that any oysters so taken shall be 3 inches from hinge to mouth or longer; or

c. the Back Creek beds at the mouth of Back Creek, Back Creek from the mouth to the south bank of the mouth of Tweed Creek, which areas are described as follows: Beginning at the intersection of the southerly bank of the mouth of Tweed Creek with the westerly bank of Back Creek, said intersection being at high-water mark, thence from said point in a southeasterly, southwesterly, and southerly direction, being along the westerly bank of Back Creek and the westerly shore of Nantuxent Cove to a point on the said shore, said point being at or near Ben Davis Point (X=82,032.21)(Y=51,070.56); thence N 77° 09' 23.4025" E 1,420.56 meters to a point in Nantuxent Cove (X=83,417.22)(Y=51,386.33); thence N 20° 02' 18.8773" E 1,129.71 meters to a point along the north shore of Nantuxent Cove; thence bounding on the said high-water mark in a general westerly direction to the mouth of Back Creek, thence along the easterly bank of Back Creek in a general, easterly, northerly and northwesterly direction to a point due east from the southerly bank of the mouth of Tweed Creek; thence crossing Back Creek in a due west direction to the place of beginning.

56. Section 3 of P.L.1952, c.184 (C.50:3-15.1) is amended to read as follows:

C.50:3-15.1 Minimum size of oysters which may be taken; exception.

3. a. No oysters which measure less than three inches from hinge to mouth shall at any time be taken from the waters in or upon any of the beds, rivers or creeks of this State named in R.S.50:3-14, or be in the possession of any person after being so taken; except that this prohibition shall not ap-

ply to spat or blisters adhering so closely as to be impossible to remove without destruction; but in no case shall this exception amount to more than 10% of any catch or cargo; but this minimum size shall not apply to:

(1) Elder point beds, Andrews ditch beds, East point beds, as the same are described in R.S.50:3-14;

(2) Maurice River beds;

(3) Nantuxent beds at the mouth of Nantuxent Creek;

(4) Back Creek beds at the mouth of Back Creek;

(5) Back Creek from the mouth thereof to the south bank of the mouth of Tweed Creek; and

(6) Cohansey beds at the mouth of Cohansey River.

b. This section shall not apply to oysters produced on aquaculture leases.

57. Section 1 of P.L.1966, c.52 (C.50:3-16.1) is amended to read as follows:

C.50:3-16.1 Areas, described, named.

1. The area southwest of the Clam Line and southeast of the Brandywine-Dennis Creek Line more fully described by coordinates and bearings taken from the official survey base known as the "New Jersey system of plane coordinates" as defined in article 2 of chapter 3 of Title 51 of the Revised Statutes, viz.: Beginning at a point in Delaware Bay (X=108,274.8)(Y=29,097.81) said point being the intersection of the Clam Line with the Brandywine-Dennis Creek Line; and running thence S 67° 31' 48.16" E 21,126.46 meters to a point where the Clam Line intersects the shore line of Cape May County (X=114,225.3)(Y=26,636.70) said point being about 200 meters south southwest of Rutgers Cape Shore Laboratory; thence following the high water mark along the shore line of Cape May County in a southerly direction its various courses and distances to a point (X=109,127.0)(Y=11,597.75) located on the Cape May Point Lighthouse-Brandywine Shoal Lighthouse Line; thence along this line N 65° 36' 53.5" W 44,128.37 meters to Brandywine Shoal Lighthouse (X=96,876.60)(Y=17,150.99), thence along the Brandywine-Dennis Creek Line N 43° 39' 13.6495" E 16,511.99247 meters to the place of beginning, shall be divided into three areas, to be known as follows:

Area No. 1--Tongers Area.

Area No. 2--Natural Seed Bed Area.

Area No. 3--Shellfish Dredging Area.

58. Section 3 of P.L.1966, c.52 (C.50:3-16.3) is amended to read as follows:

C.50:3-16.3 Description of tongers area No.1.

3. Area No. 1--Tongers Area is described as follows: Beginning at a point (X=111,656.5)(Y=27,699.12) said point located on the Clam Line 1 1/2 nautical miles off shore; and running thence S 67° 31' 50.66" E 9,119.92 meters to a point where the Clam Line intersects the shore line of Cape May County (X=114,225.3)(Y=26,636.70) said point also being about 200 meters south south west of Rutgers Cape Shore Laboratory; thence following the high water mark along the shore line of Cape May County in a southerly direction its various courses and distances to a point (X=109,127.0)(Y=11,597.75) located on the Cape May Point Lighthouse-Brandywine Shoal Lighthouse Line; thence along this line N 65° 36' 53.99" W 10,919.86 meters to a point (X=106,095.5)(Y=12,971.93) located on the Cape May Point Lighthouse-Brandywine Shoal Lighthouse Line; thence N 05° 29' 54.29" E 32,024.59 meters to a point (X=107,030.8)(Y=22,688.13) in Delaware Bay; thence S 60° 45' 15.72" E 5,698.81 meters to a point (X=108,546.4)(Y=21,839.51) in Delaware Bay; thence N 27° 57' 28.84" E 21,764.48 meters to the place of beginning.

59. Section 4 of P.L.1966, c. 52 (C.50:3-16.4) is amended to read as follows:

C.50:3-16.4 Taking of shellfish in Area No.1.

4. It shall be lawful to catch or take shellfish in Area No. 1 by the use of a Shinnecock Rake, hand tongs or one mechanically-retrieved hand scrape or dredge per vessel, weight not to exceed 60 pounds, the tooth bar of which shall not exceed 30 inches from center of bolt hole to center of bolt hole where the frame thereof is fastened to the tooth bar, with power and in the manner, now or hereafter prescribed by law. The department, in consultation with the council, may adopt, pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), rules and regulations governing the harvest of shellfish in Area No. 1 including, but not limited to, daily catch limits.

60. Section 5 of P.L.1966, c.52 (C.50:3-16.5) is amended to read as follows:

C.50:3-16.5 Necessity of license for taking shellfish; report; fee.

5. a. No person shall catch or take any shellfish from the natural shellfish beds contained within Area No. 1 unless there shall have been first issued by the department for each boat or vessel, so to be used or employed therein, a special license authorizing the catching or taking of shellfish within that area, which shall be issued for a term not longer than one year

and shall contain an agreement on the part of the holder thereof that any person or officer or other representative of the department authorized by rule or regulation to make inspections of that area may board the boat or vessel to inspect shellfish therein contained, and all licenses issued under P.L.1966, c.52 (C.50:3-16.1 et seq.) shall be numbered.

b. The holder of a special license issued pursuant to this section shall submit monthly reports of shellfish harvested and submit a fee of not less than \$1.25 per bushel of shellfish harvested which shall be deposited in the "Oyster Resource Development Account," established pursuant to section 8 of P.L.1996, c.112 (C.23:3-12.2).

61. Section 6 of P.L.1966, c.52 (C.50:3-16.6) is amended to read as follows:

C.50:3-16.6 Application for Area No.1 license.

6. Application for a license for Area No. 1 shall be made to the department on a form prescribed by the department by the owner of the vessel to be licensed or the master or captain of the vessel acting for the owner, which application shall state, under oath, that the boat or vessel is wholly owned bona fide by a legally domiciled resident or residents of this State, or entities incorporated in this State, who have been such for 12 months next preceding the making of the application, and shall contain a provision that the holder of the license applied for thereby consents to the agreements to be set forth in the license as prescribed by section 5 of P.L.1966, c.52 (C.50:3-16.5). The oath may be administered by any member of the department and shall be in writing signed by the person making the oath in the presence of the person administering it.

62. Section 7 of P.L.1966, c.52 (C.50:3-16.7) is amended to read as follows:

C.50:3-16.7 Fee for Area No. 1 license.

7. Each application for a license for Area No. 1 shall be accompanied by a license fee in an amount to be fixed by the council but not less than \$4 per ton on the gross tonnage measurement of the boat or vessel to be licensed but a minimum fee of \$50 shall be charged for each boat or vessel licensed. In the event that the license is refused, the license fee accompanying the application shall be returned to the applicant.

63. Section 8 of P.L.1966, c.52 (C.50:3-16.8) is amended to read as follows:

C.50:3-16.8 Revocation of Area No. 1 license.

8. The department may revoke any license for Area No. 1 issued under P.L.1966, c.52 (C.50:3-16.1 et seq.) by reason of a false oath made by any owner or master in applying therefor, or for any other violation of P.L.1966, c.52 (C.50:3-16.1 et seq.), after due hearing.

64. Section 9 of P.L.1966, c.52 (C.50:3-16.9) is amended to read as follows:

C.50:3-16.9 Time for taking oysters.

9. No oysters shall be dredged for or harvested in Area No. 1 except between the hours of 6 o'clock ante meridian and 2:30 o'clock post meridian, Standard Time, on the days of the week, except Saturdays and Sundays. The department, in consultation with the council, may adopt, pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), rules and regulations regarding the season for the harvest of oysters from Area No. 1.

65. Section 10 of P.L.1966, c.52 (C.50:3-16.10) is amended to read as follows:

C.50:3-16.10 Description of Area No. 2, Natural Seed Bed.

10. Area No. 2--Natural Seed Bed Area is described as follows: Beginning at a point (X=108,274.8)(Y=29,097.81) said point being the intersection of the Clam Line with the Brandywine-Dennis Creek Line; and running thence S 67° 31' 48.16" E 12,006.54 meters along the Clam Line to a point (X=111,656.5)(Y=27,699.12) the same being the northwest corner of Area No. 1--Tongers Area; thence S 27° 57' 28.84" W 21,764.48 meters along the western side of Area No. 1 to a point (X=108,546.4)(Y=21,838.90); thence N 60° 44' 33.5" W 17,636.99 meters to a point (X=103,856.4)(Y=24,466.84) said point located on the Brandywine-Dennis Creek Line; thence along this line N 43° 39' 13.93" E 20,999.27 meters to the place of beginning.

66. Section 12 of P.L.1966, c.52 (C.50:3-16.12) is amended to read as follows:

C.50:3-16.12 Description of Area No. 3, Shellfish Dredging.

12. Area No. 3-- Shellfish Dredging Area is described as follows: Beginning at a point (X=103,856.4)(Y=24,466.84) said point being on the Brandywine-Dennis Creek Line; and running thence S 60° 44' 12.53" E

11,938.89 meters along the southern boundary line of Area No. 2 to a point (X=107,030.8)(Y=22,688.13) said point being on the western side of Area No. 1 and on the southern side of Area No. 2; thence along the western side of Area No. 1 S 05° 29' 54.29" W 32,024.59 meters to a point (X=106,095.5)(Y=12,971.93) said point located on the Cape May Point Lighthouse-Brandywine Shoal Lighthouse Line; thence along said line N 65° 36' 53.00" W 33,208.51 meters to Brandywine Shoal Lighthouse (X=96,876.60)(Y=17,150.99); thence along the Brandywine-Dennis Creek Line N 43° 39' 13.43" E 33,173.81 meters to the place of beginning.

67. Section 13 of P.L.1966, c.52 (C.50:3-16.13) is amended to read as follows:

C.50:3-16.13 Taking of shellfish in Areas Nos. 2 and 3.

13. It shall be lawful to catch and take shellfish in that portion of the Delaware Bay, hereinbefore described as Areas Nos. 2 and 3, upon compliance with the provisions of this Title and any rules and regulations issued pursuant thereto.

68. Section 14 of P.L.1966, c.52 (C.50:3-16.14) is amended to read as follows:

C.50:3-16.14 License required for taking shellfish from Areas Nos. 2 and 3; fees on harvest.

14. a. No person shall catch or take any shellfish from the natural shellfish beds, contained within Areas Nos. 2 and 3, unless there shall have been first issued by the department for each boat or vessel, so to be used or employed therein, a special license authorizing the catching or taking of shellfish within those areas, which shall be issued for a term not longer than one year and shall contain an agreement on the part of the holder thereof:

(1) That any person or officer or other representative of the department authorized by rule or regulation of the department to make inspections of such areas may board the boat or vessel to inspect shellfish therein contained; and

(2) That the holder of a special license issued pursuant to this section shall submit monthly reports of shellfish harvested and submit a fee of not less than \$1.25 per bushel of shellfish harvested which shall be deposited in the "Oyster Resource Development Account" established pursuant to section 8 of P.L.1996, c.112 (C.23:3-12.2).

b. All licenses issued under P.L.1966, c.52 (C.50:3-16. 1 et seq.) shall be numbered.

69. Section 15 of P.L.1966, c.52 (C.50:3-16.15) is amended to read as follows:

C.50:3-16.15 Application for license for Areas Nos. 2 and 3; oath.

15. Application for a license for Areas Nos. 2 and 3 shall be made to the department on a form prescribed by the department by the owner of the vessel to be licensed or the master or captain of the vessel acting for the owner, which application shall state, under oath, that the boat or vessel is wholly owned bona fide by a legally domiciled resident or residents of this State, or entities incorporated in this State, who have been such for 12 months next preceding the making of the application, and shall contain a provision that the holder of the license applied for thereby consents to the agreements to be set forth in the license as prescribed by section 14 of P.L.1966, c.52 (C.50:3-16.14). The oath may be administered by any member of the department and shall be in writing signed by the person making the oath in the presence of the person administering it.

70. Section 16 of P.L.1966, c.52 (C.50:3-16.16) is amended to read as follows:

C.50:3-16.16 License; application; fee.

16. Each application for a license for Areas Nos. 2 and 3 shall be accompanied by a license fee in an amount to be fixed by the council but not less than \$4 per ton on the gross tonnage measurement of the boat or vessel to be licensed but a minimum fee of \$50 shall be charged for each boat or vessel licensed. In the event that the license is refused, the license fee accompanying the application shall be returned to the applicant.

71. Section 17 of P.L.1966, c.52 (C.50:3-16.17) is amended to read as follows:

C.50:3-16.17 Revocation of license, grounds.

17. The department may revoke any license for Areas Nos. 2 and 3 issued under P.L.1966, c.52 (C.50:3-16.1 et seq.) by reason of a false oath made by any owner or master in applying therefor, or for any other violation of P.L.1966, c.52 (C.50:3-16.1 et seq.), after due hearing.

72. Section 18 of P.L.1966, c.52 (C.50:3-16.18) is amended to read as follows:

C.50:3-16.18 Limits on size of oysters taken.

18. No oyster that measures less than 3 inches from hinge to bill shall at any time be taken from the waters of Areas Nos. 2 and 3 or be possessed by any person after being so taken, except spats or blisters, adhering so closely as to be impossible to remove without destruction, not amounting in any case to more than 10% of any catch or cargo.

73. Section 19 of P.L.1966, c.52 (C.50:3-16.19) is amended to read as follows:

C.50:3-16.19 Time for taking shellfish.

19. No shellfish shall be dredged for or harvested in Areas Nos. 2 and 3 except between sunrise and sunset on the days of the week, except Saturdays and Sundays, during the months beginning with the month of October in one year and ending with the month of April in the next year.

74. Section 20 of P.L.1966, c.52 (C.50:3-16.20) is amended to read as follows:

C.50:3-16.20 Size of dredge.

20. No person shall use any dredge for the purpose of catching or taking shellfish from Areas Nos. 2 and 3, the tooth bar of which dredge measures more than 54 inches across from center of bolt hole to center of bolt hole where the frame thereof is fastened to the tooth bar, or any dredge which measures more than 5 feet 2 inches in width from the extreme outside to outside of frame, or any dredge which measures more than 21 inches from center of tooth bar to center of cross bar, or any dredge the bag of which contains more than 17 rows of 2-inch rings, or any dredge the rings of which are less than 2 inches in diameter, inside measurement, or any dredge the bag of which measures more than 5 feet around the bag from center of tooth bar to center of cross bar, or any dredge which weighs more than 190 pounds.

75. Section 21 of P.L.1966, c.52 (C.50:3-16.21) is amended to read as follows:

C.50:3-16.21 Prohibition on taking, catching shellfish.

21. The council may, subject to the approval of the commissioner, by rule or regulation, prohibit the taking or catching of shellfish in Area No. 1 or Areas Nos. 2 and 3 at such times as, in the judgment of the council, may be necessary to close the beds or any part thereof for conservation or resource management purposes.

76. Section 22 of P.L.1966, c.52 (C.50:3-16.22) is amended to read as follows:

C.50:3-16.22 Applications for license; filing, recording.

22. All applications for licenses for Area No. 1 and for Areas Nos. 2 and 3 made under P.L.1966, c.52 (C.50:3-16.1 et seq.) shall be filed, and all licenses issued under P.L.1966, c.52 (C.50:3-16.1 et seq.) shall be recorded, in books to be kept for those purposes by the department.

77. Section 1 of P.L.1945, c.39 (C.50:3-20.10) is amended to read as follows:

C.50:3-20.10 Definitions.

1. As used in P.L.1945, c.39 (C.50:3-20.10 et seq.):

"Oyster dealer" means any person who, for himself or as an agent or broker, purchases from oyster planters, within this State, oysters so originating, in the shells, for purpose of resale or shipment for resale or for use other than the use of himself and his family, in the shells, and, also, any person who plants and grows oysters so originating and packs and ships or otherwise sells oysters so originating, in the shells, to persons not required to be licensed under P.L.1945, c.39 (C.50:3-20.10 et seq.).

"Oyster planter" means any person who plants and grows oysters so originating and who sells oysters so planted and grown, in the shells, to persons required to be licensed under P.L.1945, c.39 (C.50:3-20.10 et seq.).

"Oyster shucking house" means a plant for the opening, shucking, processing and packing of oysters which originate on the natural oyster beds in the tidal waters of the Delaware River, the Delaware Bay or the Maurice River Cove or any of their tributaries.

78. Section 2 of P.L.1945, c.39 (C.50:3-20.11) is amended to read as follows:

C.50:3-20.11 Licensure for oyster shucking house, planter, dealer.

2. No person shall operate within this State an oyster shucking house or engage in or carry on the business of an oyster planter or an oyster dealer, as defined in section 1 of P.L.1945, c.39 (C.50:3-20.10), without first obtaining a license for this purpose from the commissioner as provided in P.L.1945, c.39 (C.50:3-20.10 et seq.).

79. Section 3 of P.L.1945, c.39 (C.50:3-20.12) is amended to read as follows:

C.50:3-20.12 Term of license.

3. Such license, when issued, shall authorize the licensee to operate the oyster shucking house therein named or to engage in and conduct the business of an oyster planter or an oyster dealer, as the case may be, for the term of one year beginning on January 1 and ending on December 31 of the year issued.

80. Section 4 of P.L.1945, c.39 (C.50:3-20.13) is amended to read as follows:

C.50:3-20.13 Issuance of license, disposition of fees.

4. The license required pursuant to P.L.1945, c.39 (C.50:3-20.10 et seq.) to conduct an oyster shucking house or to engage in and conduct the business of an oyster planter or an oyster dealer shall be issued upon the payment of a license fee of \$100. All license fees collected shall be deposited in the "Oyster Resource Development Account," established pursuant to section 8 of P.L.1996, c.112 (C.23:3-12.2), and shall be subject to all the terms and conditions of that section.

81. Section 12 of P.L.1945, c.39 (C.50:3-20.21) is amended to read as follows:

C.50:3-20.21 Use of license fees.

12. All moneys received as license fees under the provisions of P.L.1945, c.39 (C.50:3-20.10 et seq.) shall be used by the commissioner for the purchase of either cultch or oysters, or both, which shall be spread over and planted in natural oyster beds and seed grounds of the State and to establish and maintain oyster sanctuaries.

82. Section 13 of P.L.1945, c.39 (C.50:3-20.22) is amended to read as follows:

C.50:3-20.22 Rules and regulations.

13. The commissioner may adopt, pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), rules and regulations for the carrying out of the purposes of, and enforcement of, the provisions of P.L.1945, c.39 (C.50:3-20.10 et seq.).

83. The caption to chapter 4 of Title 50 of the Revised Statutes is amended to read as follows:

Caption amended.

Chapter 4. REGULATIONS APPLICABLE TO ATLANTIC COAST

84. R.S.50:4-2 is amended to read as follows:

Dredge, drag, scrape prohibited on certain lands; rules, regulations.

50:4-2. No person shall use or cause to be used any dredge with bag or pocket, drag or scrape upon any of the natural oyster or clam beds under the tidal waters of the Atlantic seaboard of this State and tributaries thereof, except Delaware Bay, and no license shall be issued by the commissioner contrary to this section; but this section shall not prohibit the use of any fork, hoe or drag used by hand in the taking of soft clams; nor shall it prohibit the harvest of oysters with oyster dredges on designated leases used for oyster culture within the Mullica River-Great Bay estuary; nor shall it prohibit the taking of crabs with dredges; nor shall it preclude the department from adopting, pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), rules and regulations governing the harvest of specific shellfish from specific areas by specific means, including, but not limited to, drags and scrapes.

85. R.S.50:4-3 is amended to read as follows:

Protection of leased lands; exception.

50:4-3. No person shall dredge upon, throw, cast or drag an oyster dredge, use oyster tongs, rakes, forks or other instruments or appliances used for catching shellfish, or tread for shellfish, upon any of the leased lands of this State lying under the tidal waters of the Atlantic seaboard or tributaries thereof, above Cape May Point, other than land or ground for which the person or the person's employer then holds a lease from the council. A lessee may, however, authorize another validly licensed individual to harvest shellfish on the lease using authorized gear during the authorized season.

Repealer.

86. The following sections are repealed:

Section 2 of P.L.1966, c.52 (C.50:3-16.2); and

Sections 5 through 11, inclusive, of P.L.1945, c.39 (C.50:3-20.14 through C.50:3-20.20).

87. This act shall take effect immediately, except that sections 20 and 21 of this act shall take effect two years after the date of enactment of this act but the Commissioner of Environmental Protection may take such anticipatory administrative action in advance thereof as shall be necessary for the implementation of sections 20 and 21.

Approved January 13, 2008.

CHAPTER 339

AN ACT increasing the license fee for owning or operating a rooming or boarding house and amending P.L.1979, c.496.

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

1. Section 7 of P.L.1979, c.496 (C.55:13B-7) is amended to read as follows:

C.55:13B-7 Rooming, boarding house licensure; fee.

7. a. (1) No person shall own or operate a rooming or boarding house, hold out a building as available for rooming or boarding house occupancy, or apply for any necessary construction or planning approvals related to the establishment of a rooming or boarding house without a valid license to own or operate such a facility, issued by the commissioner and, if appropriate, by a municipality which has elected to issue such licenses pursuant to P.L.1993, c.290 (C.40:52-9 et seq.).

(2) No person shall own or operate a rooming or boarding house that offers or advertises or holds itself out as offering personal care services to residents with special needs, including, but not limited to, persons with Alzheimer's disease and related disorders or other forms of dementia, hold out a building as available for rooming or boarding house occupancy for such residents, or apply for any necessary construction or planning approvals related to the establishment of a rooming or boarding house for such residents without a valid license to own or operate such a facility, issued by the commissioner.

(3) Any person found to be in violation of this subsection shall be liable for a civil penalty of not more than \$5,000.00 for each building so owned or operated, which penalty shall be payable to the appropriate licensing entity.

b. The commissioner shall establish separate categories of licensure for owning and for operating a rooming or boarding house, provided, however, that an owner who himself operates such a facility need not also possess an operator's license.

If an owner seeking to be licensed is other than an individual, the application shall state the name of an individual who is a member, officer or stockholder in the corporation or association seeking to be licensed, and the same shall be designated the primary owner of the rooming or boarding house.

Each application for licensure shall contain such information as the commissioner may prescribe and, unless the person is licensed by a mu-

nicipality to own or operate a rooming and boarding house pursuant to P.L.1993, c.290 (C.40:52-9 et seq.), shall be accompanied by a fee established by the commissioner which shall not be less than \$150.00 or more than \$600.00, except as provided in subsection e. of this section. If, upon receipt of the fee and a review of the application, the commissioner determines that the applicant will operate, or provide for the operation of, a rooming or boarding house in accordance with the provisions of this act, he shall issue a license to him.

Each license shall be valid for one year from the date of issuance, but may be renewed upon application by the owner or operator and upon payment of the same fee required for initial licensure.

c. Only one license shall be required to own a rooming or boarding house, but an endorsement thereto shall be required for each separate building owned and operated, or intended to be operated, as a rooming or boarding house. Each application for licensure or renewal shall indicate every such building for which an endorsement is required. If, during the term of a license, an additional endorsement is required, or an existing one is no longer required, an amended application for licensure shall be submitted.

d. A person making application for, or who has been issued, a license to own or operate a rooming or boarding house who conceals the fact that the person has been denied a license to own or operate a residential facility, or that the person's license to own or operate a residential facility has been revoked by a department or agency of state government in this or any other state is liable for a civil penalty of not more than \$5,000.00, and any license to own or operate a rooming or boarding house which has been issued to that person shall be immediately revoked.

e. The commissioner shall annually review the cost of administering and enforcing this section and shall establish by rule such changes to the license application fee as may be necessary to cover the cost of such administration and enforcement.

2. This act shall take effect immediately.

Approved January 13, 2008.

CHAPTER 340

AN ACT concerning the reduction of greenhouse gas emissions, supplementing Title 26 of the Revised Statutes, and amending and supplementing P.L.1999, c.23.

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

C.26:2C-45 Findings, declarations relative to reduction of greenhouse gas emissions.

1. The Legislature finds and declares that New Jersey should implement cost-effective measures to reduce emissions of greenhouse gases, and that emissions trading and the auction of allowances can be an effective mechanism to accomplish that objective.

The Legislature further finds and declares that entering into agreements or arrangements with appropriate representatives of other states may further the purposes of P.L.2007, c.340 (C.26:2C-45 et al.) and the “Global Warming Response Act,” P.L.2007, c.112 (C.26:2C-37 et al.).

The Legislature further finds and declares that any carbon dioxide emissions allowance trading program established in the State to reduce emissions of greenhouse gases should provide both incentives to reduce emissions at their sources and funding or other consumer benefit incentives to reduce the demand for energy, which in turn would reduce the generation and emission of greenhouse gases.

The Legislature further finds and declares that funding consumer benefit purposes will result in reduced costs to New Jersey consumers, decreased energy use, decreased greenhouse gas emissions, and substantial and tangible benefits to the energy-using business sector.

The Legislature further finds and declares that efforts to reduce greenhouse gas emissions in New Jersey must include complementary programs to reduce greenhouse gas emissions from electricity generated outside of the State but consumed in New Jersey, and that one measure that may be most effective in doing so is the adoption of a greenhouse gas emissions portfolio standard as authorized pursuant to the “Global Warming Response Act,” P.L.2007, c.112 (C.26:2C-37 et al.) and section 38 of P.L.1999, c.23 (C.48:3-87).

The Legislature further finds and declares that energy efficiency and conservation measures and increased use of renewable energy resources must be essential elements of the State’s energy future and that greater reliance on energy efficiency, conservation, and renewable energy resources will provide significant benefits to the citizens of this State.

The Legislature further finds and declares that public utility involvement and competition in the renewable energy, conservation and energy efficiency industries are essential to maximize efficiencies and the use of renewable energy and that the provisions of P.L.2007, c.340 (C.26:2C-45 et al.) should be implemented to further competition.

The Legislature further finds and declares that any emissions allowance trading program established in the State to reduce emissions of greenhouse gases should transition to any federal program enacted by the federal government that is comparable to the emissions allowance trading program established in New Jersey.

The Legislature therefore determines that it is in the public interest to establish a program that authorizes the State to dedicate to consumer benefit purposes up to 100 percent of the revenues derived from the auction or other sale of allowances pursuant to an emissions allowance trading program and to authorize the Commissioner of Environmental Protection and the President of the Board of Public Utilities to further the purposes of P.L.2007, c.340 (C.26:2C-45 et al.) and the "Global Warming Response Act," P.L.2007, c.112 (C.26:2C-37 et al.), by participating with other states in the formation and activity of a separate legal entity established for the purpose of furthering the Regional Greenhouse Gas Initiative.

C.26:2C-46 Definitions relative to reduction of greenhouse gas emissions.

2. As used in sections 1 through 11 and sections 14 and 15 of P.L.2007, c.340 (C.26:2C-45 et seq.):

"Allowance" means a limited authorization, as defined by the department, to emit up to one ton of carbon dioxide or its equivalent.

"Board" means the Board of Public Utilities.

"Compliance entity" means an owner or operator of an electric generating unit, with a nameplate capacity equal to or greater than 25 megawatts of electrical output, in New Jersey that is required to obtain allowances in order to operate an electric generating unit that holds an operating permit from the department issued pursuant to P.L.1954, c.212 (C.26:2C-1 et seq.), whether that unit is in operation or in development. "Compliance entity" shall not include any cogeneration facility or combined heat and power facility that is an "on-site generation facility" as that term is defined in section 3 of P.L.1999, c.23 (C.48:3-51) and sells less than 10 percent of its annual gross electrical generation.

"Consumer benefit" means any action or measure to: promote energy efficiency; directly mitigate electricity ratepayer impacts; develop and deliver renewable or non-carbon-emitting energy technologies; stimulate or reward investment in the development of innovative carbon emissions abatement technologies with significant carbon emissions reduction potential; fund programs that promote measurable electricity end-use energy efficiency in the commercial, institutional, and industrial sectors; or fund the

administration of greenhouse gas emissions allowance trading and consumer benefit programs.

“Department” means the Department of Environmental Protection.

“Dispatch agreement facility” means a facility that is a compliance entity that is a cogeneration facility or has a heat rate below 8,100 BTU per kilowatt-hour, and has entered into a power agreement: (1) with a duration of more than 15 years from its effective date; (2) that provides that the entity’s counterpart to the agreement controls the electric dispatch of the facility; (3) which was executed prior to January 1, 2002; and (4) which does not allow for the entity to pass the cost of allowances on to the counterpart to the agreement.

“Global Warming Solutions Fund” or “fund” means the “Global Warming Solutions Fund” established pursuant to section 6 of P.L.2007, c.340 (C.26:2C-50).

“Greenhouse gas” means the same as the term is defined in section 3 of P.L.2007, c.112 (C.26:2C-39).

“Qualified participant” means a compliance entity or other entity that meets financial assurance and any other requirements to participate in an auction, as determined by the department in consultation with other entities participating in a regional, national or international program.

“Regional Greenhouse Gas Initiative” means the cooperative effort to reduce carbon dioxide emissions entered into by the governors of seven states through a Memorandum of Understanding signed on December 20, 2005, as amended.

C.26:2C-47 Actions of department relative to allowances; report to Governor, Legislature.

3. a. (1) The department, by rule or regulation adopted pursuant to the “Administrative Procedure Act,” P.L.1968, c.410 (C.52:14B-1 et seq.), shall take any measures necessary to sell, exchange, retire, assign, allocate, or auction any or all allowances that are created by, budgeted to, or otherwise obtained by the State in furtherance of any greenhouse gas emissions allowance trading program implemented to reduce or prevent emissions of greenhouse gases. The department shall take into consideration the principles and goals of the New Jersey Energy Master Plan in the rule making process. The department may exercise this authority in cooperation and coordination with other states or countries that are participating in regional, national or international carbon dioxide emissions trading programs with the same or similar purpose. In exercising this authority, the department shall exclude from the requirement to purchase or acquire any allowances under any greenhouse gas

emissions trading program any cogeneration facility or combined heat and power facility that is an “on-site generation facility” as that term is defined in section 3 of P.L.1999, c.23 (C.48:3-51) and sells less than 10 percent of its annual gross electrical generation.

(2) Approval and notice by the department of specific procedures and requirements for any auction or other sale of allowances which are formulated by a for-profit or non-profit corporation, association or organization which the department and the board are authorized to participate in pursuant to section 11 of P.L.2007, c.340 (C.26:2C-55) shall not be subject to the “Administrative Procedure Act,” P.L.1968, c.410 (C.52:14B-1 et seq.), provided that the specific procedures and requirements are consistent with the process and general requirements outlined in regulations adopted by the department, and the public is afforded an opportunity for review and comment on such specific procedures and requirements.

b. If the rules or regulations adopted by the department pursuant to subsection a. of this section convey allowances utilizing an auction, then any auction:

(1) shall be conducted based on the schedule and frequency adopted by the department in consultation with other entities participating in a regional program;

(2) shall include the sale of allowances for current and future compliance periods to promote transparency and price stability;

(3) shall include auction design elements that minimize allowance price volatility, guard against bidder collusion, and mitigate the potential for market manipulation;

(4) shall include provisions to address, and to the extent practicable minimize, the potential for allowance market price volatility during the initial control period of a greenhouse gas emissions allowance trading program;

(5) shall include provisions to ensure the continued market availability of allowances to entities regulated under a greenhouse gas emissions allowance trading program, taking into account the outcomes of auctions and monitoring of the allowance market, which may include the adoption of a flexible process that allows for ongoing modification of auction design and procedures in response to allowance market conditions and allowance market monitoring data, provided that the process allows for public comment and input; and

(6) may be open to all qualified participants, and all qualified participants may sell or otherwise agree to transfer any or all allowances to any eligible entity.

c. The department shall review its position with any regional auction on an annual basis, including the amount of allowances that should be included in a regional auction. This annual review shall include consideration of the environmental and economic impact of the auction, leakage impacts, and the impact on electric generation facilities and ratepayers in the State. The department shall submit a written report of this review to the Governor and to the Legislature pursuant to section 2 of P.L.1991, c.164 (C.52:14-19.1). The report shall also be posted on the department's website.

C.26:2C-48 Certified dispatch agreement facility eligible to purchase allowances, price.

4. A dispatch agreement facility that has been certified pursuant to section 5 of P.L.2007, c.340 (C.26:2C-49) shall be eligible to purchase allowances at the price of \$2 per allowance, pursuant to subsection a. of this section.

a. At least once each year, the department shall notify the owners and operators of dispatch agreement facilities of the opportunity to purchase allowances at the price of \$2 per allowance. Any offer by the department to sell allowances shall be for the quantity of allowances equal to the average annual carbon dioxide emissions for the dispatch agreement facility for the prior three-year period as determined by the department.

b. Within 30 days after receiving the notice required pursuant to subsection a. of this section, an owner or operator of a dispatch agreement facility shall notify the department whether it will accept the offer to purchase allowances and specify the quantity of allowances to be purchased up to the quantity determined pursuant to subsection a. of this section.

c. For any allowances not purchased by an owner or operator of a dispatch agreement facility pursuant to subsections a. and b. of this section, an owner or operator of a dispatch agreement facility shall purchase such allowances in accordance with the rules and regulations adopted by the department pursuant to section 3 of P.L.2007, c.340 (C.26:2C-47).

d. Any allowances purchased from the department pursuant to subsections a. and b. of this section and that are unused by a dispatch agreement facility for compliance at the end of a compliance period shall be assigned thereafter to the department.

e. The opportunity to purchase allowances pursuant to this section shall be limited to dispatch agreement facilities with power agreements that were executed prior to January 1, 2002, and the offer to purchase allowances shall expire upon termination or expiration of such agreement or when the services under a new contract become effective, whichever occurs earlier.

C.26:2C-49 Certification that dispatch agreement facility qualifies for purchase of allowances.

5. a. The owner or operator of a dispatch agreement facility may certify to the department that the dispatch agreement facility qualifies to purchase allowances pursuant to section 4 of P.L.2007, c.340 (C.26:2C-48).

b. The certification submitted to the department pursuant to subsection a. of this section shall be through a sworn affidavit with supporting documentation from an independent entity that attests to the facility's adherence to the definition of dispatch agreement facility as set forth in section 2 of P.L.2007, c.340 (C.26:2C-46). The affidavit shall be signed by both an official representative of the independent entity and by the chief financial officer or their equivalent of the owner or operator of the dispatch agreement facility. If there are any material changes to the sworn affidavit or supporting documentation filed with the department, the independent entity and representative of the owner or operator of the dispatch agreement facility shall resubmit an affidavit pursuant to this section within 30 days after the change occurs.

c. The certification shall be received by the department at least 30 days prior to the department making a notification, pursuant to subsection a. of section 4 of P.L.2007, c.340 (C.26:2C-48), of an offer to sell allowances to dispatch agreement facilities in order for the dispatch agreement facility to be deemed eligible to participate in the sale.

d. The owner or operator of a dispatch agreement facility claiming certification pursuant to this section shall provide on site, upon the request of the department, any information the department requires to determine the validity and extent of the certification.

e. Any signatory to the sworn affidavit in subsection b. of this section who knowingly gives or causes to be given any false or misleading information or who knowingly makes any false or misleading statement in complying with the provisions of this section shall be subject to a civil penalty of not more than \$500,000 for each offense and shall not be eligible to be certified as a dispatch agreement facility. Civil penalties imposed pursuant to this section shall be collected in a civil action by a summary proceeding pursuant to the "Penalty Enforcement Law of 1999," P.L.1999, c.274 (C.2A:58-10 et seq.). In addition to any penalties, the court may assess against the violator the amount of any economic benefit accruing to the violator from the violation of the provisions of this section.

f. All penalties collected pursuant to this section shall be deposited in the "Global Warming Solutions Fund," established pursuant to section 6 of

P.L.2007, c.340 (C.26:2C-50), and kept separate from other receipts deposited therein, and appropriated for the purposes of that fund.

C.26:2C-50 “Global Warming Solutions Fund.”

6. There is established in the Department of the Treasury a special, nonlapsing fund to be known as the “Global Warming Solutions Fund.” The fund shall be administered by the State Treasurer and shall be credited with:

- a. moneys received as a result of any sale, exchange or other conveyance of allowances through a greenhouse gas emissions allowance trading program;
- b. such moneys as are appropriated by the Legislature; and
- c. any return on investment of moneys deposited in the fund.

C.26:2C-51 Coordination in administration of programs; use of moneys.

7. a. The agencies administering programs established pursuant to this section shall maximize coordination in the administration of the programs to avoid overlap between the uses of the fund prescribed in this section.

b. Moneys in the fund, after appropriation annually for payment of administrative costs authorized pursuant to subsection c. of this section, shall be annually appropriated and used for the following purposes:

(1) Sixty percent shall be allocated to the New Jersey Economic Development Authority to provide grants and other forms of financial assistance to commercial, institutional, and industrial entities to support end-use energy efficiency projects and new, efficient electric generation facilities that are state of the art, as determined by the department, including but not limited to energy efficiency and renewable energy applications, to develop combined heat and power production and other high efficiency electric generation facilities, and to stimulate or reward investment in the development of innovative carbon emissions abatement technologies with significant carbon emissions reduction or avoidance potential. The authority, in consultation with the board and the department, shall determine: (a) the appropriate level of grants or other forms of financial assistance to be awarded to individual commercial, institutional, and industrial sectors and to individual projects within each of these sectors; (b) the evaluation criteria for selecting projects to be awarded grants or other forms of financial assistance, which criteria shall include the ability of the project to result in a measurable reduction of the emission of greenhouse gases or a measurable reduction in energy demand, provided, however, that neither the development of a new combined heat and power production facility, nor an increase in the electrical and thermal output of an existing combined heat and power production facility, shall be subject to the requirement to demonstrate such a

measurable reduction; and (c) the process by which grants or other forms of financial assistance can be applied for and awarded including, if applicable, the payment terms and conditions for authority investments in certain projects with commercial viability;

(2) Twenty percent shall be allocated to the board to support programs that are designed to reduce electricity demand or costs to electricity customers in the low-income and moderate-income residential sector with a focus on urban areas, including efforts to address heat island effect and reduce impacts on ratepayers attributable to the implementation of P.L.2007, c.340 (C.26:2C-45 et al.). For the purposes of this paragraph, the board, in consultation with the authority and the department, shall determine the types of programs to be supported and the mechanism by which to quantify benefits to ensure that the supported programs result in a measurable reduction in energy demand;

(3) Ten percent shall be allocated to the department to support programs designed to promote local government efforts to plan, develop and implement measures to reduce greenhouse gas emissions, including but not limited to technical assistance to local governments, and the awarding of grants and other forms of assistance to local governments to conduct and implement energy efficiency, renewable energy, and distributed energy programs and land use planning where the grant or assistance results in a measurable reduction of the emission of greenhouse gases or a measurable reduction in energy demand. For the purpose of conducting any program pursuant to this paragraph, the department, in consultation with the authority and the board, shall determine: (a) the appropriate level of grants or other forms of financial assistance to be awarded to local governments; (b) the evaluation criteria for selecting projects to be awarded grants or other forms of financial assistance; (c) the process by which grants or other forms of financial assistance can be applied for and awarded; and (d) a mechanism by which to quantify benefits; and

(4) Ten percent shall be allocated to the department to support programs that enhance the stewardship and restoration of the State's forests and tidal marshes that provide important opportunities to sequester or reduce greenhouse gases.

c. (1) The department may use up to four percent of the total amount in the fund each year to pay for administrative costs justifiable and approved in the annual budget process, incurred by the department in administering the provisions of P.L.2007, c.340 (C.26:2C-45 et al.) and in administering programs to reduce the emissions of greenhouse gases including

any obligations that may arise under subsection a. of section 11 of P.L.2007, c.340 (C.26:2C-55).

(2) The board may use up to two percent of the total amount in the fund each year to pay for administrative costs justifiable and approved in the annual budget process, incurred by the board in administering the provisions of P.L.2007, c.340 (C.26:2C-45 et al.) and in administering programs to reduce the emissions of greenhouse gases including any obligations that may arise under subsection a. of section 11 of P.L.2007, c.340 (C.26:2C-55).

(3) The New Jersey Economic Development Authority may use up to two percent of the total amount in the fund each year to pay for administrative costs justifiable and approved in the annual budget process, incurred by the authority in administering the provisions of P.L.2007, c.340 (C.26:2C-45 et al.) and in administering programs to reduce the emissions of greenhouse gases.

d. The State Comptroller shall conduct or supervise independent audit and fiscal oversight functions of the fund and its uses.

C.26:2C-52 Guidelines, priority ranking system for allocation of funds.

8. a. Within one year after the date of enactment of P.L.2007, c.340 (C.26:2C-45 et al.), the department, in consultation with the New Jersey Economic Development Authority and the board, shall adopt, in accordance with the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), guidelines and a priority ranking system to be used to assist in annually allocating funds to eligible projects or programs pursuant to subsection b. of section 7 of P.L.2007, c.340 (C.26:2C-51).

b. The guidelines and the priority ranking system developed pursuant to this section for selecting projects or programs to be awarded grants or other forms of financial assistance from the fund shall include but need not be limited to an evaluation of each eligible project or program as to its predicted ability to:

(1) result in a net reduction in greenhouse gas emissions in the State or in greenhouse gas emissions from electricity produced out of the State but consumed in the State or net sequestration of carbon;

(2) result in significant reductions in greenhouse gases relative to the cost of the project or program and the reduction of impacts on ratepayers attributable to the implementation of P.L.2007, c.340 (C.26:2C-45 et al.), and the ability of the project or program to significantly contribute to achievement of the State's 2020 limit and 2050 limit established pursuant to the "Global Warming Response Act," P.L.2007, c.112 (C.26:2C-37 et al.), relative to the cost of the project or program;

(3) reduce energy use;

(4) provide co-benefits to the State, including but not limited to creating job opportunities, reducing other air pollutants, reducing costs to electricity and natural gas consumers, improving local electric system reliability, and contributing to regional initiatives to reduce greenhouse gas emissions; and

(5) be directly responsive to the recommendations when submitted by the department to the Legislature pursuant to section 6 of the "Global Warming Response Act," P.L.2007, c.112 (C.26:2C-42).

C.26:2C-53 Annual appropriation of moneys in fund.

9. a. The annual appropriations act for each State fiscal year shall, without other conditions, limitations or restrictions, appropriate the moneys in the Global Warming Solutions Fund for the purposes set forth in subsections b. and c. of section 7 of P.L.2007, c.340 (C.26:2C-51).

b. If the provisions of subsection a. of this section are not met on the effective date of an annual appropriations act for the State fiscal year, or if an amendment or supplement to an annual appropriations act for the State fiscal year should violate the requirements of subsection a. of this section, the Director of the Division of Budget and Accounting in the Department of the Treasury shall, not later than five days after the enactment of the annual appropriations act, or an amendment or supplement thereto, that violates any of the requirements of subsection a. of this section, certify to the Commissioner of Environmental Protection that the requirements of subsection a. of this section have not been met.

c. Sections 1 through 8 of P.L.2007, c.340 (C.26:2C-45 through C.26:2C-52) shall be without effect on and after the 10th day following a certification by the Director of the Division of Budget and Accounting in the Department of the Treasury pursuant to subsection b. of this section.

C.26:2C-54 Interim decision as to comparability of national program; rules, regulations; final decision; disposition of allowances.

10. a. Within three months after the enactment of federal law providing for implementation of a national emissions allowance trading program, the Commissioner of Environmental Protection shall render an interim decision as to whether the national program is substantially comparable to the greenhouse gas emissions allowance trading program in which the State is participating at that time. If the commissioner determines that the national program is substantially comparable to the existing greenhouse gas emissions allowance trading program being implemented in the State, then the department shall take such anticipatory administrative action in advance of the adoption of rules and regulations providing for implementation of a na-

tional emissions allowance trading program in order to minimize any delay in the State's participation in the national program.

b. Within three months after the adoption of rules and regulations providing for implementation of a national emissions allowance trading program, the Commissioner of Environmental Protection shall render a final decision as to whether the national program is substantially comparable to the greenhouse gas emissions allowance trading program in which the State is participating at that time. If the commissioner determines that the national program is substantially comparable to the existing greenhouse gas emissions allowance trading program being implemented in the State, the department shall thereafter sell, exchange, retire or otherwise convey allowances only as part of the State's participation in the national program.

c. The commissioner shall notify, in writing, the Governor and the Legislature pursuant to section 2 of P.L.1991, c.164 (C.52:14-19.1) of the decisions made pursuant to this section.

d. The determination of the comparability of the programs, pursuant to subsections a. and b. of this section, shall be based upon the projected percent reductions of greenhouse gas emissions from electric generating facilities serving customers in the State under the greenhouse gas emissions allowance trading program being implemented in the State at the time as compared to the projected percent reductions of greenhouse gas emissions from electric generating facilities serving customers in the State under the national program and may consider the value of allowances or allowance auction proceeds directed to the State or other entity to benefit New Jersey energy consumers. Reductions anticipated through the implementation of other State regulated carbon reduction initiatives, including but not limited to a renewable energy portfolio standard or any energy efficiency portfolio standard adopted pursuant to section 38 of P.L.1999, c.23 (C.48:3-87), shall not be considered in determining the comparability of the programs.

C.26:2C-55 Authority of commissioner, board president.

11. a. Notwithstanding the provisions of any other law, rule or regulation to the contrary, to further the purposes of P.L.2007, c.340 (C.26:2C-45 et al.) and the "Global Warming Response Act," P.L.2007, c.112 (C.26:2C-37 et al.), the commissioner and the board president, or their respective designees, are authorized to:

(1) enter any agreement or arrangement with the appropriate representatives of other states, including the formation of a for-profit or non-profit corporation, any form of association, or any other form of organization, in this or another state; and

(2) participate in any such corporation, association, or organization, and in any activity in furtherance of the purposes thereof, in any capacity including, but not limited to, as directors or officers.

b. Any actions that are consistent with, and that further the purposes of, P.L.2007, c.340 (C.26:2C-45 et al.) and the "Global Warming Response Act," P.L.2007, c.112 (C.26:2C-37 et al.) taken by the commissioner or the board president, or any employee of the department or the board authorized to take such actions by the commissioner or the board president, to form such corporation, association or organization, to participate in its activities, or to enter an agreement or arrangement prior to the date of enactment of P.L.2007, c.340 (C.26:2C-45 et al.), are hereby validated.

c. Nothing in P.L.2007, c.340 (C.26:2C-45 et al.) shall be deemed to constitute a waiver of sovereign immunity. By entering any agreement or arrangement authorized pursuant to this section, neither the commissioner nor the board president, nor their respective designees, nor the State consents to suit outside of New Jersey or consents to the governance of such suit under any law other than that of New Jersey.

12. 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; terms defined.

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, interim 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 I or Class II renewable energy sources; and

(2) beginning on January 1, 2001, that one-half of one 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, 2006, one 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 shall additionally increase the required percentage for Class I renewable energy sources by one-half of one percent each year until January 1, 2012, when four 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.

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.

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."

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. 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 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 whenever the total rated generating capacity owned and operated by net metering customer-generators Statewide equals 2.5 percent of the State's peak electricity demand;

(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 Electronic 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; and

(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.

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, the electric energy efficiency portfolio standard adopted pursuant to subsection g. of this section, or the gas energy efficiency portfolio standard adopted pursuant to subsection h. of this section.

g. The board may adopt, pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), an electric energy efficiency portfolio standard that may require each electric public utility to implement energy efficiency measures that reduce electricity usage in the State by 2020 to a level that is 20 percent below the usage projected by the board in the absence of such a

standard. Nothing in this section shall be construed to prevent an electric public utility from meeting the requirements of this section by contracting with another entity for the performance of the requirements.

h. The board may adopt, pursuant to the "Administrative Procedure Act," a gas energy efficiency portfolio standard that may require each gas public utility to implement energy efficiency measures that reduce natural gas usage for heating in the State by 2020 to a level that is 20 percent below the usage projected by the board in the absence of such a standard. Nothing in this section shall be construed to prevent a gas public utility from meeting the requirements of this section by contracting with another entity for the performance of the requirements.

i. As used in this section:

"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.

"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.

"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.

C.48:3-98.1 Electric, gas public utilities energy efficiency and conservation programs, investments, cost recovery; terms defined.

13. a. Notwithstanding the provisions of any other law or rule or regulation to the contrary:

(1) an electric public utility or a gas public utility may provide and invest in energy efficiency and conservation programs in its respective service territory on a regulated basis pursuant to this section, regardless of whether the energy efficiency or conservation program involves facilities on the utility side or customer side of the point of interconnection;

(2) an electric public utility or a gas public utility may invest in Class I renewable energy resources, or offer Class I renewable energy programs on a regulated basis pursuant to this section, regardless of whether the renewable energy resource is located on the utility side or customer side of the point of interconnection; and

(3) the board may provide funding for energy efficiency, conservation, and renewable energy improvements through the societal benefits charge

established pursuant to section 12 of P.L.1999, c.23 (C.48:3-60), the retail margin on certain hourly-priced and larger non-residential customers pursuant to 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), or other monies appropriated for such purposes. The board may also direct electric public utilities and gas public utilities to undertake energy efficiency, conservation, and renewable energy improvements, and shall allow the recovery of program costs and incentive rate treatment pursuant to subsection b. of this section.

b. An electric public utility or a gas public utility seeking cost recovery for any program pursuant to this section shall file a petition with the board to request cost recovery. In determining the recovery by electric public utilities and gas public utilities of program costs for any program implemented pursuant to this section, the board may take into account the potential for job creation from such programs, the effect on competition for such programs, existing market barriers, environmental benefits, and the availability of such programs in the marketplace. Unless the board issues a written order within 180 days after the filing of the petition approving, modifying or denying the requested recovery, the recovery requested by the utility shall be granted effective on the 181 day after the filing without further order by the board. Ratemaking treatment may include placing appropriate technology and program cost investments in the respective utility's rate base, or recovering the utility's technology and program costs through another ratemaking methodology approved by the board, including, but not limited to, the societal benefits charge established pursuant to section 12 of P.L.1999, c.23 (C.48:3-60). All electric public utility and gas public utility investment in energy efficiency and conservation programs or Class I renewable energy programs may be eligible for rate treatment approved by the board, including a return on equity, or other incentives or rate mechanisms that decouple utility revenue from sales of electricity and gas.

c. Within 120 days after the date of enactment of P.L.2007, c.340 (C.26:2C-45 et al.), the board shall issue an order that allows electric public utilities and gas public utilities to offer energy efficiency and conservation programs, to invest in Class I renewable energy resources, and to offer Class I renewable energy programs in their respective service territories on a regulated basis. The board's order shall be reflected in rules and regulations thereafter to be adopted by the board pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.).

d. As used in this section:

“Class I renewable energy program” means any regulated program approved by the board pursuant to this section for the purpose of facilitating the development of Class I renewable energy in the State.

“Energy efficiency and conservation program” means any regulated program, including customer and community education and outreach, approved by the board pursuant to this section for the purpose of conserving energy or making the use of electricity or natural gas more efficient by New Jersey consumers, whether residential, commercial, industrial, or governmental agencies.

“Program costs” means all reasonable and prudent costs incurred in developing and implementing energy efficiency, conservation, or Class I renewable energy programs approved by the board pursuant to this section. These costs shall include a full return on invested capital and foregone electric and gas distribution fixed cost contributions associated with the implementation of the energy efficiency, conservation, or Class I renewable energy programs until those cost contributions are reflected in base rates following a base rate case if such costs were reasonably and prudently incurred.

C.26:2C-56 Action plan for ratepayer relief, certain circumstances.

14. a. If the price of allowances at two consecutive regional auctions in which the State of New Jersey is a participant exceeds \$7 per allowance, the department and the board shall, within 90 days after the second auction, develop an action plan for immediate ratepayer relief and hold a joint public hearing or hearings regarding the allowance price.

b. No later than 90 days after the final hearing is held, the department and the board shall jointly issue a report to the Governor and the Legislature, pursuant to section 2 of P.L.1991, c.164 (C.52:14-19.1), with their findings and recommendations.

C.26:2C-57 Severability.

15. If any provision of P.L.2007, c.340 (C.26:2C-45 et al.) or its application to any person or circumstance is held invalid, the invalidity shall not affect any other provision or application 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.

16. This act shall take effect immediately.

Approved January 13, 2008.

CHAPTER 341

AN ACT concerning criminal street gangs 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*:

C.2C:33-29 Crime of gang criminality; “criminal street gang” defined; grading of offense.

1. a. A person is guilty of the crime of gang criminality if, while knowingly involved in criminal street gang activity, he commits, attempts to commit, or conspires to commit, whether as a principal or an accomplice, any crime specified in chapters 11 through 18, 20, 33, 35 or 37 of Title 2C of the New Jersey Statutes; N.J.S.2C:34-1; N.J.S.2C:39-3; N.J.S.2C:39-4; section 1 of P.L.1998, c.26 (C.2C:39-4.1); N.J.S.2C:39-5; or N.J.S.2C:39-9. A crime is committed while involved in a criminal street gang related activity if the crime was committed for the benefit of, at the direction of, or in association with a criminal street gang.

“Criminal street gang” means three or more persons associated in fact. Individuals are associated in fact if: (1) two of the following seven criteria that indicate criminal street gang membership apply: (a) self-proclamation; (b) witness testimony or official statement; (c) written or electronic correspondence; (d) paraphernalia or photographs; (e) tattoos; (f) clothing or colors; (g) any other indicia of street gang activity; and (2) individually or in combination with other members of a criminal street gang, while engaging in gang related activity, have committed or conspired or attempted to commit, within the preceding five years from the date of the present offense, excluding any period of imprisonment, one or more offenses on separate occasions of robbery, carjacking, aggravated assault, assault, aggravated sexual assault, sexual assault, arson, burglary, kidnapping, extortion, tampering with witnesses and informants or a violation of chapter 11, section 3, 4, 5, 6, or 7 of chapter 35 or chapter 39 of Title 2C of the New Jersey Statutes.

b. Grading. Gang criminality is a crime of one degree higher than the most serious underlying crime referred to in subsection a. of this section, except that where the underlying crime is a crime of the first degree, gang criminality is a first degree crime and the defendant, upon conviction, and notwithstanding the provisions of paragraph (1) of subsection a. of N.J.S.2C:43-6, shall be sentenced to an ordinary term of imprisonment be-

tween 15 and 30 years. A sentence imposed upon conviction of the crime of gang criminality shall be ordered to be served consecutively to the sentence imposed upon conviction of any underlying offense referred to in subsection a. of this section.

C.2C:33-30 Crime of promotion of organized street crime; grading of offense.

2. a. A person promotes organized street crime if he conspires with others as an organizer, supervisor, financier or manager to commit any crime specified in chapters 11 through 18, 20, 33, 35, or 37 of Title 2C of the New Jersey Statutes; N.J.S.2C:34-1; N.J.S.2C:39-3; N.J.S.2C:39-4; section 1 of P.L.1998, c.26 (C.2C:39-4.1); N.J.S.2C:39-5; or N.J.S.2C:39-9.

b. Grading. Promotion of organized street crime is a crime of one degree higher than the most serious underlying crime referred to in subsection a. of this section, except that where the underlying offense is a crime of the first degree, promotion of organized street crime is a first degree crime and the defendant, upon conviction, and notwithstanding the provisions of paragraph (1) of subsection a of N.J.S.2C:43-6, shall be sentenced to an ordinary term of imprisonment between 15 and 30 years. A sentence imposed upon conviction of the crime of promotion of organized street crime shall be ordered to be served consecutively to the sentence imposed upon conviction of any underlying offense referred to in subsection a. of this section.

3. Section 7 of P.L.1982, c.77 (C.2A:4A-26) is amended to read as follows:

C.2A:4A-26 Referral to another court without juvenile's consent.

7. a. On motion of the prosecutor, the court shall, without the consent of the juvenile, waive jurisdiction over a case and refer that case from the Superior Court, Chancery Division, Family Part to the appropriate court and prosecuting authority having jurisdiction if it finds, after hearing, that:

(1) The juvenile was 14 years of age or older at the time of the charged delinquent act; and

(2) There is probable cause to believe that the juvenile committed a delinquent act or acts which if committed by an adult would constitute:

(a) Criminal homicide other than death by auto, strict liability for drug induced deaths, pursuant to N.J.S.2C:35-9, robbery which would constitute a crime of the first degree, carjacking, aggravated sexual assault, sexual assault, aggravated assault which would constitute a crime of the second degree, kidnapping, aggravated arson, or gang criminality pursuant to section 1

of P.L.2007, c.341 (C.2C:33-29) where the underlying crime is enumerated in this subparagraph or promotion of organized street crime pursuant to section 2 of P.L.2007, c.341 (C.2C:33-30) which would constitute a crime of the first or second degree which is enumerated in this subparagraph; or

(b) A crime committed at a time when the juvenile had previously been adjudicated delinquent, or convicted, on the basis of any of the offenses enumerated in subsection a.(2)(a); or

(c) A crime committed at a time when the juvenile had previously been sentenced and confined in an adult penal institution; or

(d) An offense against a person committed in an aggressive, violent and willful manner, other than an offense enumerated in subsection a.(2)(a) of this section, or the unlawful possession of a firearm, destructive device or other prohibited weapon, arson or death by auto if the juvenile was operating the vehicle under the influence of an intoxicating liquor, narcotic, hallucinogenic or habit producing drug; or

(e) A violation of N.J.S.2C:35-3, N.J.S.2C:35-4, or N.J.S.2C:35-5; or

(f) Crimes which are a part of a continuing criminal activity in concert with two or more persons and the circumstances of the crimes show the juvenile has knowingly devoted himself to criminal activity as a source of livelihood; or

(g) An attempt or conspiracy to commit any of the acts enumerated in paragraph (a), (d) or (e) of this subsection; or

(h) Theft of an automobile pursuant to chapter 20 of Title 2C of the New Jersey Statutes; or

(i) Possession of a firearm with a purpose to use it unlawfully against the person of another under subsection a. of N.J.S.2C:39-4, or the crime of aggravated assault, aggravated criminal sexual contact, burglary or escape if, while in the course of committing or attempting to commit the crime including the immediate flight therefrom, the juvenile possessed a firearm; or

(j) Computer criminal activity which would be a crime of the first or second degree pursuant to section 4 or section 10 of P.L.1984. c.184 (C.2C:20-25 or C.2C:20-31); and

(3) Except with respect to any of the acts enumerated in subparagraph (a), (i) or (j) of paragraph (2) of subsection a. of this section, or with respect to any acts enumerated in subparagraph (e) of paragraph (2) of subsection a. of this section which involve the distribution for pecuniary gain of any controlled dangerous substance or controlled substance analog while on any property used for school purposes which is owned by or leased to any school or school board, or within 1,000 feet of such school property or while on any school bus, or any attempt or conspiracy to commit any of

those acts, the State has shown that the nature and circumstances of the charge or the prior record of the juvenile are sufficiently serious that the interests of the public require waiver.

b. (Deleted by amendment, P.L.1999, c.373).

c. An order referring a case shall incorporate therein not only the alleged act or acts upon which the referral is premised, but also all other delinquent acts arising out of or related to the same transaction.

d. A motion seeking waiver shall be filed by the prosecutor within 30 days of receipt of the complaint. This time limit shall not, except for good cause shown, be extended.

e. If the juvenile can show that the probability of his rehabilitation by the use of the procedures, services and facilities available to the court prior to the juvenile reaching the age of 19 substantially outweighs the reasons for waiver, waiver shall not be granted. This subsection shall not apply with respect to a juvenile 16 years of age or older who is charged with committing any of the acts enumerated in subparagraph (a), (i) or (j) of paragraph (2) of subsection a. of this section or with respect to a violation of N.J.S.2C:35-3, N.J.S.2C:35-4 or section 1 of P.L.1998, c.26 (C.2C:39-4.1).

f. The Attorney General shall develop for dissemination to the county prosecutors those guidelines or directives deemed necessary or appropriate to ensure the uniform application of this section throughout the State.

4. N.J.S.2C:41-1 is amended to read as follows:

Definitions.

2C:41-1. For purposes of this section and N.J.S.2C:41-2 through N.J.S.2C:41-6:

a. "Racketeering activity" means (1) any of the following crimes which are crimes under the laws of New Jersey or are equivalent crimes under the laws of any other jurisdiction:

- (a) murder
- (b) kidnapping
- (c) gambling
- (d) promoting prostitution
- (e) obscenity
- (f) robbery
- (g) bribery
- (h) extortion
- (i) criminal usury
- (j) violations of Title 33 of the Revised Statutes

(k) violations of Title 54A of the New Jersey Statutes and Title 54 of the Revised Statutes

(l) arson

(m) burglary

(n) theft and all crimes defined in chapter 20 of Title 2C of the New Jersey Statutes

(o) forgery and fraudulent practices and all crimes defined in chapter 21 of Title 2C of the New Jersey Statutes

(p) fraud in the offering, sale or purchase of securities

(q) alteration of motor vehicle identification numbers

(r) unlawful manufacture, purchase, use or transfer of firearms

(s) unlawful possession or use of destructive devices or explosives

(t) violation of sections 112 through 116 inclusive of the "Casino Control Act," P.L.1977, c.110 (C.5:12-112 through 5:12-116)

(u) violation of N.J.S.2C:35-4, N.J.S.2C:35-5 or N.J.S.2C:35-6 and all crimes involving illegal distribution of a controlled dangerous substance or controlled substance analog, except possession of less than one ounce of marijuana

(v) violation of subsection b. of N.J.S.2C:24-4 except for subparagraph (b) of paragraph (5) of subsection b.

(w) violation of section 1 of P.L.1995, c.405 (C.2C:39-16), leader of firearms trafficking network

(x) violation of section 1 of P.L.1983, c.229 (C.2C:39-14), weapons training for illegal activities

(y) violation of section 2 of P.L.2002, c.26 (C.2C:38-2), terrorism

(z) violation of section 1 of P.L.2005, c.77 (C.2C:13-8), human trafficking

(aa) violation of N.J.S.2C:12-1 requiring purposeful or knowing conduct

(bb) violation of N.J.S.2C:12-3, terroristic threats.

(2) any conduct defined as "racketeering activity" under Title 18, U.S.C.s.1961(1)(A), (B) and (D).

b. "Person" includes any individual or entity or enterprise as defined herein holding or capable of holding a legal or beneficial interest in property.

c. "Enterprise" includes any individual, sole proprietorship, partnership, corporation, business or charitable trust, association, or other legal entity, any union or group of individuals associated in fact although not a legal entity, and it includes illicit as well as licit enterprises and governmental as well as other entities.

d. "Pattern of racketeering activity" requires:

(1) Engaging in at least two incidents of racketeering conduct one of which shall have occurred after the effective date of this act and the last of which shall have occurred within 10 years (excluding any period of imprisonment) after a prior incident of racketeering activity; and

(2) A showing that the incidents of racketeering activity embrace criminal conduct that has either the same or similar purposes, results, participants or victims or methods of commission or are otherwise interrelated by distinguishing characteristics and are not isolated incidents.

e. "Unlawful debt" means a debt:

(1) Which was incurred or contracted in gambling activity which was in violation of the law of the United States, a state or political subdivision thereof; or

(2) Which is unenforceable under state or federal law in whole or in part as to principal or interest because of the laws relating to usury.

f. "Documentary material" includes any book, paper, document, writing, drawing, graph, chart, photograph, phonorecord, magnetic or recording or video tape, computer printout, other data compilation from which information can be obtained or from which information can be translated into useable form or other tangible item.

g. "Attorney General" includes the Attorney General of New Jersey, his assistants and deputies. The term shall also include a county prosecutor or his designated assistant prosecutor if a county prosecutor is expressly authorized in writing by the Attorney General to carry out the powers conferred on the Attorney General by this chapter.

h. "Trade or commerce" shall include all economic activity involving or relating to any commodity or service.

5. N.J.S.2C:43-6 is amended to read as follows:

Sentence of imprisonment for crime; ordinary terms; mandatory terms.

2C:43-6. a. Except as otherwise provided, a person who has been convicted of a crime may be sentenced to imprisonment, as follows:

(1) In the case of a crime of the first degree, for a specific term of years which shall be fixed by the court and shall be between 10 years and 20 years;

(2) In the case of a crime of the second degree, for a specific term of years which shall be fixed by the court and shall be between five years and 10 years;

(3) In the case of a crime of the third degree, for a specific term of years which shall be fixed by the court and shall be between three years and five years;

(4) In the case of a crime of the fourth degree, for a specific term which shall be fixed by the court and shall not exceed 18 months.

b. As part of a sentence for any crime, where the court is clearly convinced that the aggravating factors substantially outweigh the mitigating factors, as set forth in subsections a. and b. of 2C:44-1, or the court finds that the aggravating factor set forth in paragraph (5) of subsection a. of N.J.S.2C:44-1 applies, the court may fix a minimum term not to exceed one-half of the term set pursuant to subsection a., or one-half of the term set pursuant to a maximum period of incarceration for a crime set forth in any statute other than this code, during which the defendant shall not be eligible for parole; provided that no defendant shall be eligible for parole at a date earlier than otherwise provided by the law governing parole.

c. A person who has been convicted under subsection b. or d. of N.J.S.2C:39-3, subsection a. of N.J.S.2C:39-4, subsection a. of section 1 of P.L.1998, c.26 (C.2C:39-4.1), subsection a., b. or c. of N.J.S.2C:39-5, subsection a. or paragraph (2) or (3) of subsection b. of section 6 of P.L.1979, c.179 (C.2C:39-7), or subsection a., b., e. or g. of N.J.S.2C:39-9, or of a crime under any of the following sections: 2C:11-3, 2C:11-4, 2C:12-1b., 2C:13-1, 2C:14-2a., 2C:14-3a., 2C:15-1, 2C:18-2, 2C:29-5, who, while in the course of committing or attempting to commit the crime, including the immediate flight therefrom, used or was in possession of a firearm as defined in 2C:39-1f., shall be sentenced to a term of imprisonment by the court. The term of imprisonment shall include the imposition of a minimum term. The minimum term shall be fixed at, or between, one-third and one-half of the sentence imposed by the court or three years, whichever is greater, or 18 months in the case of a fourth degree crime, during which the defendant shall be ineligible for parole.

The minimum terms established by this section shall not prevent the court from imposing presumptive terms of imprisonment pursuant to 2C:44-1f. (1) except in cases of crimes of the fourth degree.

A person who has been convicted of an offense enumerated by this subsection and who used or possessed a firearm during its commission, attempted commission or flight therefrom and who has been previously convicted of an offense involving the use or possession of a firearm as defined in 2C:44-3d., shall be sentenced by the court to an extended term as authorized by 2C:43-7c., notwithstanding that extended terms are ordinarily discretionary with the court.

d. The court shall not impose a mandatory sentence pursuant to subsection c. of this section, 2C:43-7c. or 2C:44-3d., unless the ground therefor has been established at a hearing. At the hearing, which may occur at the time of

sentencing, the prosecutor shall establish by a preponderance of the evidence that the weapon used or possessed was a firearm. In making its finding, the court shall take judicial notice of any evidence, testimony or information adduced at the trial, plea hearing, or other court proceedings and shall also consider the presentence report and any other relevant information.

e. A person convicted of a third or subsequent offense involving State taxes under N.J.S.2C:20-9, N.J.S.2C:21-15, any other provision of this code, or under any of the provisions of Title 54 of the Revised Statutes, or Title 54A of the New Jersey Statutes, as amended and supplemented, shall be sentenced to a term of imprisonment by the court. This shall not preclude an application for and imposition of an extended term of imprisonment under N.J.S.2C:44-3 if the provisions of that section are applicable to the offender.

f. A person convicted of manufacturing, distributing, dispensing or possessing with intent to distribute any dangerous substance or controlled substance analog under N.J.S.2C:35-5, of maintaining or operating a controlled dangerous substance production facility under N.J.S.2C:35-4, of employing a juvenile in a drug distribution scheme under N.J.S.2C:35-6, leader of a narcotics trafficking network under N.J.S.2C:35-3, or of distributing, dispensing or possessing with intent to distribute on or near school property or buses under section 1 of P.L.1987, c.101 (C.2C:35-7), who has been previously convicted of manufacturing, distributing, dispensing or possessing with intent to distribute a controlled dangerous substance or controlled substance analog, shall upon application of the prosecuting attorney be sentenced by the court to an extended term as authorized by subsection c. of N.J.S.2C:43-7, notwithstanding that extended terms are ordinarily discretionary with the court. The term of imprisonment shall, except as may be provided in N.J.S.2C:35-12, include the imposition of a minimum term. The minimum term shall be fixed at, or between, one-third and one-half of the sentence imposed by the court or three years, whichever is greater, not less than seven years if the person is convicted of a violation of N.J.S.2C:35-6, or 18 months in the case of a fourth degree crime, during which the defendant shall be ineligible for parole.

The court shall not impose an extended term pursuant to this subsection unless the ground therefor has been established at a hearing. At the hearing, which may occur at the time of sentencing, the prosecutor shall establish the ground therefor by a preponderance of the evidence. In making its finding, the court shall take judicial notice of any evidence, testimony or information adduced at the trial, plea hearing, or other court proceedings and shall also consider the presentence report and any other relevant information.

For the purpose of this subsection, a previous conviction exists where the actor has at any time been convicted under chapter 35 of this title or Title 24 of the Revised Statutes or under any similar statute of the United States, this State, or any other state for an offense that is substantially equivalent to N.J.S.2C:35-3, N.J.S.2C:35-4, N.J.S.2C:35-5, N.J.S.2C:35-6 or section 1 of P.L.1987, c.101 (C.2C:35-7).

g. Any person who has been convicted under subsection a. of N.J.S.2C:39-4 or of a crime under any of the following sections: N.J.S.2C:11-3, N.J.S.2C:11-4, N.J.S.2C:12-1b., N.J.S.2C:13-1, N.J.S.2C:14-2a., N.J.S.2C:14-3a., N.J.S.2C:15-1, N.J.S.2C:18-2, N.J.S.2C:29-5, N.J.S.2C:35-5 who, while in the course of committing or attempting to commit the crime, including the immediate flight therefrom, used or was in possession of a machine gun or assault firearm shall be sentenced to a term of imprisonment by the court. The term of imprisonment shall include the imposition of a minimum term. The minimum term shall be fixed at 10 years for a crime of the first or second degree, five years for a crime of the third degree, or 18 months in the case of a fourth degree crime, during which the defendant shall be ineligible for parole.

The minimum terms established by this section shall not prevent the court from imposing presumptive terms of imprisonment pursuant to paragraph (1) of subsection f. of N.J.S.2C:44-1 for crimes of the first degree.

A person who has been convicted of an offense enumerated in this subsection and who used or possessed a machine gun or assault firearm during its commission, attempted commission or flight therefrom and who has been previously convicted of an offense involving the use or possession of any firearm as defined in subsection d. of N.J.S.2C:44-3, shall be sentenced by the court to an extended term as authorized by subsection d. of N.J.S.2C:43-7, notwithstanding that extended terms are ordinarily discretionary with the court.

h. The court shall not impose a mandatory sentence pursuant to subsection g. of this section, subsection d. of N.J.S.2C:43-7 or N.J.S.2C:44-3, unless the ground therefor has been established at a hearing. At the hearing, which may occur at the time of sentencing, the prosecutor shall establish by a preponderance of the evidence that the weapon used or possessed was a machine gun or assault firearm. In making its finding, the court shall take judicial notice of any evidence, testimony or information adduced at the trial, plea hearing, or other court proceedings and shall also consider the presentence report and any other relevant information.

i. A person who has been convicted under paragraph (6) of subsection b. of 2C:12-1 of causing bodily injury while eluding shall be sentenced to a

term of imprisonment by the court. The term of imprisonment shall include the imposition of a minimum term. The minimum term shall be fixed at, or between one-third and one-half of the sentence imposed by the court. The minimum term established by this subsection shall not prevent the court from imposing a presumptive term of imprisonment pursuant to paragraph (1) of subsection f. of 2C:44-1.

6. Section 2 of P.L.1997, c.117 (C.2C:43-7.2) is amended to read as follows:

C.2C:43-7.2 Mandatory service of 85% of sentence for certain offenses.

2. a. A court imposing a sentence of incarceration for a crime of the first or second degree enumerated in subsection d. of this section shall fix a minimum term of 85% of the sentence imposed, during which the defendant shall not be eligible for parole.

b. The minimum term required by subsection a. of this section shall be fixed as a part of every sentence of incarceration imposed upon every conviction of a crime enumerated in subsection d. of this section, whether the sentence of incarceration is determined pursuant to N.J.S.2C:43-6, N.J.S.2C:43-7, N.J.S.2C:11-3 or any other provision of law, and shall be calculated based upon the sentence of incarceration actually imposed. The provisions of subsection a. of this section shall not be construed or applied to reduce the time that must be served before eligibility for parole by an inmate sentenced to a mandatory minimum period of incarceration. Solely for the purpose of calculating the minimum term of parole ineligibility pursuant to subsection a. of this section, a sentence of life imprisonment shall be deemed to be 75 years.

c. Notwithstanding any other provision of law to the contrary and in addition to any other sentence imposed, a court imposing a minimum period of parole ineligibility of 85 percent of the sentence pursuant to this section shall also impose a five-year term of parole supervision if the defendant is being sentenced for a crime of the first degree, or a three-year term of parole supervision if the defendant is being sentenced for a crime of the second degree. The term of parole supervision shall commence upon the completion of the sentence of incarceration imposed by the court pursuant to subsection a. of this section unless the defendant is serving a sentence of incarceration for another crime at the time he completes the sentence of incarceration imposed pursuant to subsection a., in which case the term of parole supervision shall commence immediately upon the defendant's release from incarceration. During the term of parole supervision the defen-

dant shall remain in release status in the community in the legal custody of the Commissioner of the Department of Corrections and shall be supervised by the State Parole Board as if on parole and shall be subject to the provisions and conditions of section 3 of P.L.1997, c.117 (C.30:4-123.51b).

d. The court shall impose sentence pursuant to subsection a. of this section upon conviction of the following crimes or an attempt or conspiracy to commit any of these crimes:

- (1) N.J.S.2C:11-3, murder;
 - (2) N.J.S.2C:11-4, aggravated manslaughter or manslaughter;
 - (3) N.J.S.2C:11-5, vehicular homicide;
 - (4) subsection b. of N.J.S.2C:12-1, aggravated assault;
 - (5) subsection b. of section 1 of P.L.1996, c.14 (C.2C:12-11), disarming a law enforcement officer;
 - (6) N.J.S.2C:13-1, kidnapping;
 - (7) subsection a. of N.J.S.2C:14-2, aggravated sexual assault;
 - (8) subsection b. of N.J.S.2C:14-2 and paragraph (1) of subsection c. of N.J.S.2C:14-2, sexual assault;
 - (9) N.J.S.2C:15-1, robbery;
 - (10) section 1 of P.L.1993, c.221 (C.2C:15-2), carjacking;
 - (11) paragraph (1) of subsection a. of N.J.S.2C:17-1, aggravated arson;
 - (12) N.J.S.2C:18-2, burglary;
 - (13) subsection a. of N.J.S.2C:20-5, extortion;
 - (14) subsection b. of section 1 of P.L.1997, c.185 (C.2C:35-4.1), booby traps in manufacturing or distribution facilities;
 - (15) N.J.S.2C:35-9, strict liability for drug induced deaths;
 - (16) section 2 of P.L.2002, c.26 (C.2C:38-2), terrorism;
 - (17) section 3 of P.L.2002, c.26 (C.2C:38-3), producing or possessing chemical weapons, biological agents or nuclear or radiological devices; or
 - (18) N.J.S.2C:41-2, racketeering, when it is a crime of the first degree.
- e. (Deleted by amendment, P.L.2001, c.129).

7. N.J.S.2C:44-1 is amended to read as follows:

Criteria for withholding or imposing sentence of imprisonment.

2C:44-1. a. In determining the appropriate sentence to be imposed on a person who has been convicted of an offense, the court shall consider the following aggravating circumstances:

- (1) The nature and circumstances of the offense, and the role of the actor therein, including whether or not it was committed in an especially heinous, cruel, or depraved manner;

(2) The gravity and seriousness of harm inflicted on the victim, including whether or not the defendant knew or reasonably should have known that the victim of the offense was particularly vulnerable or incapable of resistance due to advanced age, ill-health, or extreme youth, or was for any other reason substantially incapable of exercising normal physical or mental power of resistance;

(3) The risk that the defendant will commit another offense;

(4) A lesser sentence will depreciate the seriousness of the defendant's offense because it involved a breach of the public trust under chapters 27 and 30, or the defendant took advantage of a position of trust or confidence to commit the offense;

(5) There is a substantial likelihood that the defendant is involved in organized criminal activity;

(6) The extent of the defendant's prior criminal record and the seriousness of the offenses of which he has been convicted;

(7) The defendant committed the offense pursuant to an agreement that he either pay or be paid for the commission of the offense and the pecuniary incentive was beyond that inherent in the offense itself;

(8) The defendant committed the offense against a police or other law enforcement officer, correctional employee or fireman, acting in the performance of his duties while in uniform or exhibiting evidence of his authority; the defendant committed the offense because of the status of the victim as a public servant; or the defendant committed the offense against a sports official, athletic coach or manager, acting in or immediately following the performance of his duties or because of the person's status as a sports official, coach or manager;

(9) The need for deterring the defendant and others from violating the law;

(10) The offense involved fraudulent or deceptive practices committed against any department or division of State government;

(11) The imposition of a fine, penalty or order of restitution without also imposing a term of imprisonment would be perceived by the defendant or others merely as part of the cost of doing business, or as an acceptable contingent business or operating expense associated with the initial decision to resort to unlawful practices;

(12) The defendant committed the offense against a person who he knew or should have known was 60 years of age or older, or disabled; and

(13) The defendant, while in the course of committing or attempting to commit the crime, including the immediate flight therefrom, used or was in possession of a stolen motor vehicle.

b. In determining the appropriate sentence to be imposed on a person who has been convicted of an offense, the court may properly consider the following mitigating circumstances:

- (1) The defendant's conduct neither caused nor threatened serious harm;
- (2) The defendant did not contemplate that his conduct would cause or threaten serious harm;
- (3) The defendant acted under a strong provocation;
- (4) There were substantial grounds tending to excuse or justify the defendant's conduct, though failing to establish a defense;
- (5) The victim of the defendant's conduct induced or facilitated its commission;
- (6) The defendant has compensated or will compensate the victim of his conduct for the damage or injury that he sustained, or will participate in a program of community service;
- (7) The defendant has no history of prior delinquency or criminal activity or has led a law-abiding life for a substantial period of time before the commission of the present offense;
- (8) The defendant's conduct was the result of circumstances unlikely to recur;
- (9) The character and attitude of the defendant indicate that he is unlikely to commit another offense;
- (10) The defendant is particularly likely to respond affirmatively to probationary treatment;
- (11) The imprisonment of the defendant would entail excessive hardship to himself or his dependents;
- (12) The willingness of the defendant to cooperate with law enforcement authorities;
- (13) The conduct of a youthful defendant was substantially influenced by another person more mature than the defendant.

c. (1) A plea of guilty by a defendant or failure to so plead shall not be considered in withholding or imposing a sentence of imprisonment.

(2) When imposing a sentence of imprisonment the court shall consider the defendant's eligibility for release under the law governing parole, including time credits awarded pursuant to Title 30 of the Revised Statutes, in determining the appropriate term of imprisonment.

d. Presumption of imprisonment. The court shall deal with a person who has been convicted of a crime of the first or second degree, or a crime of the third degree where the court finds that the aggravating factor in paragraph (5) of subsection a. applies, by imposing a sentence of imprisonment unless, having regard to the character and condition of the defendant, it is

of the opinion that his imprisonment would be a serious injustice which overrides the need to deter such conduct by others. Notwithstanding the provisions of subsection e. of this section, the court shall deal with a person who has been convicted of theft of a motor vehicle or of the unlawful taking of a motor vehicle and who has previously been convicted of either offense by imposing a sentence of imprisonment unless, having regard to the character and condition of the defendant, it is of the opinion that his imprisonment would be a serious injustice which overrides the need to deter such conduct by others.

e. The court shall deal with a person convicted of an offense other than a crime of the first or second degree, who has not previously been convicted of an offense, without imposing a sentence of imprisonment unless, having regard to the nature and circumstances of the offense and the history, character and condition of the defendant, it is of the opinion that his imprisonment is necessary for the protection of the public under the criteria set forth in subsection a., except that this subsection shall not apply if the court finds that the aggravating factor in paragraph (5) of subsection a. applies if the person is convicted of any of the following crimes of the third degree: theft of a motor vehicle; unlawful taking of a motor vehicle; eluding; if the person is convicted of a crime of the third degree constituting use of a false government document in violation of subsection c. of section 1 of P.L.1983, c.565 (C.2C:21-2.1); if the person is convicted of a crime of the third degree constituting distribution, manufacture or possession of an item containing personal identifying information in violation of subsection b. of section 6 of P.L.2003, c.184 (C.2C:21-17.3); if the person is convicted of a crime of the third or fourth degree constituting bias intimidation in violation of N.J.S.2C:16-1; or if the person is convicted of a crime of the third degree under section 2 of P.L.1997, c.111 (C.2C:12-1.1); or if the person is convicted of a crime of the third or fourth degree under the provisions of section 1 or 2 of P.L.2007, c.341 (C.2C:33-29 or C.2C:33-30).

f. Presumptive Sentences. (1) Except for the crime of murder, unless the preponderance of aggravating or mitigating factors, as set forth in subsections a. and b., weighs in favor of a higher or lower term within the limits provided in N.J.S.2C:43-6, when a court determines that a sentence of imprisonment is warranted, it shall impose sentence as follows:

(a) To a term of 20 years for aggravated manslaughter or kidnapping pursuant to paragraph (1) of subsection c. of N.J.S.2C:13-1 when the offense constitutes a crime of the first degree;

(b) Except as provided in paragraph (a) of this subsection to a term of 15 years for a crime of the first degree;

- (c) To a term of seven years for a crime of the second degree;
- (d) To a term of four years for a crime of the third degree; and
- (e) To a term of nine months for a crime of the fourth degree.

In imposing a minimum term pursuant to 2C:43-6b., the sentencing court shall specifically place on the record the aggravating factors set forth in this section which justify the imposition of a minimum term.

Unless the preponderance of mitigating factors set forth in subsection b. weighs in favor of a lower term within the limits authorized, sentences imposed pursuant to 2C:43-7a.(1) shall have a presumptive term of life imprisonment. Unless the preponderance of aggravating and mitigating factors set forth in subsections a. and b. weighs in favor of a higher or lower term within the limits authorized, sentences imposed pursuant to 2C:43-7a.(2) shall have a presumptive term of 50 years' imprisonment; sentences imposed pursuant to 2C:43-7a.(3) shall have a presumptive term of 15 years' imprisonment; and sentences imposed pursuant to 2C:43-7a.(4) shall have a presumptive term of seven years' imprisonment.

In imposing a minimum term pursuant to 2C:43-7b., the sentencing court shall specifically place on the record the aggravating factors set forth in this section which justify the imposition of a minimum term.

(2) In cases of convictions for crimes of the first or second degree where the court is clearly convinced that the mitigating factors substantially outweigh the aggravating factors and where the interest of justice demands, the court may sentence the defendant to a term appropriate to a crime of one degree lower than that of the crime for which he was convicted. If the court does impose sentence pursuant to this paragraph, or if the court imposes a noncustodial or probationary sentence upon conviction for a crime of the first or second degree, such sentence shall not become final for 10 days in order to permit the appeal of such sentence by the prosecution.

g. Imposition of Noncustodial Sentences in Certain Cases. If the court, in considering the aggravating factors set forth in subsection a., finds the aggravating factor in paragraph a.(2), a.(5), or a.(12) and does not impose a custodial sentence, the court shall specifically place on the record the mitigating factors which justify the imposition of a noncustodial sentence.

h. Except as provided in section 2 of P.L.1993, c.123 (C.2C:43-11), the presumption of imprisonment as provided in subsection d. of this section shall not preclude the admission of a person to the Intensive Supervision Program, established pursuant to the Rules Governing the Courts of the State of New Jersey.

8. N.J.S.2C:44-3 is amended to read as follows:

Criteria for sentence of extended term of imprisonment.

2C:44-3. The court may, upon application of the prosecuting attorney, sentence a person who has been convicted of a crime of the first, second or third degree to an extended term of imprisonment if it finds one or more of the grounds specified in subsection a., b., c., or f. of this section. If the grounds specified in subsection d. are found, and the person is being sentenced for commission of any of the offenses enumerated in N.J.S.2C:43-6c. or N.J.S.2C:43-6g., the court shall sentence the defendant to an extended term as required by N.J.S.2C:43-6c. or N.J.S.2C:43-6g., and application by the prosecutor shall not be required. The court shall, upon application of the prosecuting attorney, sentence a person who has been convicted of a crime under N.J.S.2C:14-2 or N.J.S.2C:14-3 to an extended term of imprisonment if the grounds specified in subsection g. of this section are found. The court shall, upon application of the prosecuting attorney, sentence a person to an extended term if the imposition of such term is required pursuant to the provisions of section 2 of P.L.1994, c.130 (C.2C:43-6.4). The finding of the court shall be incorporated in the record.

a. The defendant has been convicted of a crime of the first, second or third degree and is a persistent offender. A persistent offender is a person who at the time of the commission of the crime is 21 years of age or over, who has been previously convicted on at least two separate occasions of two crimes, committed at different times, when he was at least 18 years of age, if the latest in time of these crimes or the date of the defendant's last release from confinement, whichever is later, is within 10 years of the date of the crime for which the defendant is being sentenced.

b. The defendant has been convicted of a crime of the first, second or third degree and is a professional criminal. A professional criminal is a person who committed a crime as part of a continuing criminal activity in concert with two or more persons, and the circumstances of the crime show he has knowingly devoted himself to criminal activity as a major source of livelihood.

c. The defendant has been convicted of a crime of the first, second or third degree and committed the crime as consideration for the receipt, or in expectation of the receipt, of anything of pecuniary value the amount of which was unrelated to the proceeds of the crime or he procured the commission of the offense by payment or promise of payment of anything of pecuniary value.

d. Second offender with a firearm. The defendant is at least 18 years of age and has been previously convicted of any of the following crimes: 2C:11-3, 2C:11-4, 2C:12-1b., 2C:13-1, 2C:14-2a., 2C:14-3a., 2C:15-1, 2C:18-2, 2C:29-5, 2C:39-4a., or has been previously convicted of an of-

fense under Title 2A of the New Jersey Statutes or under any statute of the United States or any other state which is substantially equivalent to the offenses enumerated in this subsection and he used or possessed a firearm, as defined in 2C:39-1f., in the course of committing or attempting to commit any of these crimes, including the immediate flight therefrom.

e. (Deleted by amendment, P.L.2001, c.443).

f. The defendant has been convicted of a crime under any of the following sections: N.J.S.2C:11-4, N.J.S.2C:12-1b., N.J.S.2C:13-1, N.J.S.2C:14-2a., N.J.S.2C:14-3a., N.J.S.2C:15-1, N.J.S.2C:18-2, N.J.S.2C:29-2b., N.J.S.2C:29-5, N.J.S.2C:35-5, and in the course of committing or attempting to commit the crime, including the immediate flight therefrom, the defendant used or was in possession of a stolen motor vehicle.

g. The defendant has been convicted of a crime under N.J.S.2C:14-2 or N.J.S.2C:14-3 involving violence or the threat of violence and the victim of the crime was 16 years of age or less.

For purposes of this subsection, a crime involves violence or the threat of violence if the victim sustains serious bodily injury as defined in subsection b. of N.J.S.2C:11-1, or the actor is armed with and uses a deadly weapon or threatens by word or gesture to use a deadly weapon as defined in subsection c. of N.J.S.2C:11-1, or threatens to inflict serious bodily injury.

h. (Deleted by amendment, P.L.2007, c.341).

9. This act shall take effect immediately.

Approved January 13, 2008.

CHAPTER 342

AN ACT concerning the Catastrophic Illness in Children Relief Fund and amending P.L.1987, c.370.

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

1. Section 4 of P.L.1987, c.370 (C.26:2-151) is amended to read as follows:

C.26:2-151 Catastrophic Illness in Children Relief Fund Commission.

4. There is established in the Executive Branch of the State government, the Catastrophic Illness in Children Relief Fund Commission. 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 Human Services, but notwithstanding that allocation, the commission shall be independent of any supervision or control by the department or by any board or officer thereof.

The commission shall consist of the Commissioner of Health and Senior Services, the Commissioner of Human Services, the Commissioner of Children and Families, the Commissioner of Banking and Insurance, and the State Treasurer, who shall be members ex officio, and seven public members who are residents of this State, appointed by the Governor with the advice and consent of the Senate for terms of five years, two of whom are appointed upon the recommendation of the President of the Senate, one of whom is a provider of health care services to children in this State and two of whom are appointed upon the recommendation of the Speaker of the General Assembly, one of whom is a provider of health care services to children in this State. The five public members first appointed by the Governor shall serve for terms of one, two, three, four and five years, respectively.

Each member shall hold office for the term of his appointment and until his successor has been appointed and qualified. A member of the commission is eligible for reappointment.

Each ex officio member of the commission may designate an officer or employee of his department to represent him at meetings of the commission, and each designee may lawfully vote and otherwise act on behalf of the member for whom he constitutes the designee. Any designation shall be in writing delivered to the commission and filed with the office of the Secretary of State and shall continue in effect until revoked or amended in the same manner as provided for designation.

2. Section 10 of P.L.1987, c.370 (C.26:2-157) is amended to read as follows:

C.26:2-157 Annual surcharge per employee under unemployment compensation fund for relief fund.

10. For the purpose of providing the moneys necessary to establish and meet the purposes of the fund, the commission shall establish a \$1.50 annual surcharge per employee for all employers who are subject to the New Jersey "Unemployment Compensation Law," R.S. 43:21-1 et seq. The surcharge shall be collected by the controller for the New Jersey Unemployment Compensation Fund and paid over to the State Treasurer for deposit in the fund annually as provided by the commission.

3. This act shall take effect immediately and shall apply to all assessments made on or after January 1, 2008.

Approved January 13, 2008.

CHAPTER 343

AN ACT concerning wages paid and training provided by contractors engaged in certain work on public utilities and amending and supplementing P.L.1946, c.38.

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

1. Section 16 of P.L.1946, c.38 (C.34:13B-16) is amended to read as follows:

C.34:13B-16 Definitions.

16. (a) The term "public utility" shall include autobusses; bridge companies; canal companies; electric light, heat and power companies; ferries and steamboats; gas companies; pipeline companies; railroads; sewer companies; steam and water power companies; street railways; telegraph and telephone companies; tunnel companies; water companies.

(b) The term "person" means any individual, firm, copartnership, corporation, company, association, or joint stock association; and includes any trustee, receiver, assignee, or personal representative thereof.

(c) The term "representative" means any person or persons, labor union, organization, or corporation designated either by a utility or group of utilities or by its or their employees to act or do for them.

(d) The term "collective bargaining" shall be understood to embody the philosophy of bargaining by employees through representatives of their own choosing, and shall include the right of representatives of employees' units to be consulted and to bargain upon the exceptional as well as the routine wages, hours, rules, and working conditions.

(e) The term "labor dispute" shall involve any controversy between employer and employees as to hours, wages, and working conditions. The fact that employees have amicable relations with their employers shall not preclude the existence of a dispute among them concerning their representative for collective bargaining purposes.

(f) The term "employee" shall refer to anyone in the service of another, actually engaged in or connected with the operation of any public utility throughout the State.

(g) The term "construction work on a public utility" shall, in connection with the construction of any public utility in the State, mean construction, reconstruction, installation, demolition, restoration, and alteration of facilities of the public utility. The term "construction work on a public utility" shall not be construed to include operational work, including flaggers, snow plowing, vegetation management in and around utility rights of way, mark outs, janitorial services, landscaping, leak surveyors, meter work, and miscellaneous repairs.

C.34:13B-2.1 Construction contractors, employees, OSHA certification, payment of rate for trade, craft; required on public utility work.

2. Any construction contractor contracting with a public utility to engage in construction work on a public utility shall employ on the site only employees who have successfully completed any OSHA-certified safety training required for work to be performed on that site.

Any employee employed by a construction contractor engaged in construction work on a public utility shall be paid the wage rate for their craft or trade as determined by the Commissioner of Labor and Workforce Development pursuant to the provisions of the "New Jersey Prevailing Wage Act," P.L.1963, c.150 (C.34:11-56.25 et seq.).

A construction contractor who is found by the Commissioner of Labor and Workforce Development to be in violation of the provisions of this section shall be subject to the provisions of sections 11 and 12 of P.L.1963, c.150 (C.34:11-56.35 and 34:11-56.36) which apply to an employer for a violation of P.L.1963, c.150 (C.34:11-56.25 et seq.).

Nothing in this section shall be construed to apply to any public utility affiliate not regulated under the provisions of Title 48 of the Revised Statutes.

The Commissioner of Labor and Workforce Development shall, pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), adopt regulations to effectuate the provisions of this section.

3. This act shall take effect six months after enactment and shall only apply to construction contracts entered into after the effective date of this act.

Approved January 13, 2008.

CHAPTER 344

AN ACT concerning the calculation of the reserve for uncollected taxes and amending N.J.S.40A:4-41.

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

1. N.J.S.40A:4-41 is amended to read as follows:

Computation of reserve for uncollected taxes.

40A:4-41. a. For the purpose of determining the amount of the appropriation for "reserve for uncollected taxes" required to be included in each annual budget where less than 100% of current tax collections may be and are anticipated, anticipated cash receipts shall be as set forth in the budget of the current year, and in accordance with the limitations of statute for anticipated revenue from, surplus appropriated, miscellaneous revenues and receipts from delinquent taxes.

b. Receipts from the collection of taxes levied or to be levied in the municipality, or in the case of a county for general county purposes and payable in the fiscal year shall be anticipated in an amount which is not in excess of the percentage of taxes levied and payable during the next preceding fiscal year which was received in cash by the last day of the preceding fiscal year.

c. (1) For any municipality in which tax appeal judgments have been awarded to property owners from action of the county tax board pursuant to R.S.54:3-21 et seq., or the State tax court pursuant to R.S.54:48-1 et seq. in the preceding fiscal year, the governing body of the municipality may elect to determine the reserve for uncollected taxes by using the average of the percentages of taxes levied which were received in cash by the last day of each of the three preceding fiscal years. Election of this choice shall be made by resolution, approved by a majority vote of the full membership of the governing body prior to the introduction of the annual budget pursuant to N.J.S.40A:4-5.

(2) If the amount of tax reductions resulting from tax appeal judgments of the county tax board pursuant to R.S.54:3-21 et seq., or the State tax court pursuant to R.S.54:48-1 et seq., for the previous fiscal year exceeds 0.75% of the tax levy for that previous fiscal year, the governing body of the municipality may elect to calculate the current year reserve for uncollected taxes by reducing the certified tax levy of the prior year by the amount of the tax levy adjustments resulting from those judgments. Elec-

tion of this choice shall be made by resolution, approved by a majority vote of the full membership of the governing body prior to the introduction of the annual budget pursuant to N.J.S.40A:4-5.

d. The director may promulgate rules and regulations to permit a three-year average to be used to determine the amount required for the reserve for uncollected taxes for municipalities to which subsection c. of this section is not applicable.

2. Notwithstanding the requirements of paragraph (2) of subsection c. of N.J.S.40A:4-41 (as amended by section 1 of this law), a municipality operating under the State fiscal year that has introduced, but not adopted, its budget for fiscal year 2008 prior to the effective date of P.L.2007, c.344 may adopt the resolution permitted by that paragraph prior to the adoption of the budget by the governing body.

3. This act shall take effect immediately.

Approved January 13, 2008.

CHAPTER 345

AN ACT concerning health benefits coverage for orthotic and prosthetic appliances; providing reimbursement therefor; and supplementing various parts of the statutory law.

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

C.17:48-6ff Hospital service corporation to provide benefits for orthotic and prosthetic appliances.

1. a. Every hospital service corporation contract that provides hospital or medical expense benefits and is delivered, issued, executed or renewed in this State pursuant to P.L.1938, c.366 (C.17:48-1 et seq.), 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, shall provide benefits to any person covered thereunder for expenses incurred in obtaining an orthotic or prosthetic appliance from any licensed orthotist or prosthetist, or any certified pedorthist, as determined medically necessary by the covered person's physician.

As used in this section, "orthotic appliance," "prosthetic appliance," "licensed orthotist" and "licensed prosthetist" have the meaning assigned to them in section 3 of P.L.1991, c.512 (C.45:12B-3) and "certified pedorthist" has the meaning assigned to it in subsection j. of section 18 of P.L.1991, c.512 (C.45:12B-18).

b. On and after the effective date of this act, a hospital service corporation contract shall reimburse for orthotic and prosthetic appliances at the same rate as reimbursement for such appliances under the federal Medicare reimbursement schedule.

c. The benefits shall be provided to the same extent as for any other medical condition under the contract.

d. The provisions of this section shall apply to all hospital service corporation contracts in which the hospital service corporation has reserved the right to change the premium.

C.17:48A-7cc Medical service corporation to provide benefits for orthotic and prosthetic appliances.

2. a. Every medical service corporation contract that provides hospital or medical expense benefits and is delivered, issued, executed or renewed in this State pursuant to P.L.1940, c.74 (C.17:48A-1 et seq.), 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, shall provide benefits to any person covered thereunder for expenses incurred in obtaining an orthotic or prosthetic appliance from any licensed orthotist or prosthetist, or a certified pedorthist, as determined medically necessary by the covered person's physician.

As used in this section, "orthotic appliance," "prosthetic appliance," "licensed orthotist" and "licensed prosthetist" have the meaning assigned to them in section 3 of P.L.1991, c.512 (C.45:12B-3) and "certified pedorthist" has the meaning assigned to it in subsection j. of section 18 of P.L.1991, c.512 (C.45:12B-18).

b. On and after the effective date of this act, a medical service corporation contract shall reimburse for orthotic and prosthetic appliances at the same rate as reimbursement for such appliances under the federal Medicare reimbursement schedule.

c. The benefits shall be provided to the same extent as for any other medical condition under the contract.

d. The provisions of this section shall apply to all medical service corporation contracts in which the medical service corporation has reserved the right to change the premium.

C.17:48E-35.30 Health service corporation to provide benefits for orthotic and prosthetic appliances.

3. a. Every health service corporation contract that provides hospital or medical expense benefits and is delivered, issued, executed or renewed in this State pursuant to P.L.1985, c.236 (C.17:48E-1 et al.), 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, shall provide benefits to any person covered thereunder for expenses incurred in obtaining an orthotic or prosthetic appliance from any licensed orthotist or prosthetist, or any certified pedorthist, as determined medically necessary by the covered person's physician.

As used in this section, "orthotic appliance," "prosthetic appliance," "licensed orthotist" and "licensed prosthetist" have the meaning assigned to them in section 3 of P.L.1991, c.512 (C.45:12B-3) and "certified pedorthist" has the meaning assigned to it in subsection j. of section 18 of P.L.1991, c.512 (C.45:12B-18).

b. On and after the effective date of this act, a health service corporation contract shall reimburse for orthotic and prosthetic appliances at the same rate as reimbursement for such appliances under the federal Medicare reimbursement schedule.

c. The benefits shall be provided to the same extent as for any other medical condition under the contract.

d. The provisions of this section shall apply to all health service corporation contracts in which the health service corporation has reserved the right to change the premium.

C.17B:26-2.1z Individual health insurance policies to provide benefits for orthotic and prosthetic appliances.

4. a. Every individual health insurance policy that provides hospital or medical expense benefits and is delivered, issued, executed or renewed in this State pursuant to N.J.S.17B:26-1 et seq., 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, shall provide benefits to any person covered thereunder for expenses incurred in obtaining an orthotic or prosthetic appliance from any licensed orthotist or prosthetist, or any certified pedorthist, as determined medically necessary by the covered person's physician.

As used in this section, "orthotic appliance," "prosthetic appliance," "licensed orthotist" and "licensed prosthetist" have the meaning assigned to them in section 3 of P.L.1991, c.512 (C.45:12B-3) and "certified pedorthist" has the meaning assigned to it in subsection j. of section 18 of P.L.1991, c.512 (C.45:12B-18).

b. On and after the effective date of this act, an individual health insurance policy shall reimburse for orthotic and prosthetic appliances at the same rate as reimbursement for such appliances under the federal Medicare reimbursement schedule.

c. The benefits shall be provided to the same extent as for any other medical condition under the policy.

d. The provisions of this section shall apply to all individual health insurance policies in which the insurer has reserved the right to change the premium.

C.17B:27-46.1ff Group health insurance policies to provide benefits for orthotic and prosthetic appliances.

5. a. Every group health insurance policy that provides hospital or medical expense benefits and is delivered, issued, executed or renewed in this State pursuant to N.J.S.17B:27-26 et seq., 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, shall provide benefits to any person covered thereunder for expenses incurred in obtaining an orthotic or prosthetic appliance from any licensed orthotist or prosthetist, or any certified pedorthist, as determined medically necessary by the covered person's physician.

As used in this section, "orthotic appliance," "prosthetic appliance," "licensed orthotist" and "licensed prosthetist" have the meaning assigned to them in section 3 of P.L.1991, c.512 (C.45:12B-3) and "certified pedorthist" has the meaning assigned to it in subsection j. of section 18 of P.L.1991, c.512 (C.45:12B-18).

b. On and after the effective date of this act, a group health insurance policy shall reimburse for orthotic and prosthetic appliances at the same rate as reimbursement for such appliances under the federal Medicare reimbursement schedule.

c. The benefits shall be provided to the same extent as for any other medical condition under the policy.

d. The provisions of this section shall apply to all group health insurance policies in which the insurer has reserved the right to change the premium.

C.17B:27A-7.13 Individual health benefits plans to provide benefits for orthotic and prosthetic appliances.

6. a. Every individual health benefits plan that provides hospital or medical expense benefits and is delivered, issued, executed or renewed in this State pursuant to P.L.1992, c.161 (C.17B:27A-2 et al.), or approved for issuance or renewal in this State by the Commissioner of Banking and In-

surance on or after the effective date of this act, shall provide benefits to any person covered thereunder for expenses incurred in obtaining an orthotic or prosthetic appliance from any licensed orthotist or prosthetist, or any certified pedorthist, as determined medically necessary by the covered person's physician.

As used in this section, "orthotic appliance," "prosthetic appliance," "licensed orthotist" and "licensed prosthetist" have the meaning assigned to them in section 3 of P.L.1991, c.512 (C.45:12B-3) and "certified pedorthist" has the meaning assigned to it in subsection j. of section 18 of P.L.1991, c.512 (C.45:12B-18).

b. On and after the effective date of this act, an individual health benefits plan shall reimburse for orthotic and prosthetic appliances at the same rate as reimbursement for such appliances under the federal Medicare reimbursement schedule.

c. The benefits shall be provided to the same extent as for any other medical condition under the health benefits plan.

d. The provisions of this section shall apply to all individual health benefits plans in which the carrier has reserved the right to change the premium.

C.17B:27A-19.17 Small employer health benefits plans to provide benefits for orthotic and prosthetic appliances.

7. a. Every small employer health benefits plan that provides hospital or medical expense benefits and 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 by the Commissioner of Banking and Insurance on or after the effective date of this act, shall provide benefits to any person covered thereunder for expenses incurred in obtaining an orthotic or prosthetic appliance from any licensed orthotist or prosthetist, or any certified pedorthist, as determined medically necessary by the covered person's physician.

As used in this section, "orthotic appliance," "prosthetic appliance," "licensed orthotist" and "licensed prosthetist" have the meaning assigned to them in section 3 of P.L.1991, c.512 (C.45:12B-3) and "certified pedorthist" has the meaning assigned to it in subsection j. of section 18 of P.L.1991, c.512 (C.45:12B-18).

b. On and after the effective date of this act, a small employer health benefits plan shall reimburse for orthotic and prosthetic appliances at the same rate as reimbursement for such appliances under the federal Medicare reimbursement schedule.

c. The benefits shall be provided to the same extent as for any other medical condition under the health benefits plan.

d. The provisions of this section shall apply to all small employer health benefits plans in which the carrier has reserved the right to change the premium.

C.26:2J-4.31 Health maintenance organizations to provide benefits for orthotic and prosthetic appliances.

8. a. A certificate of authority to establish and operate a health maintenance organization in this State pursuant to P.L.1973, c.337 (C.26:2J-1 et seq.) shall not be issued or continued by the Commissioner of Health and Senior Services on or after the effective date of this act unless the health maintenance organization provides health care services for any person covered thereunder for expenses incurred in obtaining an orthotic or prosthetic appliance from any licensed orthotist or prosthetist, or any certified pedorthist, as determined medically necessary by the covered person's physician.

As used in this section, "orthotic appliance," "prosthetic appliance," "licensed orthotist" and "licensed prosthetist" have the meaning assigned to them in section 3 of P.L.1991, c.512 (C.45:12B-3) and "certified pedorthist" has the meaning assigned to it in subsection j. of section 18 of P.L.1991, c.512 (C.45:12B-18).

b. On and after the effective date of this act, a health maintenance organization shall reimburse for orthotic and prosthetic appliances at the same rate as reimbursement for such appliances under the federal Medicare reimbursement schedule.

c. The benefits shall be provided to the same extent as for any other medical condition under the enrollee agreement.

d. The provisions of this section shall apply to all enrollee agreements in which the health maintenance organization has reserved the right to change the schedule of charges.

C.52:14-17.29m State health benefits plan to provide benefits for orthotic and prosthetic appliances.

9. The State Health Benefits Commission shall ensure that every contract purchased by the commission on or after the effective date of this act that provides hospital or medical expense benefits, shall provide benefits to any person covered thereunder for expenses incurred in obtaining an orthotic or prosthetic appliance from any licensed orthotist or prosthetist, or any certified pedorthist, as determined medically necessary by the covered person's physician.

As used in this section, "orthotic appliance," "prosthetic appliance," "licensed orthotist" and "licensed prosthetist" have the meaning assigned to them in section 3 of P.L.1991, c.512 (C.45:12B-3) and "certified pedorthist" has the meaning assigned to it in subsection j. of section 18 of P.L.1991, c.512 (C.45:12B-18).

b. On and after the effective date of this act, a contract purchased by the commission shall reimburse for orthotic and prosthetic appliances at the same rate as reimbursement for such appliances under the federal Medicare reimbursement schedule.

c. The benefits shall be provided to the same extent as for any other medical condition under the contract.

10. This act shall take effect on the 90th day after enactment.

Approved January 13, 2008.

CHAPTER 346

AN ACT allowing tax credits to certain businesses for certain capital investments in urban transit hubs, supplementing Title 34 of the Revised Statutes.

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

C.34:1B-207 Short title.

1. This act shall be known and may be cited as the "Urban Transit Hub Tax Credit Act."

C.34:1B-208 Definitions relative to the "Urban Transit Hub Tax Credit Act."

2. As used in this act:

"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.

"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: (i) the site preparation and construction, repair, renovation, improvement, equipping, or furnishing of a

building, structure, facility or improvement to real property; and (ii) 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.

“Commission” means the New Jersey Commerce Commission.

“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 is exempt from local property taxation. 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 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 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.

“Partnership” means an entity classified as a partnership for federal income tax purposes.

“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.

“Urban transit hub” means 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, delineated by the commission 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 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.

C.34:1B-209 Credit for qualified business facilities, conditions for eligibility; allowance.

3. a. (1) A business, upon application to and approval from the New Jersey Commerce Commission, shall be allowed a credit of 100 percent of its capital investment, made after the effective date of P.L.2007, c.346 (C.34:1B-207 et seq.) but prior to its submission of documentation pursuant to subsection c. of this section, in a qualified business facility within an eligible municipality, pursuant to the restrictions and requirements of this section.

(2) A business, other than a tenant eligible pursuant to paragraph (3) of this subsection, shall make or acquire capital investments totaling not less than \$75,000,000 in a qualified business facility, at which the business shall employ not fewer than 250 full-time employees to be eligible for a credit under this section. A business that acquires a qualified business facility shall also be deemed to have acquired the capital investment made or acquired by the seller.

(3) A business that is a tenant in a qualified business facility, the owner of which has made or acquired capital investments in the facility totaling not less than \$75,000,000, shall occupy a leased area of the qualified business facility that represents at least \$25,000,000 of the capital investment in the facility at which the tenant business shall employ not fewer than 250 full-time employees 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.

(4) A business shall not be allowed tax credits under this section if the business participates in a business employment incentive grant relating to the same capital and employees that qualify the business for this credit, or if the business receives assistance pursuant to P.L.1996, c.25 (C.34:1B-112 et seq.), or if the business is a licensee as defined pursuant to section 33 of P.L.1977, c.110 (C.5:12-33). A business that is allowed a tax credit under this section shall not be eligible for incentives authorized pursuant to P.L.2002, c.43 (C.52:27BBB-1 et al.).

(5) Full-time employment for an accounting or privilege period shall be determined as the average of the monthly full-time employment for the period.

(6) The capital investment of the owner of a qualified business facility is that percentage of the capital investment made or acquired by the owner of the building that the percentage of net leasable area of the qualified business facility not leased to tenants is of the total net leasable area of the qualified business facility.

b. A business shall apply for the credit within five years after the effective date of P.L.2007, c.346 (C.34:1B-207 et seq.), and a business shall submit its documentation for approval of its credit amount within eight years after the effective date of P.L.2007, c.346 (C.34:1B-207 et seq.).

c. (1) The amount of credit allowed shall, except as otherwise provided, be equal to the capital investment made by the business, or the capital investment represented by the business' leased area, and shall be taken over a 10-year period, at the rate of one-tenth of the total amount of the business' credit for each tax accounting or privilege period of the business, beginning with the tax period in which the business is first approved by the commission as having met the investment capital and employment qualifications, subject to any reduction or disqualification as provided by subsection d. of this section as determined by annual review by the commission. In conducting its annual review, the commission may require a business to submit any information determined by the commission to be necessary and relevant to its review.

The credit amount for any tax period ending after the date eight years after the effective date of P.L.2007, c.346 (C.34:1B-207 et seq.) during which the documentation of a business' credit amount remains unapproved shall be forfeited, although credit amounts for the remainder of the years of the 10-year credit period shall remain available to it.

The amount of credit allowed for a tax period to a business that is a tenant in a qualified business facility shall not exceed the business' total lease payments for occupancy of the qualified business facility for the tax period.

(2) A business that is a partnership shall not be allowed a credit under this section directly, but the amount of credit of an owner of a business shall be determined by allocating to each owner of the partnership that proportion of the credit of the business that is equal to the owner of the partnership's share, whether or not distributed, of the total distributive income or gain of the partnership for its tax period ending within or with the owner's tax period, or that proportion that is allocated by an agreement, if any, among the owners of the partnership that has been provided to the Director of the Division of Taxation in the Department of the Treasury by such time and accompanied by such 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 54:18A-3), pursuant to section 1 of P.L.1950, c.231 (C.17:32-15), pursuant to N.J.S.17B:23-5, or pursuant to the "New Jersey Gross Income Tax Act," N.J.S.54A:1-1 et seq.

d. (1) If, in any tax period, fewer than 200 full-time employees of the business at the qualified business facility are employed in new full-time positions, the amount of the credit otherwise determined pursuant to final calculation of the award of tax credits pursuant to subsection c. of this section shall be reduced by 20 percent for that tax period and each subsequent tax period until the first period for which documentation demonstrating the restoration of the 200 full-time employees employed in new full-time positions at the qualified business facility has been reviewed and approved by the commission, for which tax period and each subsequent tax period the full amount of the credit shall be allowed; provided, however, that there shall be no reduction if a business relocates to an urban transit hub from another location or locations in the same municipality. For the purposes of this paragraph, a "new full-time position" means a position created by the business at the qualified business facility that did not previously exist in this State.

(2) If, in any tax period, the business reduces the total number of full-time employees in its Statewide workforce by more than 10 percent from the number of full-time employees in its Statewide workforce in the last tax accounting or privilege period prior to the effective date of P.L.2007, c.346 (C.34:1B-207 et seq.), or in the last tax accounting or privilege period prior to the credit amount approval under this section, whichever is greater, 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' Statewide workforce to the threshold levels required by this paragraph has been reviewed and approved by the commission, for which tax period and each subsequent tax period the full amount of the credit shall be allowed.

(3) If, in any tax period, the number of full-time employees employed by the business at the qualified business facility located in an urban transit hub within an eligible municipality drops below 250 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 250 has been reviewed and approved by the commission, for which tax period and each subsequent tax period the full amount of the credit shall be allowed.

(4) (i) If the qualified business facility is sold in whole or in part during the 10-year 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 tenants shall remain unaffected.

(ii) If a tenant subleases its tenancy in whole or in part during the 10-year eligibility period the new tenant shall not acquire the credit of the sublessor, and the sublessor tenant shall forfeit all credits for the tax period of its sublease and all subsequent tax periods.

e. The Executive Director of the New Jersey Commerce Commission, in consultation with the Director of the Division of Taxation in the Department of the Treasury, shall adopt rules in accordance with the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.) as are necessary to implement this act, including but not limited to: examples of and the determination of capital investment; the enumeration of eligible municipalities; specific delineation of urban transit hubs; the determination of the limits, if any, on the expense or type of furnishings that may constitute capital improvements; the promulgation of procedures and forms necessary to apply for a credit; and provisions for credit applicants to be charged an initial application fee, and ongoing service fees, to cover the administrative costs related to the credit.

4. This act shall take effect immediately.

Approved January 13, 2008.

CHAPTER 347

AN ACT concerning electronic waste management, and amending P.L.1987, c.102, and supplementing Title 13 of the Revised Statutes.

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

C.13:1E-99.94 Short title.

1. Sections 1 through 21 of P.L.2007, c.347 (C.13:1E-99.94 et seq.) shall be known and may be cited as the "Electronic Waste Management Act."

C.13:1E-99.95 Definitions relative to electronic waste management.

2. As used in sections 1 through 21 of P.L.2007, c.347 (C.13:1E-99.94 et seq.):

"Brand" means symbols, words, or marks that identify a covered electronic device, rather than any of its components.

"Cathode ray tube" means a vacuum tube or picture tube used to convert an electronic signal into a visual image.

“Computer” means an electronic, magnetic, optical, electrochemical, or other high-speed data processing device performing logical, arithmetic, or storage function, and may include both a computer central processing unit and a monitor, but the term shall not include an automated typewriter or typesetter, a portable handheld calculator, a portable digital assistant, or other similar device.

“Consumer” means a person who purchases a covered electronic device in a transaction that is a retail sale.

“Covered electronic device” means a desktop or personal computer, computer monitor, portable computer, or television sold to a consumer. A “covered electronic device” shall not include any of the following: (1) an electronic device that is a part of a motor vehicle or any component part of a motor vehicle assembled by, or for, a vehicle manufacturer or franchised dealer, including replacement parts for use in a motor vehicle; (2) an electronic device that is functionally or physically a part of a larger piece of equipment designed and intended for use in an industrial, commercial, or medical setting, including diagnostic, monitoring, or control equipment; (3) an electronic device that is contained within a clothes washer, clothes dryer, refrigerator, refrigerator and freezer, microwave oven, conventional oven or range, dishwasher, room air conditioner, dehumidifier, or air purifier; or (4) a telephone of any type unless it contains a video display area greater than four inches measured diagonally.

“Department” means the Department of Environmental Protection.

“Manufacturer” means any person: (1) who manufactures or manufactured covered electronic devices under a brand that it owns or owned or is or was licensed to use, other than a license to manufacture covered electronic devices for delivery exclusively to or at the order of the licensor; (2) who sells or sold covered electronic devices manufactured by others under a brand that the seller owns or owned or is or was licensed to use, other than a license to manufacture covered electronic devices for delivery exclusively to or at the order of the licensor; (3) who manufactures or manufactured covered electronic devices without affixing a brand; (4) who manufactures or manufactured covered electronic devices to which the person affixes or affixed a brand that the person neither owns or owned nor is or was licensed to use; or (5) for whose account covered electronic devices manufactured outside the United States are or were imported into the United States, provided however, if, at the time such covered electronic devices are or were imported into the United States, another person has registered as the manufacturer of the brand of the covered electronic devices

pursuant to subsection b. of section 9 of this act, then paragraph (5) of this definition shall not apply.

“Monitor” means a separate video display component of a computer, whether sold separately or together with a computer central processing unit and computer box, and includes a cathode ray tube, liquid crystal display, gas plasma, digital light processing, or other image projection technology, greater than four inches measured diagonally, and its case, interior wires and circuitry, cable to the central processing unit, and power cord.

“Obligation” means the return share in weight, identified for an individual manufacturer, as determined by the department pursuant to subsection a. of section 12 of this act.

“Orphan device” means a covered electronic device for which no manufacturer can be identified, or for which the original manufacturer no longer exists.

“Person” means an individual, trust firm, joint stock company, business concern, and corporation, including, but not limited to, a government department, partnership, limited liability company, or association.

“Portable computer” means a computer and video display greater than four inches in size that can be carried as one unit by an individual, including a laptop computer.

“Program year” means a full calendar year beginning on or after January 1, 2010.

“Purchase” means the taking, by sale, of title in exchange for consideration.

“Recycling” means any process by which materials which would otherwise become solid waste are collected, separated or processed and returned to the economic mainstream in the form of raw materials or products. “Recycling” shall not include energy recovery or energy generation by means of incinerating electronic waste whether apart or in combination with other wastes.

“Registrant” means a manufacturer of covered electronic devices that is in full compliance with the requirements of this act.

“Retail sales” means the sale of covered electronic devices through sales outlets, via the Internet, mail order, or other means, whether or not the retailer has a physical presence in this State.

“Retailer” means a person who owns or operates a business that sells new covered electronic devices in this State by any means to a consumer.

“Return share” means the proportion of covered electronic devices for which an individual manufacturer is responsible to collect, transport, and

recycle, as determined by the department pursuant to subsection a. of section 12 of this act.

“Return share in weight” means the total weight of covered electronic devices for which an individual manufacturer is responsible to collect, transport, and recycle, as determined by the department pursuant to subsection a. of section 12 of this act.

“Sale” or “sell” means any transfer for consideration of title, including, but not limited to, transactions conducted through sales outlets, catalogs, or the Internet, or any other, similar electronic means, and excluding leases.

“Television” means a stand-alone display system containing a cathode ray tube or any other type of display primarily intended to receive video programming via broadcast, having a viewable area greater than four inches measured diagonally, able to adhere to standard consumer video formats and having the capability of selecting different broadcast channels and support sound capability.

“Video display” means an output surface having a viewable area greater than four inches when measured diagonally that displays moving graphical images or a visual representation of image sequences or pictures, showing a number of quickly changing images on a screen in fast succession to create the illusion of motion, including, if applicable, a device that is an integral part of the display and cannot be easily removed from the display by the consumer that produces the moving image on the screen. A “video display” typically uses a cathode ray tube, liquid crystal display, gas plasma, digital light processing, or other image projection technology.

C.13:1E-99.96 Registration for television manufacturers; fee, recycling program.

3. a. Beginning on January 1, 2009, and each January 1 thereafter, each manufacturer of televisions offered for sale for delivery in this State shall register with the department and pay a registration fee of \$5,000. Each television manufacturer’s registration and renewal shall include a list of all of the brands under which its televisions are sold.

b. Each registered television manufacturer shall submit an annual renewal of its registration to the department and pay to the department a registration renewal fee of \$5,000 by January 1 of each program year. Each television manufacturer’s renewal shall include an annual report.

c. In addition to reporting all brands under which its televisions are sold, regardless of whether the brand is owned or licensed, the manufacturer’s annual report shall include the total weight of all televisions sold in the State in the previous program year. In lieu of providing this information, a registered television manufacturer may request the department to

calculate the total weight of new televisions sold in the State by using prorated national sales data based on State population.

d. A registered television manufacturer shall inform the department, in writing, as soon as it becomes aware that it will cease selling televisions in the State.

e. By January 1, 2010, each registered television manufacturer shall participate in a Statewide used television recycling program to implement and finance the collection, transportation, and recycling of used televisions. The Statewide recycling program shall accept all types and all brands of used televisions.

f. A registered television manufacturer or group of registered television manufacturers may conduct its own collection, transportation, and used television recycling program. The recycling program shall accept all types and all brands of used televisions. The registered television manufacturer or group of manufacturers shall submit a report to the department annually by January 30, beginning the year after the program is initiated. The report shall include the total weight of used televisions collected from consumers in this State by the manufacturer or group of manufacturers during the previous program year and documentation verifying collection and recycling of these used televisions.

C.13:1E-99.97 Payment to department for costs incurred by recycler.

4. a. Beginning January 1, 2010, each registered television manufacturer shall pay to the department its portion of the reasonable costs incurred by an authorized recycler for the collection, transportation and recycling of used televisions based on the television manufacturer's market share multiplied by the total, in pounds, of used televisions collected under the used television recycling and management programs pursuant to subsection b. of this section.

(1) The department may suspend the registration of any registered television manufacturer in arrears for more than 90 days.

(2) A television manufacturer that has had its registration suspended pursuant to this subsection shall demonstrate that all past due payments and a penalty equivalent to 10% of the past due payments have been paid to the department prior to seeking reinstatement of its registration.

b. By July 1, 2009, the department shall establish criteria for county or municipal used television recycling and management programs. The county or municipality shall maintain records of the volume of used televisions collected and recycled and report to the department the name and address of each authorized recycler and the number of pounds of used televisions delivered to each authorized recycler. The department shall make

payments to the county or municipality, as the case may be, based upon the costs incurred by each county and municipality for its used television recycling and management program.

In those instances where a county or municipal used television recycling and management program has not been adopted, the department shall establish a used television recycling and management program. The department shall identify, and enter into agreements with, authorized recyclers who shall be authorized to accept used televisions from county and municipal collection sites as designated pursuant to sections 3 and 6 of P.L.1987, c.102 (C.13:1E-99.13 and 13:1E-99.16). The department shall require the county or municipality to maintain records of the volume of used televisions collected by each authorized recycler. The department may make payments for the collection and recycling of used televisions to an authorized recycler upon receipt of a completed and verified invoice submitted to the department by the authorized recycler in the form and manner determined by the department. The department may determine a per unit payment for the recycling and proper disposal of a used television pursuant to the program.

For the purposes of this subsection, "authorized recycler" means a person who: (1) engages in the manual or mechanical separation of covered electronic devices to recover components and commodities contained therein for the purpose of re-use or recycling; or (2) changes the physical or chemical composition of a covered electronic device by deconstructing, size reduction, crushing, cutting, sawing, compacting, shredding, or refining for the purpose of segregating components, and for the purpose of recovering or recycling those components, and who arranges for the transport of those components to an end user.

Covered electronic devices shall not be sent to prisons for recycling either directly or through intermediaries and nothing in this section shall be construed to allow for the recycling of covered electronic devices by prisoners. Any person committed to a jail, prison, or other institution for the detention of persons charged with or convicted of an offense shall be disqualified from being an authorized recycler.

C.13:1E-99.98 Used Television Recycling and Management Program Fund; purposes.

5. a. The Used Television Recycling and Management Program Fund is established as a nonlapsing, revolving fund in the Department of the Treasury. The fund shall be administered by the Department of Environmental Protection and credited with all registration and renewal fees paid pursuant to section 3 of this act and all market share payments made pursuant to section 4 of this act. Interest received on moneys in the fund shall be credited to the fund.

b. All available moneys in the Used Television Recycling and Management Program Fund shall be appropriated annually solely for the following purposes and no others:

(1) To make payments to counties or municipalities based upon the costs incurred by each county and municipality for its used television recycling and management program;

(2) To provide funding for a State used television recycling and management program, including the administrative expenses thereof; and

(3) To make payments to authorized recyclers for the recycling of used televisions.

C.13:1E-99.99 Noncompliance by manufacturer, prohibition from sales; TV exception.

6. a. Any manufacturer that is not in compliance with all financial and other requirements of this act shall be prohibited from selling or offering for sale in this State a covered electronic device.

b. Beginning on January 1, 2010, it shall be unlawful for any person to sell or offer for sale in this State a new covered electronic device from a manufacturer that is not in full compliance with the requirements of this act.

c. The department shall maintain a list of all manufacturers in compliance with the requirements of this act and shall post the list on the department's Internet website.

d. Sellers of products in or into the State shall consult the list established by the department pursuant to subsection c. of this section prior to selling covered electronic devices in this State. A seller shall be considered to have complied with this responsibility if, on the date that the product was ordered from the manufacturer or its agent, the manufacturer was listed as being in compliance on the aforementioned website.

The provisions of this section shall not apply to any manufacturer or retailer of televisions offered for sale for delivery in this State.

C.13:1E-99.100 Labeling of electronic device required; TV exception.

7. Beginning on January 1, 2009, a manufacturer or retailer may not sell or offer for sale a covered electronic device in this State unless the covered electronic device is labeled with the manufacturer's brand, and the label is permanently affixed and readily visible.

The provisions of this section shall not apply to any manufacturer or retailer of televisions offered for sale for delivery in this State.

C.13:1E-99.101 Compliance with Directive 2002/95/EC required.

8. Beginning on January 1, 2010, it shall be unlawful for any person to sell or offer for sale in this State any new covered electronic devices,

including televisions, unless those products comply with the applicable provisions of Directive 2002/95/EC of the European Union, adopted by the European Parliament and the Council of the European Union on January 27, 2003, as implemented and interpreted through the decisions of the Technical Adaptation Committee established by Directive 2002/95/EC.

C.13:1E-99.102 Collection of sampling information by department; registration; fee; TV exception.

9. a. (1) By January 30, 2011, and by each January 30 thereafter, the department shall:

(a) have completed an auditable, statistically significant sampling of covered electronic devices collected from consumers in this State by the department during the previous program year. The sampling information collected shall consist of a list of brands of covered electronic devices and the weight of covered electronic devices that are identified for each brand. The department's sampling shall be conducted in accordance with a procedure established by the department and may be conducted by a third-party organization including a recycler, to be determined by the department. The department may, at its discretion, be present at the sampling and may audit the methodology and the results of the third-party organization. The costs associated with the sampling shall be recovered from the fees paid by manufacturers to the department; and

(b) determine the total weight of covered electronic devices, including orphan devices, collected from consumers in this State by the department during the previous program year.

(2) If a manufacturer or group of manufacturers conducts its own collection, transportation, and recycling program for covered electronic devices, the manufacturer or group of manufacturers shall submit a report to the department annually by January 30, beginning the year after the program is initiated. The report shall include:

(a) the results of an auditable, statistically significant sampling of covered electronic devices collected from consumers in this State by the manufacturer or group of manufacturers during the previous program year. The sampling information reported shall consist of a list of brands of covered electronic devices and the weight of covered electronic devices that are identified for each brand; and

(b) the total weight of covered electronic devices, including orphan devices, collected from consumers in this State by the manufacturer or group of manufacturers during the previous program year and documentation verifying collection and recycling of such devices.

b. By February 1, 2009, and each January 1 thereafter, each manufacturer of covered electronic devices offered for sale for delivery in this State shall register with the department and pay a registration fee of \$5,000. Any manufacturer to whom the department provides notification of a return share and return share in weight pursuant to subsection a. of section 12 of this act and who has not previously filed a registration shall file a registration with the department within 30 days of receiving such notification from the department. Each manufacturer's registration and renewal shall include a list of all of the manufacturer's brands of covered electronic devices.

The provisions of this section shall not apply to any manufacturer or retailer of televisions offered for sale for delivery in this State.

C.13:1E-99.103 Requirements for manufacturer provided with return share in weight greater than zero, TV exception.

10. a. By June 1, 2009, each manufacturer to whom the department provides, by April 2, 2009, a return share in weight that is greater than zero shall:

(1) submit an additional fee to the department based on its return share in weight of covered electronic devices. The fee shall be calculated using the following formula: the manufacturer's return share in weight multiplied by no more than \$0.50 per pound; or

(2) submit a plan to the department to collect, transport and recycle covered electronic devices.

b. Each manufacturer to whom the department provides, by February 15, 2011 or by February 15 of any year thereafter, a return share in weight that is greater than zero shall, by March 15 of that year, comply with the requirements of paragraph (1) or (2) of subsection a. of this section.

c. An individual manufacturer submitting a plan in lieu of payment of the fee set forth in subsection a. of this section shall collect, transport, and recycle its return share in weight.

d. A group of manufacturers jointly submitting a plan in lieu of payment of the fee set forth in subsection a. of this section shall collect, transport, and recycle the sum of the obligations of each participating manufacturer.

e. Every plan shall be filed with a manufacturer's annual registration, and shall include:

(1) Methods that will be used to collect the covered electronic devices including proposed collection services;

(2) The processes and methods that will be used to recycle recovered covered electronic devices including a description of the recycling processes that will be used, including the name and location of all recyclers to be directly utilized by the plan;

(3) Means that will be utilized to publicize the collection services, including specification of a website or toll-free telephone number that provides information about the manufacturer's program in sufficient detail to allow consumers to learn how to return their covered electronic devices for recycling; and

(4) The intention of the registrant to fulfill its obligation through operation of its own plan, either individually or with other manufacturers.

Recovered covered electronic devices shall not be sent to prisons for recycling either directly or through intermediaries and nothing in this section shall be construed to allow for the recycling of covered electronic devices by prisoners. Any person committed to a jail, prison, or other institution for the detention of persons charged with or convicted of an offense shall be disqualified from engaging in the manual or mechanical separation of covered electronic devices to recover components and commodities contained therein for the purpose of re-use or recycling.

f. Before the fee set forth in subsection a. of this section may be waived by the department, the plan shall be reviewed to determine its compliance with subsection e. of this section and approved by the department. Upon approval of the plan by the department, the payment of the annual fee set forth in subsection a. of this section shall be waived. The department may reject the plan, in whole or in part, and may impose additional requirements as a condition of approval.

g. If a manufacturer fails to comply with all the conditions and terms of an approved plan, the manufacturer shall be required to submit the following:

(1) A payment to the department to cover the cost of collecting, transporting, and recycling the unmet portion of its obligation. The payment shall be equal to the following formula: the quantity of the outstanding portion, in pounds, multiplied by no more than \$0.50; and

(2) A penalty in the form of a payment equal to the cost of collecting, transporting, and recycling 10% of the manufacturer's total obligation.

h. Manufacturers that collect, transport, and recycle covered electronic devices in excess of their obligation may sell credits to another registrant or apply that excess to the following year's recycling obligation.

i. Whenever more than one person is within the definition of manufacturer of a brand of a covered electronic device pursuant to section 2 of this act, any one or more such persons may assume responsibility for and satisfy the obligations of a manufacturer under this act with respect to covered electronic devices bearing that brand. In the event that no person assumes responsibility for and satisfies the obli-

gations of a manufacturer under this act with respect to covered electronic devices bearing that brand, the department may consider any one or more persons within such definition to be the manufacturer of that brand.

j. The obligations under this act for a manufacturer who manufactures or manufactured covered electronic devices, or who sells or sold covered electronic devices manufactured by others, under a brand that was previously used by a different person in the manufacture of covered electronic devices shall extend to all covered electronic devices bearing that brand.

k. Nothing in this act is intended to exempt any person from liability the person would otherwise have under applicable law.

l. The provisions of this section shall not apply to any manufacturer or retailer of televisions offered for sale for delivery in this State.

C.13:1E-99.104 Information provided by retailer relative to recycling, TV exception.

11. a. A retailer shall provide information provided by the department that describes where and how to recycle the covered electronic device and opportunities and locations for the collection or return of the device, through the use of a toll-free telephone number and website, information included in the packaging, or information provided accompanying the sale of the covered electronic device. This information shall be provided in clear written form in English and any other languages deemed to be primary languages by the State Department of Education.

b. Beginning January 1, 2010, a retailer shall only sell products from registrants. Retailers shall consult the list posted on the department's Internet website pursuant to section 6 of this act prior to selling covered electronic devices in this State. A retailer shall be considered to have complied with this responsibility if on the date that the product was ordered from the manufacturer or its agent, the manufacturer was listed as being in compliance on the aforementioned website.

The provisions of this section shall not apply to any manufacturer or retailer of televisions offered for sale for delivery in this State.

C.13:1E-99.105 Determination of return share for manufacturer; TV exception.

12. a. (1) The department shall determine the return share for each program year for each manufacturer by dividing the weight of covered electronic devices identified for each manufacturer by the total weight of covered electronic devices identified for all manufacturers. For the first program year, the return share of covered electronic devices identified for each manufacturer

shall be based on the best available public return share data from the United States, including data from other states, for covered electronic devices from consumers. For the second and each subsequent program year, the return share of covered electronic devices identified for each manufacturer shall be based on the most recent samplings of covered electronic devices conducted in this State pursuant to subsection a. of section 9 of this act.

(2) The department shall determine the return share in weight for each program year for each manufacturer for whom a return share is determined pursuant to paragraph (1) of this subsection by multiplying the return share for each such manufacturer by the total weight in pounds of covered electronic devices, including orphan devices, collected from consumers the previous program year. For the first program year, the total weight in pounds of covered electronic devices shall be based on the best available public weight data from the United States, including data from other states, for covered electronic devices from consumers. For the second and each subsequent program year, the total weight in pounds of covered electronic devices shall be based on the total weight of covered electronic devices, including orphan devices, determined by the department pursuant to subsection a. of section 9 of this act.

(3) By April 2, 2010, the department shall provide each manufacturer for whom a return share is determined pursuant to paragraph (1) of this subsection with its return share and its return share in weight for the first program year. Annually thereafter, by February 15, beginning in 2012, the department shall provide each manufacturer for whom a return share is determined pursuant to paragraph (1) of this subsection with its return share and its return share in weight for the second and subsequent program years.

b. The department shall receive fees from manufacturers as provided in section 10 of this act.

c. (1) The department shall organize, administer, and ensure that at least one electronics collection opportunity is available in each county throughout the State and in such a manner as to be convenient, to the maximum extent practicable and feasible, to all consumers in the county.

(2) The department shall ensure that collection sites do not place limits on the number of covered electronic devices permitted for drop-off by consumers.

d. (1) Beginning on April 1, 2010, the department shall maintain a list of registrants and the brands reported in each manufacturer's registration, and post the list on the department's Internet website that is updated at least once a month.

(2) The department shall organize and coordinate public education and outreach.

e. The department shall prepare a plan every three years that: (1) establishes per-capita collection and recycling goals; and (2) identifies any necessary State actions to expand collection opportunities to achieve the per-capita collection and recycling goals. The plan shall be posted on the department's Internet website and submitted, pursuant to section 2 of P.L.1991, c.164 (C.52:14-19.1), to the Legislature.

f. The department shall prepare an annual report, which shall be posted on the department's Internet website and submitted, pursuant to section 2 of P.L.1991, c.164 (C.52:14-19.1), to the Legislature.

The annual report shall include the following:

(1) A list of all parties that the department has designated as approved to receive payments for collection, transportation, or recycling, the amount of payments it has made to those parties, and the purpose of those payments;

(2) The total weight of covered electronic devices collected in the State the previous calendar year;

(3) Progress toward achieving the overall annual total recovery and recycling goals described in the plan prepared pursuant to subsection e. of this section;

(4) A complete listing of all collection sites operating in the State in the prior calendar year, the parties that operated them, and the amount of material by weight collected at each site;

(5) An evaluation of the effectiveness of the education and outreach program; and

(6) An evaluation of the existing collection and processing infrastructure.

g. The program implemented to effectuate the provisions of this act and its associated regulations shall be fully audited by an independent, certified public accountant at the end of each calendar year and the audit report shall be submitted, pursuant to section 2 of P.L.1991, c.164 (C.52:14-19.1), to the Legislature.

h. The provisions of this section shall not apply to any manufacturer or retailer of televisions offered for sale for delivery in this State.

C.13:1E-99.106 Maintenance of Internet website, toll-free number listing recycling sites.

13. a. The department shall maintain an Internet website and toll-free number complete with up-to-date listings of where consumers can bring covered electronic devices for recycling under the provisions of this act.

b. The department shall not be held financially liable or responsible for any violation of federal, State, or local law by any person to whom the department makes payment pursuant to section 14 of this act.

c. No more frequently than annually and no less frequently than biennially, the department shall review, at a public hearing, the covered electronic device recycling rate and registration fees. Recommended changes to the covered electronic device recycling rate and registration fees shall be included in the annual report required pursuant to subsection f. of section 12 of this act.

d. No fees or costs may be charged to consumers for the collection, transportation, or recycling of covered electronic devices.

C.13:1E-99.107 Competitive bidding; conditions.

14. The department shall engage in competitive bidding for the collection, transportation, and recycling of covered electronic devices in accordance with the procedures concerning the awarding of public contracts provided in P.L.1954, c.48 (C.52:34-6 et seq.).

a. The department shall make payments for the collection, transportation, and recycling of covered electronic devices to an authorized or approved person, pursuant to this section, upon receipt of a completed and verified invoice submitted to the department in the form and manner determined by the department.

b. In order to receive payment, proof will be required that:

(1) the covered electronic device was collected from a consumer who is a resident of the State or is otherwise located in the State, or who provides evidence that the device was purchased in this State after the effective date of this act;

(2) the collection, transportation, and recycling of the covered electronic devices was conducted in accordance with all federal, State, and local laws, including the requirements established under this act, and any rules or regulations adopted pursuant thereto; and

(3) no fees or costs were charged to the consumer.

C.13:1E-99.108 Recycling of covered electronic devices; compliance with laws; performance requirements.

15. a. Covered electronic devices collected through any program in this State, whether by manufacturers, retailers, for-profit or not-for profit corporations, or units of government, or organized by the department, shall be recycled in a manner that is in compliance with all applicable federal, State, and local laws, regulations, and ordinances, and shall not be exported for disposal in a manner that poses a significant risk to the public health or the environment.

The provisions of this subsection shall apply to the collection and recycling of used televisions.

b. The department shall establish performance requirements in order for collectors, transporters, and recyclers to be eligible to receive funds from the department. Every collector, transporter, and recycler shall, at a minimum, demonstrate compliance with the United States Environmental Protection Agency's Plug-In to eCycling Guidelines for Materials Management as issued and available on the United States Environmental Protection Agency's Internet website in addition to any other requirements mandated by federal or State law. The department shall maintain an Internet website that shall include a list of collectors, transporters, and recyclers that it has determined have met these performance requirements.

C.13:1E-99.109 Used covered electronic device, disposal as solid waste prohibited.

16. On and after January 1, 2010, no person shall knowingly dispose of a used covered electronic device, or any of the components or subassemblies thereof, as solid waste.

C.13:1E-99.110 Enforcement; violations.

17. a. The State, including the Attorney General and the department, shall be authorized to initiate independent action to enforce any provision of this act, including failure by a manufacturer to remit the registration fee required pursuant to section 9 of this act, the fee required pursuant to section 10 of this act, or any fee required pursuant to subsection b. of section 18 of this act to the department. Any funds awarded by the court shall be used first to offset enforcement expenses. Money in excess of the enforcement expenses shall be deposited into a separate account, and shall be dedicated for use by the department solely for the purposes of administering and enforcing the provisions of this act and any rules or regulations adopted pursuant thereto.

b. Violations of the act include, but are not limited to:

(1) the sale of a new covered electronic device by any person that is not in full compliance with the provisions of this act;

(2) the application for compensation for the collection, transportation, and recycling of covered electronic devices not collected within the State, or region as provided in section 19 of this act;

(3) the use of a qualified collection program to recycle covered electronic devices not discarded within the State, or region as provided in section 19 of this act;

(4) the knowing failure to report or accurately report any data required to be reported to the department pursuant to this act; and

(5) the non-payment of any fee required pursuant to this act.

C.13:1E-99.111 Rules, regulations; fees to cover department costs.

18. a. The department 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 effectuate the purposes of this act.

b. The department may, in accordance with a fee schedule adopted as a rule or regulation pursuant to the provisions of the "Administrative Procedure Act," establish and charge reasonable fees for any of the services to be performed in connection with this act, which shall cover the full costs incurred by the department for the review of plans and for other costs incurred by the department for implementation of this act.

C.13:1E-99.112 Establishment of organizations, compacts.

19. The department is authorized to participate in the establishment and implementation of a regional, multi-state organization or compact that is consistent with the requirements of this act.

C.13:1E-99.113 Intent of act; implementation of national program.

20. This act is intended to govern all aspects of the collection and recycling of covered electronic devices as those terms are defined in this act. Upon a determination by the Department of Environmental Protection of an equivalent national program to collect or recycle covered electronic devices, the Commissioner of Environmental Protection shall notify, in writing, the Governor, the President of the Senate and the Speaker of the General Assembly, and the members of the Senate Environment Committee and the Assembly Environment and Solid Waste Committee, or their successors, of this determination.

The provisions of this act shall expire 60 days after the date of the notification required pursuant to this section or within the timeframe provided by federal law, as appropriate.

The department shall provide notice in the New Jersey Register of any determination made pursuant to this section, and shall take any administrative action necessary in order to implement the national program.

C.13:1E-99.114 Report posted on website, to Legislature by January 1, 2013.

21. By January 1, 2013, the department shall prepare a report, which shall be posted on the department's Internet website and submitted, pursuant to section 2 of P.L.1991, c.164 (C.52:14-19.1), to the Legislature, assessing the success or failure of the electronic waste management system implemented pursuant to the provisions of this act relative to the statutory management of covered electronic devices in other states, including juris-

dictions that have adopted a producer responsibility model versus those that have adopted an advance recovery fee approach, or both, with respect to the recycling of used televisions and other covered electronic devices.

22. Section 3 of P.L.1987, c.102 (C.13:1E-99.13) is amended to read as follows:

C.13:1E-99.13 District recycling plan.

3. a. Each county shall prepare and adopt a district recycling plan to implement the State Recycling Plan goals. Each district recycling plan shall be adopted as an amendment to the district solid waste management plan required pursuant to the provisions of the "Solid Waste Management Act," P.L.1970, c.39 (C.13:1E-1 et seq.) and subject to the approval of the department. Each district recycling plan may be modified after adoption pursuant to a procedure set forth in the adopted plan as approved by the department.

b. Each district recycling plan required pursuant to this section shall include, but need not be limited to:

- (1) Designation of a district recycling coordinator;
- (2) Designation of the recyclable materials to be source separated in each municipality which shall include, in addition to leaves, at least three other recyclable materials separated from the municipal solid waste stream;
- (3) Designation of the strategy for the collection, marketing and disposition of designated source separated recyclable materials in each municipality;
- (4) Designation of recovery targets in each municipality to achieve the maximum feasible recovery of recyclable materials from the municipal solid waste stream which shall include, at a minimum, the following schedule:
 - (a) The recycling of at least 15% of the total municipal solid waste stream by December 31, 1989;
 - (b) The recycling of at least 25% of the total municipal solid waste stream by December 31, 1990; and
 - (c) The recycling of at least 50% of the total municipal solid waste stream, including yard waste and vegetative waste, by December 31, 1995; and
- (5) Designation of countywide recovery targets to achieve the maximum feasible recovery of recyclable materials from the total solid waste stream which shall include, at a minimum, the recycling of at least 60% of the total solid waste stream by December 31, 1995.

Within 24 months of the effective date of P.L.2007, c.311 (C.13:1E-96.2 et al.), each district recycling plan shall be modified to include the designation of a district certified recycling coordinator.

For the purposes of this subsection, “district certified recycling coordinator” means a person who shall have completed the requirements of a course of instruction in various aspects of recycling program management, as determined and administered by the department; “total municipal solid waste stream” means the sum of the municipal solid waste stream disposed of as solid waste, as measured in tons, plus the total number of tons of recyclable materials recycled; and “total solid waste stream” means the aggregate amount of solid waste generated within the boundaries of any county from all sources of generation, including the municipal solid waste stream.

c. Each district recycling plan, in designating a strategy for the collection, marketing and disposition of designated recyclable materials in each municipality, shall authorize municipalities that adopt a recycling ordinance pursuant to subsection b. of section 6 of P.L.1987, c.102 (C.13:1E-99.16) to limit the collection of designated recyclable materials to specified operating hours in order to preserve the peace and quiet in neighborhoods during the hours when most residents are asleep.

d. A district recycling plan may be modified to require that each municipality within the county revise the ordinance adopted pursuant to subsection b. of section 6 of P.L.1987, c.102 (C.13:1E-99.16) to provide for the source separation and collection of used dry cell batteries as a designated recyclable material.

e. Within 12 months of the effective date of P.L.2007, c.347 (C.13:1E-99.94 et al.), each district recycling plan shall be modified to include the designation of collection sites for the delivery of used televisions, and may be modified to include the designation of collection sites for the delivery of other covered electronic devices.

For the purposes of this subsection, “television” and “covered electronic device,” respectively, mean the same as those terms are defined in section 2 of P.L.2007, c.347 (C.13:1E-99.95).

23. Section 6 of P.L.1987, c.102 (C.13:1E-99.16) is amended to read as follows:

C.13:1E-99.16 Municipal recycling system.

6. Each municipality in this State shall, within 24 months of the effective date of P.L.2007, c.311 (C.13:1E-96.2 et al.), designate one or more persons as the municipal certified recycling coordinator. For the purposes of this section, “municipal certified recycling coordinator” means a person who shall have completed the requirements of a course of instruction in various aspects of recycling program management, as determined and ad-

ministered by the department. Each municipality shall establish and implement a municipal recycling program in accordance with the following requirements:

a. (1) Each municipality shall provide for a collection system for the recycling of the recyclable materials designated in the district recycling plan as may be necessary to achieve the designated recovery targets set forth in the plan in those instances where a recycling collection system is not otherwise provided for by the generator or by the county, interlocal service agreement or joint service program, or other private or public recycling program operator.

(2) Each municipality shall provide for collection sites for the delivery of used televisions by consumers, and the delivery of other covered electronic devices if designated in the district recycling plan.

For the purposes of this paragraph, "television" and "covered electronic device," respectively, mean the same as those terms are defined in section 2 of P.L.2007, c.347 (C.13:1E-99.95).

b. The governing body of each municipality shall adopt an ordinance which requires persons generating municipal solid waste within its municipal boundaries to source separate from the municipal solid waste stream, in addition to leaves, the specified recyclable materials for which markets have been secured and, unless recycling is otherwise provided for by the generator, place these specified recyclable materials for collection in the manner provided by the ordinance.

c. The governing body of each municipality shall, at least once every 36 months, conduct a review and make necessary revisions to the master plan and development regulations adopted pursuant to P.L.1975, c.291 (C.40:55D-1 et seq.), which revisions shall reflect changes in federal, State, county and municipal laws, policies and objectives concerning the collection, disposition and recycling of designated recyclable materials.

The revised master plan shall include provisions for the collection, disposition and recycling of recyclable materials designated in the municipal recycling ordinance adopted pursuant to subsection b. of this section, and for the collection, disposition and recycling of designated recyclable materials within any development proposal for the construction of 50 or more units of single-family residential housing or 25 or more units of multi-family residential housing and any commercial or industrial development proposal for the utilization of 1,000 square feet or more of land.

d. The governing body of a municipality may exempt persons occupying commercial and institutional premises within its municipal boundaries from the source separation requirements of the ordinance adopted pursuant

to subsection b. of this section if those persons have otherwise provided for the recycling of the recyclable materials designated in the district recycling plan from solid waste generated at those premises. To be eligible for an exemption pursuant to this subsection, a commercial or institutional solid waste generator annually shall provide written documentation to the municipality of the total number of tons recycled.

e. The governing body of each municipality shall, on or before July 1 of each year, submit a recycling tonnage report to the New Jersey Office of Recycling in accordance with rules and regulations adopted by the department therefor.

f. The governing body of each municipality shall, at least once every six months, notify all persons occupying residential, commercial, and institutional premises within its municipal boundaries of local recycling opportunities, and the source separation requirements of the ordinance. In order to fulfill the notification requirements of this subsection, the governing body of a municipality may, in its discretion, place an advertisement in a newspaper circulating in the municipality, post a notice in public places where public notices are customarily posted, include a notice with other official notifications periodically mailed to residential taxpayers, or any combination thereof, as the municipality deems necessary and appropriate.

The governing body of a municipality that adopts a recycling ordinance pursuant to subsection b. of this section may limit the collection of designated recyclable materials to specified operating hours in order to preserve the peace and quiet in neighborhoods during the hours when most residents are asleep.

24. This act shall take effect immediately.

Approved January 13, 2008.

CHAPTER 348

AN ACT concerning traffic control signal monitoring systems and supplementing Title 39 of the Revised Statutes.

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

C.39:4-8.12 Findings, declarations relative to traffic control signal monitoring systems.

1. The Legislature finds:

The disregard of traffic control devices at intersections impedes the efficient flow of traffic, and more importantly, dramatically increases the likelihood of accidents that endanger the safety and well being of motor vehicle occupants and pedestrians.

The installation and use of a traffic control signal monitoring system, which complements the efforts of local law enforcement, could serve as an effective tool in encouraging drivers to strictly obey traffic control devices at intersections, facilitating the flow of traffic and protecting the safety and well being of motor vehicle occupants and pedestrians.

The Legislature, therefore, declares:

It is altogether fitting and proper, and within the public interest, to require the Commissioner of Transportation to establish a pilot program to determine the effectiveness of the installation and utilization of traffic control signal monitoring systems in this State and to approve applications from municipalities where such systems may be installed.

C.39:4-8.13 Definitions relative to traffic control signal monitoring systems; recording requirements.

2. As used in this act:

"Recorded image" means a digital image recorded by a traffic control signal monitoring system.

"Summons" means a citation alleging a violation of a traffic control signal.

"Traffic control signal" means a device, whether manually, electrically, mechanically, or otherwise controlled, by which traffic is alternatively directed to stop and to proceed, and which has been approved by the Commissioner of Transportation in accordance with the "Manual on Uniform Traffic Control Devices for Streets and Highways."

"Traffic control signal monitoring system" means an integrated system or device utilizing a camera, or a multiple camera system, and vehicle sensors which work in conjunction with a traffic control signal and is capable of producing:

a. high resolution color digital recorded images that show: (1) the traffic control signal while it is displaying a red light; (2) a motor vehicle unlawfully entering and continuing through the intersection while the traffic control signal is displaying a red light; and (3) a portion of the rear of the motor vehicle unlawfully in the intersection sufficient to clearly reveal the vehicle's license plate and the make and model of the vehicle; and

b. a video recording of the violation that shows the violation occurring.

A digital camera may be used as part of a traffic control signal monitoring system provided the violation images are captured by a digital camera,

or a multiple camera system, which produces a set of at least two images for each violation. At least one of the digital color images shall contain the following: (1) the scene of the location where the violation occurred; (2) the violating motor vehicle; (3) the license plate numbers, letters, and issuing jurisdiction; (4) the day, month, and year of the violation; (5) the time of the violation in hours, minutes, and seconds; (6) the amount of time that had passed between the time the light turned red and the violation occurred; and (7) the frame sequence code. This information shall be imprinted along the bottom or top edge of the image frame so as not to obstruct the violation image.

C.39:4-8.14 Five-year pilot program relative to effectiveness of installation, utilization of traffic control signal monitoring systems.

3. a. The Commissioner of Transportation shall establish a five-year pilot program to determine the effectiveness of the installation and utilization of traffic control signal monitoring systems in this State. A municipality desiring to participate in the program shall submit an application to the Commissioner of Transportation. The application shall include:

(1) The intersection or intersections in the municipality at which it is desired to install and utilize a traffic control signal monitoring system;

(2) Data which indicate that the intersection or intersections in question have a high number of violations of the traffic control signals, and any additional safety data the municipality deems appropriate;

(3) A certification by the municipal engineer that (a) the intersection or intersections in question have a minimum duration of the amber light at the traffic control signal of three seconds if at least 85 percent of the vehicular traffic approaching the signal is traveling at a speed of 25 miles per hour or less; and (b) for each five mile increase in the speed of vehicular traffic referred to in subparagraph (a) of this paragraph above 30 miles per hour this minimum duration of the amber light shall be increased by one-half second;

(4) Such other information as the Commissioner of Transportation may require.

The commissioner may approve as many municipalities making application as he deems appropriate, and shall indicate which of the intersections in those applications are approved for the installation and utilization of traffic control signal monitoring systems.

b. Notwithstanding the provisions of P.L.1992, c.91 (C.39:4-103.1), the governing body of a municipality, by ordinance, may determine to install and utilize a traffic control signal monitoring system to facilitate the lawful observance of and compliance with traffic control signals governing

the flow of traffic at intersections under its jurisdiction approved by the Commissioner of Transportation pursuant to subsection a. of this section.

c. A traffic control signal monitoring system installed and utilized pursuant to this section shall be of a type approved by the governing body of the municipality.

d. In any municipality where the governing body has authorized the installation and use of a traffic control signal monitoring system pursuant to subsection b. of this section, a sign notifying drivers that such a monitoring system is being utilized shall be placed on each street converging into the affected intersection. The sign shall be of a design and placed in accordance with specifications approved by the municipal engineer. The specifications so approved shall conform with the uniform system set forth in the "Manual on Uniform Traffic Control Devices for Streets and Highways."

e. A traffic control signal monitoring system shall be inspected and certified at least once every six months by the municipal engineer from the date of its installation for the duration of the five-year pilot program prescribed by P.L.2007, c.348 (C.39:4-8.12 et seq.).

C.39:4-8.15 Review of recorded images by law enforcement official; issuance of summons.

4. a. In any municipality where the governing body has authorized the installation and use of a traffic control signal monitoring system, a law enforcement official of such municipality shall review the recorded images produced by the traffic control signal monitoring system. In conducting such review, the law enforcement official shall determine whether there is sufficient evidence to conclude that a traffic control signal violation has occurred and shall issue a summons where it is deemed appropriate. A traffic control signal violation summons issued pursuant to a traffic control signal monitoring system established in accordance with this act shall be served by a law enforcement official in accordance with the Rules of Court. Except as otherwise provided in this subsection, the recorded images produced by the traffic control signal monitoring system shall be available for the exclusive use of any law enforcement official for the purposes of discharging the official's duties pursuant to P.L.2007, c.348 (C.39:4-8.12 et seq.). Any recorded image or information produced in connection with the traffic control signal monitoring system shall not be deemed a public record under P.L.1963, c.73 (C.47:1A-1 et seq.) or the common law concerning access to public records. The recorded images shall not be discoverable as a public record by any person, entity, or governmental agency, except upon a subpoena issued by a grand jury or a court order in a criminal matter, nor

shall they be offered in evidence in any civil or administrative proceeding not directly related to a traffic control signal violation.

Any recorded image or information produced in connection with the traffic control signal monitoring system pertaining to a specific violation shall be purged and not retained later than 60 days after the collection of any fine or penalty. If a law enforcement official does not issue a summons for a traffic control signal violation within 40 business days, all recorded images and information collected pertaining to that alleged violation shall be purged within two business days. Any municipality operating a traffic control signal monitoring system shall certify compliance with this subsection in the report required to be filed with the Commissioner of Transportation pursuant to section 6 of P.L.2007, c.348 (C.39:4-8.17).

b. Except as provided in subsection c. of this section, the owner and operator shall be jointly liable for a traffic control signal violation summons issued pursuant to a traffic control signal monitoring system established in accordance with this act, unless the owner can show that the vehicle was used without his consent, express or implied. An owner who pays any fine, penalty, civil judgment, costs or administrative fees in connection with a traffic control signal violation issued pursuant to a traffic control signal monitoring system shall have the right to recover that sum from the operator in a court of competent jurisdiction.

c. The owner of a motor vehicle who is a lessor shall not be liable for a traffic control signal violation summons issued pursuant to this act when the motor vehicle is under the control or in the possession of the lessee, if upon notice of a traffic control signal violation, the owner of the motor vehicle which was leased at the time of the offense notifies the clerk of the court where the case is pending, by an affidavit of the name and address of the lessee. The affidavit shall be in a form prescribed by the Administrative Director of the Courts.

After providing the name and address of the lessee, the owner shall not be required to attend a hearing of the offense, unless otherwise notified by the court.

d. In no case shall motor vehicle points or automobile insurance eligibility points pursuant to section 26 of P.L.1990, c.8 (C.17:33B-14) be assessed against any person for a violation occurring under the provisions of this act.

e. It shall not be a defense to any traffic control signal violation that the signs required to be posted pursuant to subsection d. of section 3 of P.L.2007, c.348 (C.39:4-8.14), notifying drivers that a traffic control signal monitoring system is being utilized, are not posted or are improperly posted.

C.39:4-8.16 Rules, regulations.

5. The Commissioner of Transportation, the Chief Administrator of the Motor Vehicle Commission, and the Superintendent of the State Police may, in accordance with the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), promulgate rules and regulations to effectuate the purposes of this act. The Supreme Court of New Jersey may adopt Rules of Court appropriate or necessary to effectuate the purposes of this act.

C.39:4-8.17 Reports from municipalities; annual report to Governor, Legislature.

6. The municipalities whose applications have been approved for the pilot program established pursuant to this act shall submit reports every 12 months after a traffic control signal monitoring system has been installed to the Commissioner of Transportation detailing increases or decreases in violations and accidents at intersections where traffic control signal monitoring systems have been installed. The Commissioner of Transportation shall prepare and submit an annual report to the Governor, the President of the Senate, the Speaker of the General Assembly, and the Senate Transportation Committee and the Assembly Transportation and Public Works Committee or their successor committees describing the pilot program developed pursuant to this act, including accident and violation information reported by the affected municipalities. The first such report shall be submitted no later than one year after the installation of the first traffic control signal monitoring system authorized pursuant to this act. Thereafter, subsequent reports shall be submitted annually for the duration of the five-year pilot program prescribed by P.L.2007, c.348 (C.39:4-8.12 et seq.), with the fifth and final report providing a comprehensive review of the pilot program, including but not limited to, an evaluation of the program's effectiveness, a discussion of extending the program to other intersections in the State, and any other information relevant to the report.

C.39:4-8.18 Effective date, expiration date.

7. This act shall take effect ninety days following enactment and shall expire upon the submission of the Commissioner of Transportation's fifth and final report to the appropriate parties pursuant to section 6 of this act.

Approved January 13, 2008.

CHAPTER 349

AN ACT providing for audits of the results of elections and supplementing chapter 61 of Title 19 of the Revised Statutes.

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

C.19:61-9 Audits of election results.

1. a. Notwithstanding any law, rule or regulation to the contrary, the Attorney General shall appoint each year an independent, professional audit team. It shall oversee, in each county, random hand-to-eye counts of the voter-verifiable paper records that are to be conducted by appropriate county election officials. Audits shall be conducted for each election held for federal or State office, including the offices of Governor, Lieutenant Governor and member of the Legislature, and for county and municipal offices selected by the Attorney General. In each county, the audit shall be conducted in at least two percent of the election districts in which each audited election appears on the ballot. County and municipal elections held in fewer than 100 election districts are exempt from this requirement. Election districts that are randomly selected for auditing for either the Congressional or State legislative elections in alternating years may be used to audit any other election that appears on the ballot in such districts. Ballot batches, as provided for in subsection c. of this section, shall also be audited subject to the provisions of this section.

b. The membership and composition of the audit team shall be at the discretion of the Attorney General but shall be not less than four, and at least one member shall have verifiable expertise in the field of statistics and another member shall have verifiable expertise in the field of auditing. No member of the audit team shall include any person who:

(1) is serving in any position on any political campaign committee of any candidate for political office in the elections that are subject to the manual audit;

(2) is an employee of, or reports to, the Attorney General; or

(3) is serving as an officer or an employee of any entity that designs, manufactures, or services a voting system used in the State.

c. The independent audit team shall oversee, supervise, and require county election officials to conduct an audit of the results of an election in accordance with the following procedures:

(1) Any procedure designed, adopted, and implemented by the audit team shall be implemented to ensure with at least 99% statistical power that for each federal, gubernatorial or other Statewide election held in the State, a 100% manual recount of the voter-verifiable paper records would not alter the electoral outcome reported by the audit. For each election held for State office, other than Governor and Lieutenant Governor, and for county

and municipal elections held in 100 or more election districts, any procedure designed, adopted, and implemented by the audit team shall be implemented to ensure with at least 90% statistical power that a 100% manual recount of the voter-verifiable paper records would not alter the electoral outcome reported by the audit. Such procedures designed, adopted, and implemented by the audit team to achieve statistical power shall be based upon scientifically reasonable assumptions, with respect to each audited election, including but not limited to: the possibility that within any election district up to 20% of the total votes cast may have been counted for a candidate or ballot position other than the one intended by the voters; and that the number of votes cast per election district will vary. Such procedures and assumptions shall be published prior to any given election, and the public shall have the opportunity to comment thereon.

(2) Any procedure designed, adopted, and implemented by the audit team for each county and municipal election held in fewer than 100 election districts, but more than a single election district, shall be conducted in at least two election districts.

(3) Within a reasonable period of time after the final vote count after an election, the Attorney General, with the audit team, shall determine and then announce publicly the election districts in the State in which audits shall be conducted, and within 24 hours of that announcement, the audit shall be commenced.

(4) With respect to votes cast at the election district on the date of an election other than by emergency or provisional ballot, the independent audit team shall oversee and supervise a hand-to-eye count of the voter-verifiable paper records and compare those records with the count of such votes announced by the county boards of elections.

(5) With respect to the votes cast other than at the election district on the date of the election, or any other votes counted electronically by the county board of elections on or after the date of the election, including votes cast by military service voters and overseas federal election voters, the independent audit team shall oversee and supervise a count by hand of the voter-verifiable paper records as follows. To maintain voter privacy, prior to each election, the audit team shall direct the appropriate county election official to divide the ballots into batches, hereinafter referred to as audit units. Each audit unit shall contain approximately the average number of ballots cast in the election districts within the county, or fewer, but shall not be associated with any particular election district. As the ballots comprising each audit unit are counted electronically, each audit unit shall be assigned a unique identification number. Immediately after counting the

ballots comprising each audit unit, a cumulative summary vote tally report bearing the audit unit's unique identification number and containing the sum of the vote totals of the audit unit and all previously counted audit units in the election shall be printed and affixed to the audit unit. The reports shall be subject to the same secure chain of custody as the ballots comprising the audit units and shall be used by the audit team to determine the electronic vote tally for each audit unit. The audit team shall first compare the vote tallies in the final cumulative report to the official results announced by the county and resolve any discrepancies, and then include all the audit units from each county in the random selection process and if selected, cause them to be audited in the same manner provided herein for election districts, except that the hand-to-eye count shall be compared to the electronic vote tally derived from the cumulative reports.

(6) The selection of the election districts, audit units, and county and municipal elections to be audited shall be made by the Attorney General on a random basis by lot, at a public meeting, using a uniform distribution in which all election districts in which an election is held, and county and municipal elections have an equal chance of being selected, in accordance with such procedures as the Attorney General, upon the recommendation of a majority of the audit team, deems appropriate. Selection of election districts or audit units for county and municipal elections held in less than 100 election districts may be made randomly using a non-uniform distribution to be determined by the Attorney General, upon the recommendation of a majority of the audit team. Such procedures shall be published prior to use in any given election, and the public shall have the opportunity to comment thereon. Notwithstanding the requirements set forth in this paragraph, the audit team shall have the authority to cause audits to be conducted of any election district or audit unit which has not been randomly selected for auditing in which a majority of the audit team determines from the un-audited election results, past election results, or other data that the votes are likely to have been miscounted. The Attorney General shall allow members of the public, including but not limited to those permitted to observe recounts, to observe the audits.

(7) As soon as practicable after the completion of an audit conducted pursuant to this section, the Attorney General shall announce publicly and publish the results of the audit and shall include in the announcement a comparison of the results of the election in the districts, as determined by the independent audit team performing the audit, and the final vote count in the districts as announced by the county boards of elections, including a list, by election district and audit unit, of any discrepancies between the

initial vote count and any subsequent manual counts of the voter-verifiable paper record; explanations for such discrepancies, if any; and tallies of all overvotes, undervotes or their equivalents, blank ballots, spoiled ballots, and cancellations recorded on the voter-verifiable paper record. If the audit under this section results in a change in the number of votes counted for any candidate, the revised vote totals shall be incorporated in the official result from the relevant election districts or audit units.

(8) No county shall certify the results of any election that is subject to an audit performed pursuant to this section prior to the completion of the audit and the announcement and publication of the results thereof as required by paragraph (7) of this subsection. The audit and publication of the results thereof shall be completed prior to the time the State shall make a final determination with respect to any controversy or contest concerning the appointment of its electors for President or Vice President of the United States prior to the deadline established in section 6 of Pub.L.80-644 (3 U.S.C.s.6).

(9) If the Attorney General, based on a recommendation of a majority of the professional audit team, determines that any of the hand-to-eye counts conducted under this section show cause for concern about the accuracy of the results of any election in the State, or in a county or a municipality, or with respect to a particular election, the independent audit team shall oversee, supervise, and cause to be conducted hand-to-eye counts under this section in such additional election districts or audit units as the Attorney General considers appropriate to resolve any such concerns. The Attorney General shall issue previous to any election the criteria to be employed to determine whether the hand-to-eye counts show concern about the accuracy of the election results in order to trigger further hand-to-eye counts. Such criteria shall be published prior to use in any given election, and the public shall have the opportunity to comment thereon. Notwithstanding the requirements previously set forth in this paragraph, additional hand-to-eye counts shall be conducted if in the initial audit conducted pursuant to the procedures set forth in this subsection, any discrepancy or discrepancies attributable to the electronic counting system would alter the vote share of any candidate or ballot position by one tenth of one percent or more of the hand counted votes in the sample. Under such circumstances, the audit of the election shall be expanded using the same number of election districts and when possible, audit units, as the initial audit and shall be conducted under the same procedures used to conduct the initial audit, provided, however, that if the initial audit comprises more than one half the total number of election districts and audit units in the election, the expanded audit shall be a full hand-to-eye count of the remaining un-audited

election districts and audit units. Further hand-to-eye counts shall be conducted if any discrepancy or discrepancies attributable to the electronic counting system detected by the initial or subsequent expanded audit indicates a substantial possibility that a complete hand-to-eye recount would alter the outcome of the audited election.

(10) If the voter-verifiable paper records in any machine are found to be unusable for an audit for any reason whatsoever, another machine used in the same election shall be selected at random by the audit team to replace the original machine in the audit sample. All such selections shall be made randomly in the presence of those observing the audit using a method approved by the Attorney General. An investigation to determine the reason the voter-verifiable paper records were compromised and unusable shall begin immediately, and the results of the investigation shall be made public upon completion.

d. Nothing in this section shall be construed to prevent a candidate or other applicant from requesting a recount pursuant to R.S.19:28-1 et seq. or any other law. In the event that such a recount is held in any election district that has been audited pursuant to this section, the official result from such election district shall be applied to the recount in lieu of conducting a subsequent hand count of the audited election district unless a court, at the request of a candidate or other applicant who requested the recount, so orders.

2. This act shall take effect on January 1, 2008.

Approved January 14, 2008.

CHAPTER 350

AN ACT concerning judicial salaries and prosecutors' salaries 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.2B:2-4 is amended to read as follows:

Judicial salaries.

2B:2-4. Judicial Salaries. Annual salaries of justices and judges beginning on January 1, 2008 shall be:

Chief Justice of the Supreme Court	\$183,182
Associate Justice of the Supreme Court	\$176,488

Judge of the Superior Court, Appellate Division	\$167,023
Judge of the Superior Court, Assignment Judge	\$163,404
Judge of the Superior Court; Judge of the Tax Court	\$157,000
Annual salaries of justices and judges beginning on January 1, 2009 and thereafter shall be:	
Chief Justice of the Supreme Court	\$192,795
Associate Justice of the Supreme Court	\$185,482
Judge of the Superior Court, Appellate Division	\$175,534
Judge of the Superior Court, Assignment Judge	\$171,731
Judge of the Superior Court; Judge of the Tax Court	\$165,000

2. N.J.S.2A:158-10 is amended to read as follows:

Salaries of county prosecutors.

2A:158-10. County prosecutors shall receive annual salaries to be fixed by the governing body of the county at \$153,000 beginning on January 1, 2008 and \$165,000 beginning on January 1, 2009 and thereafter.

There shall be appropriated annually to the Department of Community Affairs for payment to each county for additional salary costs resulting from the increase in the salary of county prosecutors an amount equal to the amount by which the annual salary paid to the county prosecutor under this section exceeds \$100,000.00.

3. This act shall take effect immediately and shall be retroactive to January 1, 2008.

Approved January 14, 2008.

CHAPTER 351

AN ACT concerning the issuance of special licenses to serve alcoholic beverages and certain plenary retail consumption licenses, and amending and supplementing Title 33 of the Revised Statutes.

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

C.33:1-24.1 Findings, declarations relative to issuance of special licenses to serve alcoholic beverages in smart growth development projects.

1. The Legislature finds and declares that:
 - a. Smart growth is an innovative approach to land use planning that directs the State's resources and funding to projects that enhance the quality of life for New Jersey residents;
 - b. Smart growth encourages the development of distinctive, attractive communities with mixed use development, walkable town centers and neighborhoods, a range of housing options, and a variety of transportation modes;
 - c. Small businesses, including restaurants and other establishments that serve alcoholic beverages, enhance the economic viability of a smart growth community and the quality of life for residents and visitors;
 - d. Many municipalities in New Jersey do not have a sufficient number of liquor licenses for all the establishments that wish to serve alcoholic beverages to patrons; and
 - e. In order to foster and encourage development in smart growth communities, it is appropriate to create special licenses to serve alcoholic beverages for establishments located in smart growth projects and to provide financial compensation to alcoholic beverage licensees in those communities who already have established businesses and paid market value for their licenses.

C.33:1-24.2 Definitions relative to issuance of special licenses to serve alcoholic beverages in smart growth development projects; issuance, conditions; fees.

2. a. As used in this act:
 - “Smart growth development project” or “project” means a development project that:
 - (1) Is located in a smart growth area as defined in section 1 of P.L.2004, c.89 (C.52:27D-10.2); is expected to generate, directly or indirectly, at least \$50 million of private investments and more than \$25 million annually in new sales and use tax revenue; and consists of at least five acres of land under the control of a developer; or
 - (2) Is expected to increase the value of all taxable property in a municipality by not less than 40% over the value of that property for the previous tax year as shown in column six of the abstract of ratables.
 - b. The Director of the Division of Alcoholic Beverage Control, upon approval of the municipality, may issue one or more special licenses to one

or more individual corporations or other types of legal entities operating a premises where alcoholic beverages are intended to be served that is located in a smart growth development project. The license shall authorize the sale of alcoholic beverages for immediate consumption on the operator's premises. If the project is located within the boundaries of two or more municipalities, each municipality shall approve the issuance of the license or licenses. The director may issue not more than 566 such licenses.

c. No person who would fail to qualify as a licensee under Title 33 of the Revised Statutes shall be permitted to hold an interest in a special license under the provisions of this section.

d. Licenses shall be subject to all the provisions of Title 33 of the Revised Statutes, rules and regulations promulgated by the director and municipal ordinances.

e. No license issued pursuant to this section shall be transferred to any premises other than a premises located within the same smart growth development project.

f. Application for the initial issuance and renewal of each license shall be made to the director on an annual basis. The fee for the initial issuance of the license shall be two and one half times the average sale price for the three most recent sales of plenary retail consumption licenses in the municipality where the license is being issued during the preceding five years. If the project is located within the boundaries of two or more municipalities, the highest average sale price of the two or more municipalities shall be used. If less than three plenary retail consumption licenses have been sold in the municipality or municipalities, as the case may be, within the previous five years, the municipality or municipalities, as the case may be, shall obtain an appraisal, at the applicant's expense, to determine the appropriate fee for the license. The appraisal process shall include an examination of previous transactions in the municipality or municipalities, as the case may be, and shall reflect what a willing buyer, under no pressure to buy, would pay a willing seller, under no pressure to sell, for a plenary retail consumption license in that municipality or municipalities, as the case may be. One half of the amount of the application fee for the initial issuance of the license shall be paid upon the issuance of the license and the other half of that amount shall be paid one year later. The director shall establish an annual fee for the license which shall not exceed the fee which may be imposed by a municipality for a plenary retail consumption license pursuant to R.S.33:1-12.

g. The fee for the initial issuance of the license shall be distributed in the following manner:

(1) Twenty-five percent shall be paid to the municipality wherein the smart growth development project is located and if the project is located within the boundaries of two or more municipalities, the fee shall be divided equally among those municipalities;

(2) Twenty-five percent shall be paid to the Director of the Division of Alcoholic Beverage Control;

(3) Fifty percent shall be divided equally among and paid to the plenary retail consumption licensees in the municipality or municipalities where the licensed premises will be located.

h. If the individual corporation or entity holding the license determines to sell a license issued pursuant to this section, the license shall be sold for the sum paid pursuant to paragraph (3) of subsection g. of this section.

i. The director shall not issue a special concessionaire permit for any location or premises which is eligible to obtain a license to serve alcoholic beverages under the provisions of this act.

j. Pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), the director shall adopt rules and regulations to effectuate the purposes of this act.

C.33:1-24.3 Acquisition, sale of inactive plenary retail consumption licenses.

3. a. Notwithstanding the provisions of section 1 of P.L.1977, c.246 (C.33:1-12.39), a municipality in which is located an urban enterprise zone as designated pursuant to P.L.1983, c.303 (C.52:27H-60 et al.) or any supplement thereto, and a Planning Area 1 (Metropolitan), as designated pursuant to the "State Planning Act," sections 1 through 12 of P.L.1985, c.398 (C.52:18A-196 et seq.), may acquire any existing plenary retail consumption licenses within the municipality that are inactive and retain any such licenses in an inactive status for a period of up to five years.

b. A municipality subject to the provisions of subsection a. of this section may issue at public sale one or more of any such inactive plenary retail consumption licenses in a manner consistent with the provisions of P.L.1975, c.275 (C.33:1-19.1 et seq.), to no more than one corporation or legal entity for each such plenary retail consumption license for use only at a licensed premises that shall be located in a development project within a smart growth area, as defined in section 1 of P.L.2004, c.89 (C.52:27D-10.2), in the municipality. The use of any such plenary retail consumption license shall be in a manner consistent with the provisions of Title 33 of the Revised Statutes and any regulations promulgated thereunder by the director.

4. Section 1 of P.L.1975, c. 275 (C.33:1-19.1) is amended to read as follows:

C.33:1-19.1 Issuance of new, additional licenses, publication of notice.

1. Whenever a municipality is authorized to issue one or more new or additional plenary retail consumption, seasonal retail consumption or plenary retail distribution licenses or a plenary retail consumption license acquired pursuant to section 3 of P.L.2007, c.351 (C.33:1-24.3) and the governing body by resolution determines to permit the issuance thereof, the governing body shall cause to be published a notice of the proposed issuance of said license or licenses and that applications therefor will be accepted by the governing body or in municipalities having a municipal board of alcoholic beverage control or municipal excise commission, by the board or commission, as the case may be. The notice shall specify a time and date after which no further applications will be accepted. The notice shall be published in a newspaper circulating generally in the municipality by not less than two insertions, 1 week apart, the second of which shall be made not less than 30 days prior to the time and date specified in the notice as the time and date after which no further applications will be accepted.

5. This act shall take effect on the first day of the third month after the date of enactment; provided however, the Director of the Division of Alcoholic Beverage Control may take such anticipatory action in advance thereof as needed for the act's timely implementation.

Approved January 15, 2008.

JOINT RESOLUTIONS

(2259)

JOINT RESOLUTION NO. 1

A Joint Resolution designating May of each year as “Adult Onset Disability Awareness Month” in the State of New Jersey.

WHEREAS, New Jersey is comprised of a diverse population, which includes individuals with disabilities, who themselves comprise a diverse group; and

WHEREAS, Some individuals have disabilities that emerge before the age of 22, which is the age before which a disability is legally recognized as a developmental disability, but there also exist many individuals whose disabilities do not occur until adulthood; and

WHEREAS, Adult onset disability can arise from a variety of causes, including ALS, multiple sclerosis, Parkinson’s disease, spinal cord injury, traumatic brain injury, and many medical problems; and

WHEREAS, Many individuals with adult onset disabilities are vital and vibrant members of our communities because they work, not only to raise awareness of the diverse needs of persons with disabilities, but also to improve the quality of life for New Jersey’s entire community; and

WHEREAS, Public awareness can enhance a community's understanding of the issues affecting people with adult onset disabilities; and

WHEREAS, It is appropriate to promote awareness of the fact that there is great diversity among individuals with adult onset disabilities and to acknowledge their contributions; now, therefore,

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

C.36:2-88 “Adult Onset Disability Awareness Month,” May; designated.

1. The Month of May is designated as “Adult Onset Disability Awareness Month” in the State of New Jersey to raise awareness of the fact that disabilities can emerge during adulthood, to acknowledge the diversity among people with adult onset disabilities, and to recognize the many contributions of individuals with adult onset disabilities.

Public officials and citizens of this State are urged to observe the month with appropriate activities and programs.

2. This joint resolution shall take effect immediately.

Approved January 17, 2007.

JOINT RESOLUTION NO. 2

A JOINT RESOLUTION designating the third week of May as "New Jersey Early Intervention Week."

WHEREAS, Early childhood intervention programs provide services to babies and toddlers who have or are at risk of having developmental delays or disabilities; and

WHEREAS, The period between birth and three years is a critical time in a child's development and offers a unique opportunity to change the life-course of a child at risk; and

WHEREAS, The earlier a child with a developmental delay or disability receives services and support, the greater the beneficial effects of those services and support, which in many cases can reduce the severity of a disability or completely eliminate a developmental delay; and

WHEREAS, In 2002, over 9,000 children up to three years of age received early intervention services in New Jersey and it is projected that in 2005, 17,800 children up to three years of age will have received early intervention services in New Jersey; and

WHEREAS, New Jersey has designated the month of May as "Child Appreciation Month," and it is fitting that New Jersey observe a week in May to acknowledge the importance of early intervention for our young children, who are precious and represent our future; now, therefore,

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

C.36:2-89 "New Jersey Early Intervention Week," third week of May; designated.

1. The third week of May is designated "New Jersey Early Intervention Week."

2. The Governor is respectfully requested to issue annually a proclamation calling upon the public officials and citizens of this State to observe with appropriate activities and programs "New Jersey Early Intervention Week" during the third week of May.

3. This joint resolution shall take effect immediately.

Approved January 26, 2007.

JOINT RESOLUTION NO. 3

A JOINT RESOLUTION directing the Commissioner of Education to contract with an independent entity to conduct an evaluation of the Department of Education and its oversight capacity.

WHEREAS, During the course of its deliberations, the Joint Legislative Committee on Public School Funding Reform heard testimony regarding the need to ensure that all school districts are in compliance with State statutory and regulatory requirements and that State funds provided to local school districts are being properly expended; and

WHEREAS, The Joint Legislative Committee on Public School Funding Reform expressed a concern that the Department of Education may lack an adequate level of staffing and other resources to fulfill its important oversight responsibilities; and

WHEREAS, There is particular concern about the capacity of the offices of the county superintendents of schools, which have maintained minimal staffing levels despite being assigned an increasing number of oversight responsibilities; and

WHEREAS, These deficiencies seriously undermine the department's ability to hold local school districts accountable and conduct the type of oversight which taxpayers rightfully expect, and to provide the technical

and other assistance to school districts that may be necessary to improve and enhance the educational achievement of students; and

WHEREAS, A reorganization of the department may be warranted to better enable the department to identify and correct problems within school districts in a timely and proactive manner; and

WHEREAS, In order to ensure increased school district accountability and enhanced student achievement, an evaluation of the Department of Education should be conducted that will identify measures to improve the capacity of the department to oversee the operation of school districts and to respond immediately and effectively to operational and educational issues which may arise; now, therefore,

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

1. a. The Commissioner of Education shall enter into a contract with an independent entity to authorize that entity to conduct a thorough and comprehensive evaluation of the Department of Education in order to identify those organizational and staffing deficiencies that limit the department's ability to provide effective oversight of school districts; and to develop recommendations for the reorganization of the department that will improve the capacity of the department to oversee the operation of school districts and to respond immediately and effectively to operational and educational issues that may arise.

b. The commissioner shall identify existing resources to finance the evaluation required pursuant to subsection a. of this section and shall expend, with the approval of the Office of Management and Budget in the Department of the Treasury, an amount not to exceed \$750,000 for the purpose of that evaluation.

c. The commissioner shall present the evaluation, its recommendations for the reorganization of the department, and the commissioner's response to those recommendations within six months of the effective date of this resolution.

2. This joint resolution shall take effect immediately.

Approved January 29, 2007.

JOINT RESOLUTION NO. 4

A JOINT RESOLUTION designating the third Tuesday in October of each year as “Rett Syndrome Awareness Day.”

WHEREAS, Rett Syndrome, or RS, is a neurological disorder that is seen almost exclusively in girls, and is one of only four diseases that occur only in females; and

WHEREAS, RS was first described by Dr. Andreas Rett in 1964 and received worldwide recognition after the first English language publication by Dr. Bengt Hagberg in 1983; and

WHEREAS, RS is attributable to a defective regulatory MECP2 gene found on the X chromosome, and becomes apparent from six to 18 months of age; and

WHEREAS, RS leads to physical handicaps, delays in intellectual development, and impaired expressive language, all of a severe nature, and also causes loss of functional hand use and commonly features abnormal hand movements, epileptic seizures, and curvature of the spine, with additional problems that may include breathing irregularities and teeth grinding; and

WHEREAS, The most severe handicap that a child with RS has is apraxia, which means that the child has the will to move but is unable to carry through with that movement; and

WHEREAS, There is currently no known treatment or cure for RS; and

WHEREAS, There are likely between 8,000 and 10,000 young girls with RS who are undiagnosed, or are misdiagnosed as having autism, cerebral palsy or a non-specified developmental delay, since many health care professionals are not familiar with RS; and

WHEREAS, Most girls with RS need assistance with all their activities of daily living, including feeding, dressing, and toileting; some 25% of all girls with RS may never walk at all, and about half of those who do walk will lose the ability at some point; and

WHEREAS, The families of those girls with RS who are struggling to cope with the ravages of this disease and bear the physical, financial and emotional burdens of caring for their loved ones merit recognition for their efforts; and the medical community and the public at large need to be made aware of the symptoms and impact of RS on those subjected to its cruel and unrelenting force; now, therefore,

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

C.36:2-90 "Rett Syndrome Awareness Day," third Tuesday in October; designated.

1. The third Tuesday in October of each year is designated as "Rett Syndrome Awareness Day" in the State of New Jersey.

2. The Governor is hereby requested to issue a proclamation calling upon public officials and the citizens of this State to observe this day with appropriate activities and programs.

3. This joint resolution shall take effect immediately.

Approved January 29, 2007.

JOINT RESOLUTION NO. 5

A JOINT RESOLUTION designating the month of March of each year as "Gifted and Talented Students Month" in the State of New Jersey.

WHEREAS, Gifted children require early identification and intervention and need special academic programs in their schools; and

WHEREAS, Public schools must provide for those needs as well as encourage and support gifted children; and

WHEREAS, Gifted and talented student programs provide gifted and talented students with curricula adapted to the pace and depth of their learning; and

WHEREAS, Without the help of these tailored programs, many gifted and talented students would never reach their full potential and development; and

WHEREAS, Designating the month of March of each year as "Gifted and Talented Students Month" will help raise public awareness of gifted and talented students so that they may be identified and matched to appropriate programs; now, therefore,

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

C.36:2-91 "Gifted and Talented Students Month," March; designated.

1. The Legislature hereby designates the month of March of each year as "Gifted and Talented Students Month" in New Jersey in order to raise public awareness of gifted and talented students so that they may be identified and matched with a program that will nurture their abilities.

C.36:2-92 Annual proclamation, observance of "Gifted and Talented Students Month."

2. The Governor is requested to annually issue a proclamation calling upon public officials and the citizens of this State to observe "Gifted and Talented Students Month" with appropriate activities and programs.

3. This joint resolution shall take effect immediately.

Approved April 30, 2007.

JOINT RESOLUTION NO. 6

A JOINT RESOLUTION recognizing October 15 through November 14 of each year as "Diwali Month" in the State of New Jersey.

WHEREAS, Diwali, a festival of great significance to Indian Americans, is celebrated annually by Hindus, Sikhs, and Jains in New Jersey and throughout the United States; and

WHEREAS, There are over 2,000,000 Indian Americans in the United States, of which approximately 200,000 are in New Jersey; and

WHEREAS, The word "Diwali" is a shortened version of the Sanskrit word "Deepavali", which means "a row of lamps"; and

WHEREAS, Diwali is a festival of lights, during which celebrants light small oil lamps, place them around the home, and pray for health, knowledge, and peace; and

WHEREAS, Celebrants of Diwali believe that the rows of lamps symbolize the light within the individual that rids the soul of the darkness of ignorance; and

WHEREAS, The actual day of *Diwali* falls on the 15th day of the dark fortnight in the auspicious Hindu month of Kartik, or during the months of October and November on the Gregorian calendar, and comes 20 days after the popular festival of Dussehra and is celebrated as a day of thanksgiving and the beginning of the new year for many Hindus; and

WHEREAS, For Hindus, Diwali is a celebration of the victory of God over demonic forces; and

WHEREAS, For Sikhs, Diwali is feted as the day that the sixth founding Sikh Guru, or revered teacher, Guru Hargobind, was released from captivity by the Mughal Emperor Jehangir; and

WHEREAS, For Jains, Diwali marks the anniversary of the attainment of moksha or liberation by Lord Mahavira, the last of the Tirthankaras, who were the great teachers of Jain dharma, at the end of his life in 527 B.C.; now, therefore,

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

C.36:2-93 “Diwali Month,” October 15 through November 14; designated.

1. October 15 through November 14 of each year is designated as “Diwali Month” in New Jersey and celebrates the religious and historical significance of this festival.

C.36:2-94 Annual proclamation, observance of “Diwali Month.”

2. The Governor is respectfully urged to annually issue a proclamation recognizing October 15 through November 14 as “Diwali Month” in New Jersey and calling upon public officials and the citizens of New Jersey to observe the month with appropriate activities and programs.

3. This joint resolution shall take effect immediately.

Approved April 30, 2007.

JOINT RESOLUTION NO. 7

A JOINT RESOLUTION designating the Lincoln Highway Bridge over the Hackensack River as the “Shawn Carson and Robert Nguyen Memorial Bridge.”

WHEREAS, Shawn Carson, a 16-year veteran of the Jersey City Police Department, was a decorated officer who received two commendations, four Excellent Police Service Awards, and a World Trade Center Award; and

WHEREAS, Robert Nguyen, a 6-year veteran of the Jersey City Police Department, distinguished himself by receiving the World Trade Center Award, a unit citation as a member of the Special Investigations Unit, and two Excellent Police Service Awards; and

WHEREAS, On the night of December 25, 2005, Officers Carson and Nguyen, members of the police department’s elite Emergency Services Unit, were dispatched in brutal weather conditions to the Lincoln Highway Bridge, which spans the Hackensack River and connects Kearny and Jersey City, to protect motorists by alerting them to broken safety barriers; and

WHEREAS, After setting up flares on the Kearny side of the bridge, Officers Carson and Nguyen were returning to Jersey City, when without a warning that the bridge had been put into the open position to allow a boat to pass, they drove off the bridge and paid the ultimate sacrifice in carrying out their duties; and

WHEREAS, The naming of a bridge in honor of two fallen police officers will serve as a tribute to all police officers who have perished in the performance of their duties; and

WHEREAS, It is altogether fitting and proper that the State of New Jersey memorialize and honor Shawn Carson and Robert Nguyen by naming

the Lincoln Highway Bridge the “Shawn Carson and Robert Nguyen Memorial Bridge”; now, therefore,

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

1. The Commissioner of Transportation shall designate the Lincoln Highway Bridge, which carries State Highway Truck Route No. 1 and No. 9 over the Hackensack River, as the “Shawn Carson and Robert Nguyen Memorial Bridge.”

2. The Commissioner of Transportation is authorized to erect appropriate signs bearing that name.

3. This joint resolution shall take effect immediately.

Approved May 9, 2007.

JOINT RESOLUTION NO. 8

A JOINT RESOLUTION designating March 6th of each year as “Lymphedema Awareness Day.”

WHEREAS, Lymphedema is a debilitating condition characterized by an accumulation of lymphatic fluid that causes swelling in the arms, legs or other areas of the body; and

WHEREAS, Patients suffering from lymphedema may struggle with intense pain and disfigurement and may experience financial and psychological strains due to the difficulties of managing their condition, which has the potential to cause severe infections or loss of the use of limbs; and

WHEREAS, While there are rare cases of lymphedema that are inherited, most lymphedema cases are developed as a result of an infection, trauma, surgery, radiation therapy, or removal of lymph nodes; and

WHEREAS, Because the removal of lymph nodes is typical in cancer-related surgeries, cancer survivors are especially susceptible to developing lymphedema; for instance, it is estimated that 10 to 15 percent of mastectomy patients develop lymphedema of the arm; and

WHEREAS, Research about lymphedema treatment has been notably limited and the condition requires lifelong management by the patient; and

WHEREAS, The National Lymphedema Network sponsors Lymphedema Awareness "D" Day each year on March 6th to honor patients and to raise awareness of the treatment needs and severity of this condition; now, therefore,

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

C.36:2-95 "Lymphedema Awareness Day," March 6; designated.

1. The Legislature recognizes March 6th of each year as "Lymphedema Awareness Day" in the State of New Jersey.

C.36:2-96 Observance of "Lymphadema Awareness Day."

2. The Governor is respectfully requested to annually issue a proclamation calling upon public officials, the health care community and the citizens of New Jersey to observe the day with appropriate activities and programs, which promote awareness of the treatment needs and severity of lymphedema and which honor inspirational lymphedema patients.

3. This joint resolution shall take effect immediately.

Approved August 6, 2007.

JOINT RESOLUTION NO. 9

A JOINT RESOLUTION designating May as "Motorcycle Awareness Month" in the State of New Jersey.

WHEREAS, Motorcycle riding is a popular form of recreation and transportation for thousands of people across the State and the nation; and

WHEREAS, A growing number of New Jersey citizens are choosing motorcycles as an alternative mode of transportation; and

WHEREAS, Motorcycles are convenient, provide fuel economy benefits to the environment, reduce traffic and parking congestion, and provide enjoyment to their riders; and

WHEREAS, Many automobile drivers do not anticipate routine encounters with motorcyclists in traffic; and

WHEREAS, All motorists need to operate with caution near motorcycles as they lack the protective armor of and are less visible than trucks and automobiles which increases the risk of serious accidental injury and death for motorcyclists; and

WHEREAS, In recent years, more than half of all motorcycle fatalities involved a crash with another type of vehicle; and

WHEREAS, Because a motorcyclist is more likely to die in a crash than an automobile driver or passenger, an increased knowledge and awareness of motorcyclists can lessen the occurrence of injuries and fatalities to motorcyclists; and

WHEREAS, Due to the increased number of motorcycles on the roads and highways of our State and because motorcycle awareness and safety is a concern to all, it is appropriate to set aside a time to alert all motorists to the number of motorcyclists on the roads and to help motorists become aware of the safety concerns of motorcyclists; and

WHEREAS, In light of all these factors, it is important to heighten motorcycle awareness; now, therefore,

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

C.36:2-97 "Motorcycle Awareness Month," May; designated.

1. The month of May is hereby designated as "Motorcycle Awareness Month" in the State of New Jersey.

2. This joint resolution shall take effect immediately.

Approved August 6, 2007.

JOINT RESOLUTION NO. 10

A JOINT RESOLUTION declaring the State of New Jersey, as of December 18, 2006, a HERO Campaign state.

WHEREAS, Traffic fatalities attributable to alcohol in 2005 totalled 263 in New Jersey, with 180 involving a driver with a blood alcohol concentration of .08 or higher; and

WHEREAS, In August 2000, the Elliot family launched the HERO Campaign for Designated Drivers in memory of their son, Ensign John Elliot, whose tragic death was the result of a head-on collision caused by a drunk driver; and

WHEREAS, The HERO Campaign's mission is to end drunk driving fatalities, injuries and accidents nationwide by promoting designated driving and reminding the public to drive sober and not to let friends drive drunk, with the motto "Be a Hero. Be a Designated Driver!"; and

WHEREAS, The HERO Campaign not only encourages designated driving programs nationally but promoted the enactment of stricter drunk driving laws, leading to New Jersey's enactment of John's Law in 2001; and

WHEREAS, John's Law requires the disclosure of possible criminal and civil liability to persons who take custody of a DUI arrestee if such persons permit the arrestee to operate a motor vehicle while intoxicated and requires law enforcement officers to impound the vehicles of drivers charged with DUI for up to 12 hours; and

WHEREAS, The State of New Jersey wishes to acknowledge the importance of supporting designated driving programs as a key factor in the prevention of drunk driving; and

WHEREAS, On December 18, 2006, the Governor will declare New Jersey a HERO campaign state, becoming the first state to participate in and endorse the HERO campaign; now, therefore,

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

C.36:2-98 New Jersey declared HERO campaign state.

1. As of December 18, 2006, the State of New Jersey is declared a HERO Campaign state.

C.36:2-99 Annual observance of declaration.

2. The Governor is requested to issue annually a proclamation calling upon the public officials and the citizens of New Jersey to observe the declaration throughout the State with appropriate activities and programs.

3. This joint resolution shall take effect immediately.

Approved August 21, 2007.

JOINT RESOLUTION NO. 11

A JOINT RESOLUTION designating the third full week of September in each year as "Mitochondrial Disease Awareness Week."

WHEREAS, Mitochondria are the power plants in every cell of a person's body, and create more than 90% of the energy needed by the body to sustain life and support growth; and

WHEREAS, Mitochondria may not function correctly due to genetic defects, damage caused by drugs or damage caused by destructive molecules called free radicals; and

WHEREAS, When mitochondria fail, cell injury and cell death follow, and if the process is repeated throughout the body, whole systems begin to fail; and

WHEREAS, Mitochondrial diseases can cause isolated symptoms like seizures, low blood counts, blindness, deafness, dementia, heart failure and progressive muscle weakness, but more often they cause failure of several organ systems in sequence; and

WHEREAS, Although mitochondrial diseases can affect any person at any

age, they primarily affect children, and many children with mitochondrial diseases die before their teenage years; and

WHEREAS, It is estimated that more than one in 4,000 children born in the United States each year will develop a mitochondrial disease by 10 years of age; and

WHEREAS, Since mitochondrial disorders mimic other diseases, it is believed that they are underdiagnosed; and

WHEREAS, Currently no cures or effective therapies exist, but early diagnosis can help patients and their families use proper medication and nutritional supplements to improve the quality of life, and even prolong life; and

WHEREAS, The United Mitochondrial Disease Foundation provides support for families coping with mitochondrial diseases, encourages innovative research, and sponsors over 25 chapters and support groups throughout the United States; and

WHEREAS, It is appropriate that all citizens of the State of New Jersey be better informed about mitochondrial diseases and their impact; now, therefore,

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

C.36:2-100 "Mitochondrial Disease Awareness Week," third week of September; designated.

1. The third full week of September in each year is designated as "Mitochondrial Disease Awareness Week" in the State of New Jersey, and the citizens of New Jersey are urged to observe the week with appropriate activities and programs.

2. This resolution shall take effect immediately.

Approved September 4, 2007.

JOINT RESOLUTION NO. 12

A JOINT RESOLUTION designating the month of May of each year as "New Jersey Eyeglass Recycling Month."

WHEREAS, The World Health Organization estimates that the eyesight of more than 150 million people in the world can be improved by a simple sight test and the use of corrective lenses; recycling a pair of eyeglasses costs as little as eight cents in the United States, however, the expense of correcting poor vision is astronomical to those in developing countries, making the ownership of a pair of glasses both unaffordable and inaccessible; and

WHEREAS, Poor eyesight, if left untreated, can cause blindness or force adults into unemployment, yet, in developing areas of the world this is often the case because in many countries an eye examination can cost as much as one month's salary; and

WHEREAS, Since 1925, when Helen Keller addressed the Lions Clubs International Convention and asked its members to become "Knights of the Blind," blindness prevention and sight conservation has been a major initiative for the organization; for over 80 years, individual Lions clubs and districts in the United States, Canada and several other countries have been committed to meeting the demand for quality eyeglasses in developing nations throughout the world, and in October 1994 the Lions Eyeglasses Recycling Program was adopted as an official service activity of the Lions Clubs International; and

WHEREAS, Lions members generously volunteer their time and services by collecting used eyeglasses for donation, cleaning, repairing and classifying those donations by prescription and distributing the eyeglasses through other Lions clubs hosting optical missions in various countries; since 1996, more than 37 million eyeglasses have been collected by Lions Eyeglass Recycling Centers, and in 2005, five million pairs of eyeglasses were distributed to more than three million people throughout the world; and

WHEREAS, Each year, the New Jersey Lions Eyeglass Recycling Center at the Katzenbach School in Mercer County collects more than 500,000 eyeglasses for those who do not have access to prescription eyewear; the

center also sponsors optical missions in Mexico and the Dominican Republic where optometrists and other medical professionals help to distribute the donated eyeglasses; and

WHEREAS, By demonstrating a repeated devotion to helping others, the concerned and compassionate members of the New Jersey Lions Club have earned the respect and admiration of all who know of their efforts and have set the standard for community service that other organizations might emulate; and

WHEREAS, The vitality of the communities of New Jersey and those throughout the world depend, in great measure, upon dedicated organizations like the Lions Clubs International, whose New Jersey chapter uses its resources to better the lives of those in need by meeting the demand for quality eyeglasses in developing countries and providing services to the visually impaired who cannot afford standard eye care; now, therefore,

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

C.36:2-101 "New Jersey Eyeglass Recycling Month," May; designated.

1. The month of May of each year shall be designated as "New Jersey Eyeglass Recycling Month."

C.36:2-102 Observance, activities, programs.

2. The Governor shall issue a proclamation calling upon public officials and the citizens of this State to observe the month with appropriate activities and programs.

3. This joint resolution shall take effect immediately.

Approved November 2, 2007.

JOINT RESOLUTION NO. 13

A JOINT RESOLUTION designating September of each year as "Volunteer Blood Donor Awareness Month" in New Jersey.

WHEREAS, The blood banking system, and therefore the health of our population, depends upon the generosity and public spiritedness of volunteer blood donors who unselfishly give the gift of life to their fellow human beings; and

WHEREAS, A growing senior citizen population and advancing medical technology have increased the demand for supplies of blood faster than the pace of blood donations in our State and nation; and

WHEREAS, The events of September 11, 2001 vividly demonstrated how critical it is that hospitals have sufficient supplies of blood on hand to meet the sudden and unexpected demand that would arise in the event that we are confronted with a terrorist attack, natural disaster or other crisis; and

WHEREAS, Without a safe and adequate blood supply, those persons who are in need of the life-saving surgical interventions offered by modern medicine will not be able to benefit from this advanced medical technology; and

WHEREAS, The State must take whatever action it reasonably can to facilitate efforts to reduce the shortage of blood at blood centers and hospitals throughout New Jersey by encouraging volunteer blood donations by both first-time and repeat donors; now, therefore,

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

C.36:2-103 "Volunteer Blood Donor Awareness Month," September; designated.

1. September of each year is designated as "Volunteer Blood Donor Awareness Month" in New Jersey to increase the public's awareness and understanding of blood donation as a critical public health need throughout the State.

C.36:2-104 Observance of "Volunteer Blood Donor Awareness Month."

2. The Governor is respectfully requested to annually issue a proclamation recognizing September as "Volunteer Blood Donor Awareness Month" in New Jersey and calling upon public officials and citizens of this State to observe the month with appropriate activities and programs.

3. This joint resolution shall take effect immediately.

Approved December 20, 2007.

JOINT RESOLUTION NO. 14

A JOINT RESOLUTION designating the month of November of each year as Veterans' Month in the State of New Jersey in recognition of the accomplishments, contributions and sacrifices of veterans in the service of this nation and State.

WHEREAS, Although brave men and women have throughout our nation's history served with honor in the Armed Forces of this country and participated in wars and conflicts in which this country has engaged, their contributions, sacrifices and heroism are in danger of being forgotten by the general public or of being taken for granted; and

WHEREAS, We Americans should express our respect and gratitude for the millions of men and women who have served our nation as members of the Armed Forces; and

WHEREAS, We should remember the selflessness and valor of those brave men and women who answered their country's call to duty and participated in the wars and conflicts of this nation or served during times of peace; and

WHEREAS, We should remember those who were captured by the enemy or who are missing in action and whose fate is still unknown; and

WHEREAS, Americans and millions of people around the world enjoy the blessings of freedom, peace, and representative government because our veterans were willing to risk their lives for them; and

WHEREAS, The people of this State owe a great debt of gratitude to all our military veterans who have stood, in times of peace and war, for the value of individual liberty and a free and democratic government; and

WHEREAS, It is fitting and proper that this Legislature express its recognition of and appreciation for the contributions, heroism and

sacrifices of these dedicated and valiant men and women and for their devotion to duty, flag and country by declaring the month of November of each year as Veterans' Month in the State of New Jersey; now, therefore,

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

C.36:2-105 "Veterans' Month," November; designated.

1. The month of November of each year is designated as "Veterans' Month" in the State of New Jersey in recognition of the accomplishments, contributions and sacrifices of veterans in the service of this nation and State.

C.36:2-106 Observance of "Veterans' Month."

2. The Governor is requested to annually issue a proclamation calling upon public officials and citizens of this State to observe "Veterans' Month" with appropriate activities and programs.

3. This joint resolution shall take effect immediately.

Approved December 20, 2007.

JOINT RESOLUTION NO. 15

A JOINT RESOLUTION urging Congress to enact the "Employee Free Choice Act."

WHEREAS, In 1935, the United States Congress enacted the "National Labor Relations Act" to protect the rights of workers to form unions and in 1948 the Universal Declaration of Human Rights internationally recognized the freedom to form or join a union as a fundamental human right guaranteed to all people; and

WHEREAS, A worker's fundamental right to choose a union free from coercion and intimidation is a public issue that requires public policy solutions, including legislative remedies; and

WHEREAS, The free choice to join with others and bargain for better wages and benefits is essential to economic opportunity and good living standards and employees in states in which more people are union members consistently have higher wages, better benefits and better schools; and

WHEREAS, Unions benefit communities by strengthening living standards, stabilizing tax bases, promoting equal treatment and enhancing civic participation; and

WHEREAS, Union workers receive higher wages, earning 29 percent more than non-union workers, and union workers are four times more likely to have access to a guaranteed defined-benefit pension and 35 percent more likely to have access to health insurance coverage than non-union workers; and

WHEREAS, Unions help increase workers' pay, and narrow the income gap for minorities and women, by increasing median weekly earnings by 31 percent for women workers, 31 percent for African American workers, 50 percent for Latino workers, and 9 percent for Asian-American workers; and

WHEREAS, Workers across the nation are routinely denied the freedom to form unions and bargain for a better life, with 25 percent of private-sector employers illegally firing at least one worker for union activity during organizing campaigns; and

WHEREAS, 77 percent of the public believes it is important to have strong laws protecting the rights of workers to make their own decisions about union participation and 58 percent of workers would join a union if they had the opportunity; and

WHEREAS, In 45 percent of successful union campaigns employers have refused to bargain fairly with workers by delaying the first contract bargaining for up to two years; and

WHEREAS, Each year, millions of dollars are spent to discourage workers' efforts to form unions, and most violations of workers' freedom to choose a union occur privately, with 78 percent of employers forcing employees to attend mandatory anti-union meetings; and

WHEREAS, When workers' rights to form a union are violated, wages decrease, race and gender pay gaps widen, workplace discrimination increases, and job safety standards disappear; and

WHEREAS, The enactment of the "Employee Free Choice Act," H.R.800, would safeguard a worker's ability to make their own decision concerning certain workplace abuses; preserve workers' freedom to form a union; provide for first contract mediation and arbitration; and establish meaningful penalties for employer violations of workers' rights; now, therefore,

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

1. The Congress of the United States is urged to enact the "Employee Free Choice Act," H.R.800, to authorize the National Labor Relations Board to certify a union as the bargaining representative when a majority of employees voluntarily designate that union to represent them; provide for first contract mediation and arbitration; and establish meaningful penalties for employer violations of workers' rights.

2. Duly authenticated copies of this joint resolution shall be transmitted to the presiding officers of the Congress of the United States and each member of the United States Congress elected from the State of New Jersey.

3. This joint resolution shall take effect immediately.

Approved December 20, 2007.

JOINT RESOLUTION NO. 16

A JOINT RESOLUTION designating November of each year as "Pulmonary Hypertension Awareness Month" in New Jersey.

WHEREAS, The health of the residents of our State is the foundation for a caring and productive society; our future rests with our ability to find cures for, and adequately treat individuals who are afflicted with, a variety of illnesses, including pulmonary hypertension; and

WHEREAS, Pulmonary hypertension is a rare disorder that causes intolerable blood pressure levels in the arteries between the lungs and heart; and

WHEREAS, Historically, pulmonary hypertension has been a chronic and incurable disorder, with a poor survival rate; however, early diagnosis can lead to early treatment and the possibility of an improved quality of life as well as a prolonged one; and

WHEREAS, Education about pulmonary hypertension can lead to early diagnosis, and funding for research can help find a cure; and

WHEREAS, The Pulmonary Hypertension Association is a nonprofit organization that is dedicated to improving the quality of life for those with pulmonary hypertension, by promoting education, awareness, and research for pulmonary hypertension and providing member services and patient and family support; and

WHEREAS, It is appropriate for the State to increase awareness of the seriousness of pulmonary hypertension, the need for research to find a cure for pulmonary hypertension, and the noble efforts of the Pulmonary Hypertension Association to improve the lives of those suffering from this disorder that can affect every aspect of life; now, therefore,

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

C.36:2-107 “Pulmonary Hypertension Awareness Month,” November; designated.

1. The month of November of each year is designated as “Pulmonary Hypertension Awareness Month” in New Jersey.

C.36:2-108 Issuance of annual proclamation relative to seriousness of pulmonary hypertension.

2. The Governor shall annually issue a proclamation calling upon public officials and the citizens of the State to recognize the seriousness of pulmonary hypertension and the meritorious work of the Pulmonary Hypertension Association to find a cure for this disorder.

3. This joint resolution shall take effect immediately.

Approved January 3, 2008.

**AMENDMENT
ADOPTED IN 2007 TO THE 1947
CONSTITUTION**

(2285)

Amendment Adopted in 2007 to the 1947 Constitution

ARTICLE II, SECTION I, PARAGRAPH 6

Amend Article II, Section I, paragraph 6 to read as follows:

6. No person who has been adjudicated by a court of competent jurisdiction to lack the capacity to understand the act of voting shall enjoy the right of suffrage.

Approved November 6, 2007.

Effective November 6, 2007.

**PROPOSED AMENDMENT
TO THE 1947 CONSTITUTION
THAT HAS BEEN REJECTED
IN 2007**

Proposed Amendment to the 1947 Constitution that has been Rejected in 2007

ARTICLE VIII, SECTION I, PARAGRAPH 7

Amend Article VIII, Section I, paragraph 7 as follows:

7. a. No tax shall be levied on personal incomes of individuals, estates and trusts of this State unless the entire net receipts therefrom shall be received into the treasury, placed in a perpetual fund designated the Property Tax Relief Fund and be annually appropriated, pursuant to formulas established from time to time by the Legislature, to the several counties, municipalities and school districts of this State exclusively for the purpose of reducing or offsetting property taxes. In no event, however, shall a tax so levied on personal incomes be levied on payments received under the federal Social Security Act, the federal Railroad Retirement Act, or any federal law which substantially reenacts the provisions of either of those laws.

b. There shall be annually credited from the General Fund and placed in a special account in the perpetual Property Tax Relief Fund established pursuant to this paragraph, which account shall be designated the Property Tax Reform Account, an amount equal to the annual revenue derived from a tax rate of 1% imposed under the "Sales and Use Tax Act," P.L.1966, c.30 (C.54:32B-1 et seq.), as amended and supplemented, or any other subsequent law of similar effect, which amount shall be appropriated annually by the Legislature exclusively for the purpose of property tax reform.

Rejected November 6, 2007.

EXECUTIVE ORDERS

(2293)

EXECUTIVE ORDER No. 51

WHEREAS, This administration is committed to practices that adhere to the highest ethical standards, promote transparency in State activities, and enhance public trust in government; and

WHEREAS, As Governor, I am authorized to make appointments to a wide variety of State boards, authorities, commissions, councils, committees, and other public bodies having responsibilities relating to virtually every area of public policy; and

WHEREAS, The people of the State of New Jersey derive significant benefits from the important public service provided by individuals who serve as appointed, often unpaid, members of such State boards, authorities, and commissions; and

WHEREAS, The Governor's Appointments Office plays an integral role in the administrative and candidate-selection functions that are essential to the efficient and effective operation of the appointments process; and

WHEREAS, Appointments to State boards, authorities, and commissions should be undertaken in an inclusive manner designed to encourage diversity among applicants as well as broad public knowledge of, and participation in, available appointments opportunities; and

WHEREAS, Pursuant to Executive Order No. 37, a "Talent Bank" is being compiled by the Appointments Office to further this administration's policy of actively seeking candidates for membership on State authority boards from all sectors, including academia, business, and labor; and

WHEREAS, A fair and inclusive process for the appointment of qualified individuals to State boards, authorities, and commissions will contribute to maintaining the highest ethical standards and enhancing public trust in government;

NOW, THEREFORE, I, JON S. CORZINE, Governor of the State of New Jersey, by virtue of the authority vested in me by the Constitution and by the Statutes of this State, do hereby ORDER and DIRECT:

1. The Appointments Office, in cooperation with the Office of Information Technology, shall establish and maintain an interactive electronic database containing, to the extent practicable, detailed information regarding the mission and membership of the various active State boards, authorities, commissions, and other public bodies to which the Governor is authorized by law to make appointments (hereinafter referred to as "State boards"). The database shall be updated periodically, in a timely manner, and shall be readily accessible to the public via the Internet, as part of the Office of the Governor's website.

2. The database shall include, for each State board, the name of the board, the legal authority pursuant to which it is established, a general statement of its purpose, and a description of any special requirements that govern appointments thereto, along with any other useful information as determined by the Appointments Office.

3. The database also shall include a listing of the current membership of each State board and shall specify any current vacancies.

4. In order to maximize the opportunities for public participation in the appointments process, the database shall include an online application form and instructions for potential applicants to submit their resumes and areas of interest to the Appointments Office for consideration in filling available vacancies.

5. Each principal department to which a State board has been allocated shall cooperate fully with the Appointments Office in the implementation of this Order, including but not limited to providing updated information concerning membership and vacancies on State boards allocated to the department in a timely manner. In the case of a vacancy occurring by death, resignation, or for any reason other than the expiration of a member's term, notice shall be provided as soon as possible, but not later than 15 days after the occurrence of the vacancy. In the case of newly created entities that would constitute State boards as defined herein, the Appointments Office shall monitor their creation to ensure timely appointments of members and that new membership comports with any requirements established by the enabling statute or Executive Order.

6. This Order shall take effect 30 days from the date of its execution, although State boards and principal departments to which State boards have

been allocated are instructed to begin complying immediately with the terms of this Order to the extent possible.

Dated January 29, 2007.

EXECUTIVE ORDER No. 52

WHEREAS, The Governor and the Legislature often create boards, authorities, commissions, committees, and councils (hereinafter referred to as "boards") to incorporate the perspective of outside parties into governmental decision-making; and

WHEREAS, The people of the State of New Jersey derive significant benefits from the important public service provided by individuals who serve as appointed, often unpaid, members of such boards; and

WHEREAS, An ongoing review of the purpose and mission of boards is necessary to determine their continued relevance and to avoid duplication of effort; and

WHEREAS, A comprehensive program should be established to provide for a periodic review of boards to identify potential areas for elimination, consolidation, and/or improvement;

NOW, THEREFORE, I, JON S. CORZINE, Governor of the State of New Jersey, by virtue of the authority vested in me by the Constitution and by the Statutes of this State, do hereby ORDER and DIRECT:

1. Each department of State Government shall, during the month of December of each calendar year, report to the Governor's Office of Appointments as to whether or not boards within its jurisdiction should be eliminated, continued, or consolidated, together with a justification for each proposed elimination, continuation, or consolidation.

2. In preparing its report, each department shall afford to each board within its jurisdiction that has a roster of current members the opportunity to comment on the need for its continued existence.

3. On or before March 15 of each calendar year, the Appointments Office, in conjunction with the Office of Governor's Counsel, shall issue a report to the Governor and the Legislature regarding Executive branch boards, together with a proposal for any legislation that may be needed to repeal or amend the authorization, duties, or composition of any board for which such action is deemed necessary.

4. Any board established by Executive Order shall terminate on the first day of the third March following its establishment, unless otherwise prescribed in its enabling Executive Order, or unless renewed by Executive Order.

5. This Order shall take effect immediately.

Dated January 29, 2007.

EXECUTIVE ORDER No. 53

WHEREAS, Paterson Police Officer Tyron Franklin was raised in Paterson and Westwood, New Jersey, and graduated from Westwood High School, where he represented the school on the wrestling and football teams; and

WHEREAS, Officer Franklin was twenty-three years old, and a loving and devoted father of a young son, Tyron, called "T.J."; and

WHEREAS, Officer Franklin fulfilled his dream to become a police officer, and followed the example of his father, who protected the people of Paterson in a different public safety service as a fire department Captain; and

WHEREAS, Officer Franklin graduated from the Police Academy in April 2006, and served the community as a Paterson Police Officer in the Patrol Division; and

WHEREAS, Officer Franklin quickly became known among his fellow officers for his warm and friendly personality, and cultivated many close friendships among his colleagues during his time on the force; and

WHEREAS, while off-duty, Officer Franklin struggled with an armed robber, and tragically lost his life after being shot in the course of the robbery; and

WHEREAS, Officer Franklin's selfless devotion to public service and the protection of others makes him a hero and a true role model for all New Jerseyans and, therefore, it is appropriate and fitting for the State where he was raised and where he served so proudly as a peace officer to recognize his true commitment to the welfare and safety of others, to mark his untimely passing, to remember his family as they mourn their tragic loss, and to honor his memory;

NOW, THEREFORE, I, JON S. CORZINE, Governor of the State of New Jersey, by virtue of the authority vested in me by the Constitution and by the Statutes of this State, do hereby ORDER and DIRECT:

1. The flag of the United States of America and the flag of New Jersey shall be flown at half-staff at all State departments, offices, agencies and instrumentalities during the appropriate hours on February 2, 2007, in recognition of the life and in mourning of the passing of Police Officer Tyron Franklin.

2. This Order shall take effect immediately.

Dated January 31, 2007.

EXECUTIVE ORDER No. 54

WHEREAS, The vast weight of scientific evidence compels the conclusion that global climate change is currently underway and is directly driven by the emission of greenhouse gases resulting from human activity; and

WHEREAS, The United Nations Intergovernmental Panel on Climate Change has acknowledged that fundamental and accelerating changes to this planet are being caused by the use of carbon fuels and have resulted, in some cases, in dramatic changes that include increases in air and ocean temperatures, a rise in sea levels, geographic shifts in habitat of plants, animals and insects, melting glaciers and sea ice, increases in the

intensity of storms and widespread increases in temperature extremes;
and

WHEREAS, New Jersey is particularly vulnerable to the economic and environmental effects of climate change as a result of our coastal topography, coastline subsidence, and the high density of our coastal development; and

WHEREAS, New Jersey has led the nation with a variety of efforts to reduce greenhouse gas emissions, including a Regional Greenhouse Gas Initiative that will reduce carbon dioxide emissions from power plants, the adoption of greenhouse gas emissions standards for new automobiles and light trucks, the implementation of renewable portfolio standards, an Energy Master Plan that will not only require 20 percent of the electricity used in the State to come from Class One renewable energy sources by the Year 2020 but that will reduce future electricity consumption by 20 percent from projected 2020 consumption levels, the adoption of comprehensive appliance and equipment energy efficiency standards, and the establishment in the Department of Treasury of the position of Director of Energy Savings that will coordinate efforts to reduce energy use by State agencies; and

WHEREAS, A coordinated and focused strategy to reduce greenhouse gas emissions will not only support New Jersey's economic growth by fostering new technologies for energy efficiency and independence but will spur innovation and job growth and enhance New Jersey's competitiveness; and

WHEREAS, our recognition of climate change must be accompanied by even more aggressive and substantive efforts to forestall the course of irreversible climate change;

NOW, THEREFORE, I JON S. CORZINE, Governor of the State of New Jersey, by virtue of the authority vested in me by the Constitution and by the Statutes of this State, do hereby ORDER and DIRECT;

1. The following statewide greenhouse gas emissions reduction targets are hereby established for New Jersey:

a. Stabilization of greenhouse gas emissions at 1990 levels by 2020; and

b. Reduction of greenhouse gas emissions to 80% below 2006 levels by 2050.

2. The Department of Environmental Protection (DEP), in coordination with representatives of the Board of Public Utilities, the Department of Transportation, the Department of Community Affairs, and stakeholders, shall, over the course of the next six months, evaluate policies and measures that will enable the State to achieve the greenhouse gas emissions reduction levels called for by this Order, including any additional steps that will be required if New Jersey is to exceed the 2020 stabilization target, and make specific recommendations on how to achieve the emission reduction targets and evaluate the economic benefits and costs of implementing these recommendations.

3. DEP shall further coordinate its evaluation of greenhouse gas emissions reduction policies and measures with the work of the Energy Master Plan Committee established pursuant to N.J.S.A. 52:27F-14 and ensure that all elements of the Energy Master Plan incorporate the stabilization of State greenhouse gas emissions at 1990 levels by 2020.

4. DEP shall also develop a permanent system to monitor and report the State's greenhouse gas emission levels on an on-going basis and develop an inventory of 1990 greenhouse gas emissions in the State. DEP shall provide to the Governor and the Legislature, on an annual basis, its inventory of greenhouse gas emissions within New Jersey.

5. Every other year, DEP shall identify the rate of progress toward achieving the State's greenhouse gas emissions reduction targets and recommend to the Governor and the Legislature, as necessary, any additional actions that will be necessary to achieve the reduction targets.

6. Within six months from the date of this Order, the Director of Energy Savings in the Department of Treasury shall develop specific targets and implementation strategies for reducing usage by State agencies through improved energy efficiency at State facilities and by reducing the State's vehicle fleet's fuel consumption.

7. DEP and the Director of Energy Savings are authorized to call upon any department, office, division or agency of this State to supply them with the data and any other information, personnel or other assistance available to such agency as deemed necessary to discharge their duties under this Order. Each department, office, division or agency of this State is hereby required, to the extent not inconsistent with law, to cooperate fully and to furnish such assistance on as timely a basis as is necessary to accomplish the purpose of this Order. DEP and the Director of Energy Savings may consult with experts or other knowledgeable individuals in the public or private sector on any aspect of their mission.

8. This Order shall take effect immediately.

Dated February 13, 2007.

EXECUTIVE ORDER No.55

WHEREAS, U.S. Marine Corporal Thomas E. Saba, of Toms River, New Jersey, was born and raised in Staten Island and graduated from Susan E. Wagner High School;

WHEREAS, Corporal Saba's parents now live in Toms River, where Corporal Saba lived prior to volunteering for military service; and

WHEREAS, Corporal Saba enlisted in the U.S. Marine Corps shortly after the terrorist attacks of September 11, 2001 as a result of his commitment to this country; and

WHEREAS, Corporal Saba served proudly in Okinawa, Japan with the Marine Medium Helicopter Squadron 262, The Flying Tigers, a storied Marine helicopter squadron, with a distinguished history of combat and carrier operations; and

WHEREAS, Corporal Saba volunteered to extend his tour of duty after learning that The Flying Tigers squadron was being sent to Iraq, so he would be able to serve in Iraq with his unit and with his fellow Marines; and

WHEREAS, Corporal Saba was killed in action as a result of injuries suffered while conducting a casualty evacuation mission northwest of Bagdad, Iraq for which he had volunteered; and

WHEREAS, Corporal Saba was a committed and professional Marine and a loving son, brother, and uncle, whose memory lives in the hearts of his family and his fellow Marines; and

WHEREAS, Corporal Saba's patriotism and dedicated service to his country and his fellow Marines make it appropriate and fitting for the State of New Jersey to remember him and his family, to mark his passing, and to honor his memory;

NOW, THEREFORE, I, JON S. CORZINE, Governor of the State of New Jersey, by virtue of the authority vested in me by the Constitution and by the Statutes of this State, do hereby ORDER and DIRECT:

1 The flag of the United States of America and the flag of New Jersey shall be flown at half-staff at all State departments, offices, agencies, and instrumentalities during appropriate hours on Friday, February 16, 2007, in recognition and mourning of U.S. Marine Corporal Thomas E. Saba of Toms River, New Jersey.

2. This Order shall take effect immediately.

Dated February 14, 2007.

EXECUTIVE ORDER No. 56

WHEREAS, United States Army Chief Warrant Officer John A. Quinlan was born in Morristown, New Jersey, and raised in Phoenix, Maryland; and

WHEREAS, Chief Warrant Officer Quinlan spent many holidays and summers at the New Jersey shore, where his parents now reside; and

WHEREAS, Chief Warrant Officer Quinlan enlisted in the United States Marine Corps in 1988 shortly after graduating from high school; and

WHEREAS, Chief Warrant Officer Quinlan served proudly in the Marines Corps before volunteering for service in the United States Army where he was admitted into the U.S. Army Warrant Officer Program; and

WHEREAS, Chief Warrant Officer Quinlan attended the Army Aviation Warrant Officer Basic Course and received Initial Entry Rotary Wing training before attaining commissioned officer status as a chief warrant officer; and

WHEREAS, Chief Warrant Officer Quinlan served as a skilled helicopter pilot and instructor at bases in Korea and the United States; and

WHEREAS, Chief Warrant Officer Quinlan's deployment on behalf of his country to combat theaters numerous times, including Afghanistan on five occasions in support of Operation Enduring Freedom, and on two occasions in Iraq in support of Operation Iraqi Freedom demonstrate how much his country relied upon him; and

WHEREAS, Chief Warrant Officer Quinlan's distinguished record of service flying Chinook helicopters with elite U.S. Army Aviation Special Operations groups during combat operations is testament to both his skill and courage; and

WHEREAS, Chief Warrant Officer Quinlan was killed while conducting operations in a time of war as a member of the United States Army's renowned 2nd Battalion, 160th Special Operations Aviation Regiment (Airborne); and

WHEREAS, Chief Warrant Officer Quinlan was a highly-decorated combat veteran who earned our nation's highest military honors, including the Distinguished Flying Cross, Air Medal for Valor, three Air Medals, four Army Commendation Medals, Navy Commendation Medal, Navy Achievement Medal, Marine Corps Good Conduct Medal, National Defense Service Medal, Armed Forces Expeditionary Medal, Afghanistan Campaign Medal, Global War on Terrorism Expeditionary Medal, Global War on Terrorism Service Medal, Humanitarian Service Medal, Korea Defense Service Medal, (Saudi Arabia) Kuwait Liberation Medal, Kuwait Liberation Medal, Army Service Ribbon, Overseas Service Ribbon, Joint Meritorious Unit Award, Meritorious Unit

Citation, Combat Action Badge, Senior Aviation Badge, and Meritorious Service Medal; and

WHEREAS, Chief Warrant Officer Quinlan was a committed and highly trained professional soldier as well as a loving father, husband, son, grandson, brother, and uncle, whose memory lives in the hearts of his family and fellow soldiers; and

WHEREAS, Chief Warrant Officer Quinlan's patriotism and dedicated service to his country and his fellow soldiers make it appropriate and fitting for the State of New Jersey to remember him and his family, to mark his passing, and to honor his memory;

NOW, THEREFORE, I, JON S. CORZINE, Governor of the State of New Jersey, by virtue of the authority vested in me by the Constitution and by the Statutes of this State, do hereby ORDER and DIRECT:

1. The flag of the United States of America and the flag of New Jersey shall be flown at half-staff at all State departments, offices, agencies, and instrumentalities during appropriate hours on Friday, March 2, 2007, in recognition and mourning of a brave and loyal American, U.S. Army Chief Warrant Officer John A. Quinlan.

2. This Order shall take effect immediately.

Dated February 27, 2007.

EXECUTIVE ORDER No. 57

WHEREAS, Newark Police Sergeant Tommaso Popolizio was born and raised in Newark, New Jersey, graduated from Barringer High School, and attended Rutgers, the State University; and

WHEREAS, Sergeant Popolizio was thirty-three years old, and a loving and devoted husband, and father of four children, who resided with his family in Roseland, New Jersey; and

WHEREAS, Sergeant Popolizio graduated from the 102nd Class of the Newark Police Academy in 1995, and, like two of his siblings, served and protected the people of Newark as a police officer; and

WHEREAS, Sergeant Popolizio was a dedicated and respected supervisor, and known as a gentleman among his fellow officers; and

WHEREAS, During his career, Sergeant Popolizio was recognized for his bravery, and distinguished himself by chasing armed suspects, who fired at him; and by helping to save three children from a burning building, then humbly describing his efforts as simply "all in a day's work"; and

WHEREAS, On March 3, 2007, Sergeant Popolizio tragically lost his life, while driving his police vehicle in pursuit of a suspect who had escaped in a police vehicle; and

WHEREAS, Sergeant Popolizio's selfless devotion to public service and his numerous acts of heroism in the protection of others make him a true role model for all New Jerseyans and, therefore, it is appropriate and fitting for the State where he was raised and where he served so proudly as a peace officer to recognize his true commitment to the welfare and safety of others, to mark his untimely passing, to remember his family as they mourn their tragic loss, and to honor his memory;

NOW, THEREFORE, I, JON S. CORZINE, Governor of the State of New Jersey, by virtue of the authority vested in me by the Constitution and by the Statutes of this State, do hereby ORDER and DIRECT:

1. The flag of the United States of America and the flag of New Jersey shall be flown at half-staff at all State departments, offices, agencies and instrumentalities during the appropriate hours on March 9, 2007, in recognition of the life and in mourning of the passing of Sergeant Tommaso Popolizio.

2. This Order shall take effect immediately.

Dated March 7, 2007.

EXECUTIVE ORDER No. 58

WHEREAS, Senator Richard W. Van Wagner spent almost his entire adult life committed to public service, and New Jersey is a better place today because of that commitment; and

WHEREAS, Senator Van Wagner was first elected to the New Jersey General Assembly in November 1973; and

WHEREAS, During his ten years in the Assembly, Senator Van Wagner served as Chairman of the Assembly Revenue, Finance, and Appropriations Committee and the Assembly Taxation Committee; and

WHEREAS, Following his service in the General Assembly, in 1983 he was elected to the State Senate, where he served until 1991; and

WHEREAS, Senator Van Wagner was widely regarded as an expert in taxation issues, particularly in crafting tax relief programs and, under Governor James J. Florio, worked on landmark education finance legislation, that sought to reduce the State's reliance on property taxes for the funding of public education; and also sponsored the legislation that created the New Jersey Agent Orange Commission; and

WHEREAS, Following his career in elective office, Senator Van Wagner served the State as general manager of governmental and regulatory affairs for the New Jersey Sports and Exposition Authority; and

WHEREAS, Senator Van Wagner continued his mission to reform New Jersey's tax laws through his recent service on the New Jersey Property Tax Convention Task Force; and

WHEREAS, Senator Van Wagner was widely admired by his colleagues and loved by his family and friends; and

WHEREAS, It is with deep sadness that we mourn the loss of Senator Van Wagner and extend our sincere sympathy to his family and friends; and

WHEREAS, It is fitting and appropriate to honor the memory and the passing of Senator Van Wagner;

NOW, THEREFORE, I, JON S. CORZINE, Governor of the State of New Jersey, by virtue of the authority vested in me by the Constitution and by the Statutes of this State, do hereby ORDER and DIRECT:

1. The flag of the United States of America and the flag of the State of New Jersey shall be flown at half-staff at all State departments, offices, agencies and instrumentalities during appropriate hours on Saturday, March 10, 2007, in recognition and mourning of the passing of Senator Richard W. Van Wagner.

2. This Order shall take effect immediately.

Dated March 9, 2007.

EXECUTIVE ORDER NO. 59

WHEREAS, Alexander J. Menza, a retired New Jersey State Senator and Judge of the Superior Court of New Jersey, was a leader in the public life of this State, in the legal profession, and in the arts who uniquely dedicated his life to serving the common good and improving the quality of justice and the arts in New Jersey; and

WHEREAS, Senator Menza was a native of Newark's Ironbound section and served as a first lieutenant in the United States Army from 1954 to 1956; and

WHEREAS, He received his undergraduate degree from the University of Wisconsin in 1954 and his law degree from New York University School of Law in 1958; and

WHEREAS, Senator Menza was first elected to public office in 1967 as a member of the Hillside Township Committee, where he served for four years, including one year as Mayor in 1969; and

WHEREAS, Senator Menza was elected to the General Assembly in 1972, where he served until 1974, and was elected to the Senate in 1974, where he served until 1978; and

WHEREAS, During Senator Menza's distinguished service in the Legislature, he chaired the Mental Health Planning Committee and was widely known, in Governor Brendan J. Byrne's words, as the "voice of the voiceless" for his extraordinary efforts on behalf of the State's most defenseless citizens; and

WHEREAS, In 1978, Senator Menza stood as a candidate for the Democratic nomination for United States Senator; and

WHEREAS, Senator Menza taught law as an adjunct professor of law at the Seton Hall Law School beginning in 1984; and

WHEREAS, Governor Byrne subsequently appointed Senator Menza as Superior Court Judge in Union County in 1980, where he served until 1997; and

WHEREAS, As a distinguished member of the Judiciary, he was known for his dedication in crafting outstanding written opinions, of which over 80 were published, as well as his down-to-earth personal style and willingness to address complex legal problems; and

WHEREAS, Senator Menza also served as the Chair of the New Jersey Senate Task Force on Alcohol-Related Motor Vehicle Accidents and Fatalities from 1997 to 1998; and

WHEREAS, Senator Menza also served on the Board of Trustees of the University of Medicine and Dentistry of New Jersey beginning in 2004; and

WHEREAS, Senator Menza, in addition to these many achievements, was a true renaissance man who loved the theater and the opera and authored many plays that were produced off-Broadway; and

WHEREAS, Senator Menza was a mentor to many lawyers, public officials and artists; and

WHEREAS, Senator Menza commanded broad admiration from across the spectrum of human endeavor for his many qualities and achievements and was loved by his family and friends; and

WHEREAS, It is with deep sadness that we mourn the loss of Senator Menza and extend our sincere sympathy to his family and friends; and

WHEREAS, It is fitting and appropriate to honor the memory and the passing of Senator Menza;

NOW, THEREFORE, I, JON S. CORZINE, Governor of the State of New Jersey, by virtue of the authority vested in me by the Constitution and by the Statutes of this State, do hereby ORDER and DIRECT:

1. The flag of the United States of America and the flag of the State of New Jersey shall be flown at half-staff at all State departments, offices, agencies and instrumentalities during appropriate hours on Monday, March 19, 2007, in recognition and mourning of the passing of Senator Alexander J. Menza.

2. This Order shall take effect immediately.

Dated March 15, 2007.

EXECUTIVE ORDER No. 60

WHEREAS, United States Army Sergeant First Class Benjamin L. Sebban, of South Amboy, New Jersey, was raised in Middlesex County, attended St. Mary's School in South Amboy, and graduated from Middlesex County Vocational-Technical High School in 1996; and

WHEREAS, Sergeant First Class Sebban enlisted in the Army shortly after his graduation from Word of Life Bible College in 1998 and completed his basic training course at Fort Sill, Oklahoma, and Advanced Individual Training as a Combat Medic at Fort Sam Houston, Texas; and

WHEREAS, Sergeant First Class Sebban also attended nursing training at Fort Bragg, North Carolina, and completed the Basic Airborne Course at Fort Bragg; and

WHEREAS, Sergeant First Class Sebban was a highly trained U.S. Army Senior Combat Medic who served his country overseas in unique and

highly specialized missions, including training Republic of Georgia medics and as a Special Forces medic in West Africa; and

WHEREAS, Sergeant First Class Sebban most recently volunteered for assignment in the 5th Squadron, 73rd Cavalry Regiment, 3rd Brigade Combat Team of the U.S. Army's elite 82nd Airborne Division based in Fort Bragg, North Carolina; and

WHEREAS, While stationed in Iraq, Sergeant First Class Sebban led a platoon of medics and was recognized as a tireless worker preparing his unit for the vital, exacting and dangerous mission of saving lives in combat; and

WHEREAS, Sergeant First Class Sebban died under combat conditions while serving his country in Baqubah, Iraq; and

WHEREAS, Sergeant First Class Sebban has been recommended for the Silver Star in recognition of his gallantry and heroism in action and has received some of this nation's highest military honors, including the Bronze Star, the Purple Heart, the Army Commendation Medal with three oak leaf clusters, the Army Good Conduct Medal with one clasp, the Army Achievement Medal with three oak leaf clusters, the National Defense Service Medal, the Iraqi Campaign Medal, the Global War on Terror Expeditionary Medal, the Global War on Terror Service Medal, the Noncommissioned Officer Professional Development Ribbon, the Humanitarian Service Medal, the Army Service Ribbon, the Overseas Service Ribbon, the Combat Medical Badge, the Expert Field Medical Badge, and the Parachutist Badge; and

WHEREAS, Sergeant First Class Sebban was a committed and professional U.S. Army paratrooper and Senior Combat Medic and a loving son and brother, whose memory lives in the hearts of his family and his fellow Army paratroopers and medics; and

WHEREAS, Sergeant First Class Sebban's patriotism and dedicated service to his country and his fellow soldiers make it appropriate and fitting for the State of New Jersey to remember him and his family, to mark his passing, and to honor his memory;

NOW, THEREFORE, I, JON S. CORZINE, Governor of the State of New Jersey, by virtue of the authority vested in me by the Constitution and by the Statutes of this State, do hereby ORDER and DIRECT:

1. The flag of the United States of America and the flag of New Jersey shall be flown at half-staff at all State departments, offices, agencies, and instrumentalities during appropriate hours on Wednesday, March 28, 2007, in recognition and mourning of an American hero, U.S. Army paratrooper and Senior Combat Medic Sergeant First Class Benjamin L. Sebban of Middlesex County, New Jersey.

2. This Order shall take effect immediately.

Dated March 26, 2007.

EXECUTIVE ORDER No. 61

WHEREAS, United States Navy Commander Peter Mongilardi, Jr., of Haledon, New Jersey, was raised in Haledon; and

WHEREAS, United States Navy Commander Mongilardi served with honor and distinction as an Air Wing Commander in the United States Navy; and

WHEREAS, United States Navy Commander Mongilardi was killed in action while flying a A-4C Skyhawk on an armed reconnaissance mission over Thanh Hoa Province, North Vietnam, in June 1965; and

WHEREAS, United States Navy Commander Mongilardi was a courageous naval aviator who loved his family, friends, and fellow airmen and sailors; and

WHEREAS, United States Navy Commander Mongilardi was, in turn, loved by his family, friends, and fellow soldiers, who take great pride in his commitment, heroism, and achievements; and

WHEREAS, United States Navy Commander Mongilardi has made the ultimate sacrifice, giving his life in the line of duty, while fighting on behalf of his country; and

WHEREAS, It is appropriate and fitting for the State of New Jersey, the State where he was raised, to mark his passing, remember his family as they mourn their loss, and honor his memory;

NOW, THEREFORE, I, JON S. CORZINE, Governor of the State of New Jersey, by virtue of the authority vested in me by the Constitution and by the Statutes of this State, do hereby ORDER and DIRECT:

1. The flag of the United States of America and the flag of New Jersey shall be flown at half-staff at all State departments, offices, agencies, and instrumentalities during appropriate hours on Wednesday, April 11, 2007, in recognition of the life and in mourning of the passing of United States Navy Commander Peter Mongilardi, Jr.

2. This Order shall take effect immediately.

Dated April 9, 2007.

EXECUTIVE ORDER No. 62

WHEREAS, United States Marine Private First Class Miguel A. Marcial III, of Secaucus, New Jersey, was raised in New Jersey and attended Secaucus High School before transferring to the New Jersey National Guard College Youth Program at Ft. Dix, New Jersey; and

WHEREAS, Private First Class Marcial volunteered for enlistment in the Marine Corps in 2005, after obtaining his high school diploma, and was trained as a field radio operator; and

WHEREAS, Private First Class Marcial served proudly in the 1st Battalion, 2nd Marine Regiment, 2nd Marine Division, II Marine Expeditionary Force, based at Camp Lejeune, North Carolina; and

WHEREAS, Private First Class Marcial died while serving his country in Iraq; and

WHEREAS, Private First Class Marcial was a committed and professional Marine and a loving son and friend, whose memory lives in the hearts of his family, friends, and fellow Marines; and

WHEREAS, Private First Class Marcial's patriotism and dedicated service to his country and his fellow Marines make it appropriate and fitting for the State of New Jersey to remember him and his family, to mark his passing, and to honor his memory;

NOW, THEREFORE, I, JON S. CORZINE, Governor of the State of New Jersey, by virtue of the authority vested in me by the Constitution and by the Statutes of this State, do hereby ORDER and DIRECT:

1. The flag of the United States of America and the flag of New Jersey shall be flown at half-staff at all State departments, offices, agencies, and instrumentalities during appropriate hours on Thursday, April 12, 2007, in recognition and mourning of U.S. Marine Private First Class Miguel A. Marcial III of Secaucus, New Jersey.

2. This Order shall take effect immediately.

Dated April 9, 2007.

EXECUTIVE ORDER No. 63

WHEREAS, Federal Bureau of Investigation Special Agent Barry Lee Bush was born in Pottstown, Pennsylvania, graduated from Pottstown High School, and from Indiana College of Pennsylvania; and

WHEREAS, Special Agent Bush was fifty-two years old, and a loving and devoted husband and father of two children, who resided with his family in Forks Township, Pennsylvania; and

WHEREAS, Special Agent Bush was a good neighbor, a lover of the outdoors, and an avid Civil War enthusiast and collector; and

WHEREAS, Special Agent Bush joined the Federal Bureau of Investigation in 1987, and was assigned to the Bureau's Newark, New Jersey, offices in 1991; and

WHEREAS, Prior to joining the FBI, Special Agent Bush served the public as a police officer in the Boyertown and Pottstown Police Departments; and

WHEREAS, During his long and distinguished career in law enforcement, Special Agent Bush successfully investigated many high profile, complex and dangerous crimes, including terrorism; and

WHEREAS, On April 5, 2007, Special Agent Bush tragically lost his life in the line of duty, while in pursuit of a band of suspected bank robbers in Readington, New Jersey; and

WHEREAS, Special Agent Bush's selfless devotion to public service and acts of heroism in the protection of others make him a true role model for all New Jerseyans and, therefore, it is appropriate and fitting for the State where he served as a federal peace officer to recognize his true commitment to the welfare and safety of others, to mark his untimely passing, to remember his family as they mourn their tragic loss, and to honor his memory;

NOW, THEREFORE, I, JON S. CORZINE, Governor of the State of New Jersey, by virtue of the authority vested in me by the Constitution and by the Statutes of this State, do hereby ORDER and DIRECT:

1. The flag of the United States of America and the flag of New Jersey shall be flown at half-staff at all State departments, offices, agencies and instrumentalities during the appropriate hours on April 13, 2007, in recognition of the life and in mourning of the passing of Federal Bureau of Investigation Special Agent Barry Lee Bush.

2. This Order shall take effect immediately.

Dated April 10, 2007.

EXECUTIVE ORDER No. 64

WHEREAS, A major and severe weather storm, commonly referred to as a Nor'easter storm, has resulted in record amounts of rainfall and high winds over the past twenty-four hours causing significant river and tidal flooding and coastal beach erosion throughout the State of New Jersey; and

WHEREAS, The National Weather Service is forecasting further rainfall and flooding as bodies of water crest throughout the day on April 16, 2007 and thereafter; and

WHEREAS, The aforesaid condition constitutes an imminent hazard which threatens and presently endangers the health, safety and resources of the residents of one or more municipalities or counties of this State; and which is in some parts of the State and may become in other parts of the State too large in scope to be handled by the normal municipal operating services; and

WHEREAS, The Constitution and statutes of the State of New Jersey, particularly the provisions of N.J.S.A. App. A: 9-33 et seq., N.J.S.A. 38A:3-6.1, and N.J.S.A. 38A:2-4 and all amendments and supplements thereto, confer upon the Governor of the State of New Jersey certain emergency powers;

NOW, THEREFORE, I, RICHARD J. CODEY, Acting Governor of the State of New Jersey, in order to protect the health, safety and welfare of the people of the State of New Jersey DO DECLARE AND PROCLAIM that a State of Emergency presently exists throughout the State of New Jersey; and I hereby ORDER AND DIRECT the following:

1. I authorize and empower the State Director of Emergency Management to activate those elements of the State Emergency Operations Plan as he deems necessary to further safeguard the public security, health and welfare; and to coordinate the recovery effort from this emergency with all governmental agencies, volunteer organizations and the private sector.

2. I empower, in accordance with N.J.S.A. App. A:9-33 et seq., the State Director of Emergency Management, who is the Superintendent of State Police, through the police agencies under his control, to determine the control and direction of the flow of such vehicular traffic on any State Highway, municipal or county road, including the right to detour, reroute or divert any or all traffic and to prevent ingress or egress from any area, that, in the State Director's discretion, is deemed necessary for the protection of the health, safety and welfare of the public, and to remove parked or abandoned vehicles from such roadways as conditions warrant.

3. I authorize and empower the Attorney General, pursuant to the provisions of N.J.S.A. 39:4-213, acting through the Superintendent of State Police, to determine the control and direction of the flow of vehicular traffic on any State, Municipal, County or Interstate highway, and its access roads, including the right to detour, reroute or divert any or all traffic, and to prevent ingress or egress from any area to which the declaration of emergency applies, and further authorize all law enforcement officers to enforce any such order of the Superintendent of State Police within their respective municipalities.

4. I authorize and empower the State Director of Emergency Management to order the evacuation of all persons, except for those emergency and governmental personnel whose presence the State Director deems necessary, from any area where their continued presence would present a danger to their health, safety or welfare because of the conditions created by this emergency.

5. I authorize and empower the State Director of Emergency Management to utilize all facilities owned, rented, operated and maintained by the State of New Jersey to house and shelter persons who may need to be evacuated from a residence, dwelling, building, structure or vehicle during the course of this emergency.

6. I authorize and empower the executive head of any agency or instrumentality of the State government with authority to promulgate rules to waive, suspend or modify any existing rule the enforcement of which would be detrimental to the public welfare during this emergency, notwithstanding the provisions of the Administrative Procedure Act or any law to the contrary for the duration of this Executive Order, subject to my prior approval and in consultation with the State Director of Emergency Management. Any such waiver, modification or suspension shall be promulgated in accordance with N.J.S.A. App. A:9-45.

7. I authorize and empower the Adjutant General, in accordance with N.J.S.A. 38A:2-4 and N.J.S.A. 38A:3-6.1, to order to active duty such members of the New Jersey National Guard that, in the Adjutant General's judgment, are necessary to provide aid to those localities where there is a threat or danger to the public health, safety and welfare and to authorize the employment of any supporting vehicles, equipment, communications or supplies as may be necessary to support the members so ordered.

New Jersey State Library

8. In accordance with the N.J.S.A. App. A:9-34 and N.J.S.A. App. A:9-51, I reserve the right to utilize and employ all available resources of the State government and of each and every political subdivision of the State, whether of persons, properties or instrumentalities, and to commandeer and utilize any personal services and any privately owned property necessary to protect against this emergency.

9. This Order shall take effect immediately and shall remain in effect until such time as it is determined by me that an emergency no longer exists.

Dated April 16, 2007.

EXECUTIVE ORDER No. 65

WHEREAS, The tragedy at Virginia Polytechnic and State University, in Blacksburg, Virginia, has shaken the nation and, in particular, has affected the citizens of the State of New Jersey because of the deaths of students with close ties to New Jersey; and

WHEREAS, At this time of shock, sorrow and grieving, it is important for the State to come together to mourn the students who were killed and to remember their parents, families, and friends at a time of supreme loss; and

WHEREAS, It is appropriate and fitting for the State of New Jersey, a State with so many connections to so many of these students, to mark their passing, remember their families as they mourn their losses and honor their memories;

NOW, THEREFORE, I, RICHARD J. CODEY, Acting Governor of the State of New Jersey, by virtue of the authority vested in me by the Constitution and by the Statutes of this State, do hereby ORDER and DIRECT:

1. The flag of the United States of America and the flag of New Jersey shall be flown at half-staff at all State departments, offices, agencies and instrumentalities during the appropriate hours on Friday, April 20,

2007, in recognition of the lives and in mourning of the passing of the students and faculty killed at Virginia Polytechnic and State University.

2. This Order shall take effect immediately.

Dated April 18, 2007.

EXECUTIVE ORDER No. 66

WHEREAS, Executive Order No. 64, declaring a State of Emergency, was issued on April 16, 2007, because of severe flooding caused by rains beginning on April 14, 2007 and continuing until April 21, 2007; and

WHEREAS, The severity of the conditions necessitating the declaration of a State of Emergency has eased;

NOW, THEREFORE, I, RICHARD J. CODEY, Acting Governor of the State of New Jersey, by virtue of the authority vested in me by the Constitution and by the Statutes of this State, do hereby ORDER and DIRECT:

1. The State of Emergency declared in Executive Order No. 64 is terminated effective at 6:00 PM on May 1, 2007.

Dated May 1, 2007.

EXECUTIVE ORDER No. 67

WHEREAS, United States Army Staff Sergeant Vincenzo Romeo, of Lodi, New Jersey, was born in Calabria, Italy, before emigrating to the United States at three years of age; and

WHEREAS, Staff Sergeant Romeo was raised in Fair View, graduated from Lodi High School in 2003, and attended Kean University; and

WHEREAS, Staff Sergeant Romeo volunteered for enlistment in the United States Army in 2003, and received training at Fort Benning, Georgia; and

WHEREAS, Staff Sergeant Romeo served with honor and distinction as a member of the elite Stryker Brigade Combat Team based at Fort Lewis, Washington, and was deployed twice to combat theaters in Iraq; and

WHEREAS, Staff Sergeant Romeo was serving with the 5th Battalion, 20th Infantry Regiment, 3rd Brigade, 2nd Infantry Division when he was killed in action during combat operations against enemy forces in Baqubah, Iraq; and

WHEREAS, Staff Sergeant Romeo was a courageous soldier who loved his parents, siblings, fiancée, and friends; and

WHEREAS, Staff Sergeant Romeo was, in turn, loved by his parents, siblings, fiancée, and friends who take great pride in his commitment, heroism, and achievements; and

WHEREAS, Staff Sergeant Romeo has made the ultimate sacrifice, giving his life in the line of duty, while fighting on behalf of his country as a United States soldier in Baqubah, Iraq; and

WHEREAS, Staff Sergeant Romeo has been awarded some of our nation's highest military commendations and honors; and

WHEREAS, Staff Sergeant Romeo's patriotism and dedicated service to his country and to his fellow soldiers make him a hero and a true role model for all Americans; and

WHEREAS, it is appropriate and fitting for the State of New Jersey, the State where he was raised and educated, to mark his passing, remember his family and fiancée as they mourn their loss, and honor his memory;

NOW, THEREFORE, I, JON S. CORZINE, Governor of the State of New Jersey, by virtue of the authority vested in me by the Constitution and by the Statutes of this State, do hereby ORDER and DIRECT:

1. The flag of the United States of America and the flag of New Jersey shall be flown at half-staff at all State departments, offices, agencies, and instrumentalities during appropriate hours on Tuesday, May 15, 2007, in recognition of the life and in mourning of the passing of United States Army Staff Sergeant Vincenzo Romeo.

2. Order shall take effect immediately.

Dated May 11, 2007.

EXECUTIVE ORDER No. 68

WHEREAS, United States Army Sergeant Sameer Rateb was raised and lived in both New Jersey and South Carolina; and

WHEREAS, Sergeant Rateb played baseball as a member of the Brigantine Little League traveling team and also attended Woodbridge High School; and

WHEREAS, Sergeant Rateb enlisted in the United States Army in 2004 motivated by the tragic events of 9/11; and

WHEREAS, Sergeant Rateb served proudly in the United States Army as a member of the storied 82nd Airborne Division; and

WHEREAS, Sergeant Rateb was deployed to both Afghanistan in 2004 and to Iraq, while volunteering for re-enlistment in the United States Army in 2007; and

WHEREAS, Sergeant Rateb served proudly as a United States Army paratrooper; and

WHEREAS, Sergeant Rateb's deployment on behalf of his country to combat theaters including Afghanistan, in support of Operation Enduring Freedom, and Iraq, in support of Operation Iraqi Freedom, demonstrates the depth of his commitment and sacrifice; and

WHEREAS, Sergeant Rateb perished in a combat theater during a time of war while assigned to the 1st Battalion, 505th Parachute Infantry Regiment, 3rd Brigade Combat Team; and

WHEREAS, Sergeant Rateb was a committed and highly trained professional soldier as well as a loving husband, son, brother and father, whose memory lives in the hearts of his family; and

WHEREAS, It is appropriate and fitting for the State of New Jersey to mark his passing, remember his family as they mourn their loss, and honor his memory;

NOW, THEREFORE, I, JON S. CORZINE, Governor of the State of New Jersey, by virtue of the authority vested in me by the Constitution and by the Statutes of this State, do hereby ORDER and DIRECT:

1. The flag of the United States of America and the flag of New Jersey shall be flown at half-staff at all State departments, offices, agencies, and instrumentalities during appropriate hours on Wednesday, May 16, 2007 in recognition and mourning of a brave and loyal American, U.S. Army Staff Sergeant Sameer Rateb.

2. This Order shall take effect immediately.

Dated May 14, 2007.

EXECUTIVE ORDER No. 69

WHEREAS, Lakewood Police Officer William Preslar was raised in Lakewood, New Jersey, and graduated from Lakewood High School; and

WHEREAS, Officer Preslar was 36 years old, a loving and devoted husband, and father of two young daughters, and resided in Beachwood, New Jersey; and

WHEREAS, Officer Preslar fulfilled his lifelong dream to become a Lakewood police officer and graduated from the Ocean County Police Academy in May 2001; and

WHEREAS, Beginning in 2001, Officer Preslar served the community in the Patrol Division of the Lakewood Police Department, and also served as a member of the Department's Special Response Team; and

WHEREAS, Officer Preslar quickly became known among his fellow officers for his warm and friendly personality and, through his loyalty, courage, and character, cultivated many close friendships among his colleagues, especially those on the Special Response Team; and

WHEREAS, On May 14, 2007, while Officer Preslar was on duty and responding to another police officer's call for assistance, he tragically lost his life in an automobile accident; and

WHEREAS, Officer Preslar's selfless devotion to public service and the protection of others makes him a hero and a true role model for all New Jerseyans and, therefore, it is appropriate and fitting for the State where he was raised and where he served so proudly as a police officer to recognize his true commitment to the welfare and safety of others, to mark his untimely passing, to remember his family as they mourn their tragic loss, and to honor his memory;

NOW, THEREFORE, I, JON S. CORZINE, Governor of the State of New Jersey, by virtue of the authority vested in me by the Constitution and by the Statutes of this State, do hereby ORDER and DIRECT:

1. The flag of the United States of America and the flag of New Jersey shall be flown at half-staff at all State departments, offices, agencies, and instrumentalities during the appropriate hours on Friday, May 18, 2007, in recognition of the life and in mourning of the passing of Police Officer William Preslar.

2. This Order shall take effect immediately.

Dated May 17, 2007.

EXECUTIVE ORDER No. 70

WHEREAS, United States Army Staff Sergeant Joseph M. Weiglein of Audubon, New Jersey, attended Haviland Elementary School and graduated from Audubon High School; and

WHEREAS, Staff Sergeant Weiglein enlisted in the United States Army following his graduation from high school; and

WHEREAS, Staff Sergeant Weiglein was stationed overseas in South Korea and Kuwait and also served at military bases in Kansas, Tennessee, and Georgia; and

WHEREAS, Staff Sergeant Weiglein served proudly in the United States Army as a member of the elite 10th Mountain Division; and

WHEREAS, Staff Sergeant Weiglein was killed while on combat patrol in Iibu Falris, Iraq, during a time of war as a member of the United States Army's 2nd Battalion, 14th Infantry Regiment, 2nd Brigade Combat Team, 10th Mountain Division; and

WHEREAS, Staff Sergeant Weiglein has been recommended for some of our nation's highest military honors; and

WHEREAS, Staff Sergeant Weiglein was a committed and highly trained professional soldier as well as a loving husband, son, and brother, whose memory lives in the hearts of his family and fellow soldiers; and

WHEREAS, Staff Sergeant Weiglein's patriotism and dedicated service to his country and his fellow soldiers make it appropriate and fitting for the State of New Jersey to remember him and his family, to mark his passing, and to honor his memory;

NOW, THEREFORE, I, JON S. CORZINE, Governor of the State of New Jersey, by virtue of the authority vested in me by the Constitution and by the Statutes of this State, do hereby ORDER and DIRECT:

1. The flag of the United States of America and the flag of New Jersey shall be flown at half-staff at all State departments, offices, agencies, and instrumentalities during appropriate hours on Wednesday, June 6, 2007, in recognition and mourning of a brave and loyal American, United States Army Staff Sergeant Joseph M. Weiglein.

2. This Order shall take effect immediately.

Dated June 5, 2007.

EXECUTIVE ORDER No. 71

WHEREAS, The deaths of nine firefighters in Charleston, South Carolina, tragically mark the single largest loss of firefighters' lives in the United States since the September 11, 2001 terrorist attack on the World Trade Center; and

WHEREAS, The deaths of these nine brave men remind us of the deadly risks and unimaginable dangers that New Jersey firefighters and first responders confront on a daily basis; and

WHEREAS, New Jersey firefighters, both volunteer and professional, save the lives of New Jerseyans, on a daily basis, while risking their own lives; and

WHEREAS, New Jersey has, sadly, experienced the loss of firefighters' lives in the line of duty in recent years; and

WHEREAS, Only five years ago, three New Jersey firemen were tragically killed in a fire in Gloucester City while attempting to save the lives of three little girls; and

WHEREAS, The recent deaths in South Carolina are stark testament and a haunting reminder of the courage and commitment to duty that firefighters throughout New Jersey display on a daily basis in service to our families, neighbors, and friends;

NOW, THEREFORE, I, JON S. CORZINE, Governor of the State of New Jersey, by virtue of the authority vested in me by the Constitution and by the Statutes of this State, do hereby ORDER and DIRECT:

1. The people of New Jersey should be encouraged to observe a moment of silence at noon on Monday, June 25, 2007 in silent recognition of the lives and in mourning of the passing of the South Carolina firefighters and of all the New Jersey firefighters who have died in the line of duty while protecting the people of the State of New Jersey.

2. This Order shall take effect immediately.

Dated June 22, 2007.

EXECUTIVE ORDER No. 72

WHEREAS, Byron M. Baer, a retired New Jersey Assemblyman and State Senator, was a leader in the public life of both this country and this State; and

WHEREAS, Senator Baer, throughout his life, consistently and fearlessly sought to promote justice and increase transparency in public life; and

WHEREAS, As a young man, Senator Baer traveled to Mississippi as a Freedom Rider to further civil rights; and

WHEREAS, Senator Baer, in the tradition of Gandhi, and consistent with the principles of Martin Luther King, Jr., served time in a Mississippi jail, as a Freedom Rider, reflecting his personal courage and his deep and abiding commitment to civil rights and equal justice under law; and

WHEREAS, Senator Baer represented his beloved Bergen County in the New Jersey Legislature over a period of four decades as both an Assemblyman and a Senator, beginning his service in 1966 as an aide to former Assemblyman Arnold Brown; and

WHEREAS, Senator Baer was first elected to the General Assembly in 1971 and was re-elected to that post ten times; and

WHEREAS, Senator Baer was elected to the Senate in 1993, where he served until his resignation for health reasons on September 5, 2005; and

WHEREAS, During Senator Baer's distinguished service in the Legislature, he held a variety of leadership posts; and

WHEREAS, Senator Baer, as an Assemblyman, sponsored the Open Public Meetings Act or Sunshine Law, a significant post-Watergate reform that substantially increased public access and participation in government; and

WHEREAS, In honor of Senator Baer's commitment to open government, the Open Public Meetings Act was recently renamed the "Senator Byron M. Baer Open Public Meetings Act"; and

WHEREAS, Senator Baer also helped draft and was a sponsor of New Jersey's signature Open Public Records Act in 2002; and

WHEREAS, Senator Baer also served on the Securities Regulation Commission, the Hudson Waterfront Development Commission, the

Legislative Services Commission, and the Holocaust Memorial Commission and was a past president of the National Association of Jewish Legislators; and

WHEREAS, Senator Baer tirelessly advocated on behalf of the poor and disenfranchised, and diligently worked to pass bills protecting consumers, guarding against catastrophic toxic waste disasters and safeguarding tenants' rights; and

WHEREAS, Senator Baer, in addition to these many achievements, was widely respected for his decency, his love of his family and constituents, and his commitment to do the right thing; and

WHEREAS, In the words of his successor, Senator Loretta Weinberg, Senator Baer "inspired people by actually living the principles of transparent government and civil rights"; and

WHEREAS, In the words of Governor Brendan T. Byrne, Senator Baer "was a real leader, and a real student of the Legislature and the process"; and

WHEREAS, It is fitting and appropriate to remember Senator Baer and to honor his passing;

NOW, THEREFORE, I, JON S. CORZINE, Governor of the State of New Jersey, by virtue of the authority vested in me by the Constitution and by the Statutes of this State, do hereby ORDER and DIRECT:

1. The flag of the United States of America and the flag of the State of New Jersey shall be flown at half-staff at all State departments, offices, agencies and instrumentalities during appropriate hours on Wednesday, June 27, 2007, in recognition and mourning of the passing of Senator Byron M. Baer.

2. This Order shall take effect immediately.

Dated June 26, 2007.

EXECUTIVE ORDER No. 73

WHEREAS, United States Army Private First Class David J. Bentz, III of Newfield, Gloucester County, New Jersey, graduated from Clayton High School in 2004; and

WHEREAS, Private Bentz, who was known for his smile and determination, played soccer for his high school team; and

WHEREAS, Private Bentz enlisted in the United States Army after his graduation from high school and served in the 1st Battalion, 64th Armor Regiment, 2nd Brigade Combat Team, 3rd Infantry Division; and

WHEREAS, Private Bentz was a dedicated soldier as well as a loving son, brother, and friend, whose memory lives in the hearts of his family and fellow soldiers; and

WHEREAS, Private Bentz was killed in Baghdad, Iraq, during a time of war while serving as a member of the United States Army; and

WHEREAS, Private Bentz has been recommended for some of our nation's highest military honors; and

WHEREAS, Private Bentz's patriotism and dedicated service to his country and his fellow soldiers make it appropriate and fitting for the State of New Jersey to remember him and his family, to mark his passing, and to honor his memory;

NOW, THEREFORE, I, JON S. CORZINE, Governor of the State of New Jersey, by virtue of the authority vested in me by the Constitution and by the Statutes of this State, do hereby ORDER and DIRECT:

1. The flag of the United States of America and the flag of New Jersey shall be flown at half-staff at all State departments, offices, agencies, and instrumentalities during appropriate hours on Friday, June 29, 2007, in recognition and mourning of a brave and loyal American, United States Army Private First Class David J. Bentz, III.

2. This Order shall take effect immediately.

Dated June 27, 2007.

EXECUTIVE ORDER No. 74

WHEREAS, United States Army Sergeant Eric L. Snell, of Hamilton, New Jersey, was raised in Hamilton, where he played baseball in Little League and the Babe Ruth League; and

WHEREAS, Sergeant Snell graduated from Hamilton High School West, where he played football, ran track, and excelled as a star baseball player; and

WHEREAS, Sergeant Snell was drafted out of high school in the professional draft by the Cleveland Indians; and

WHEREAS, Despite being drafted by the Indians, Sergeant Snell chose to pursue a college education, enrolling at Old Dominion University then transferring and graduating from Trenton State College (now the College of New Jersey); and

WHEREAS, Sergeant Snell subsequently volunteered for enlistment in the United States Army in 2005; and

WHEREAS, Sergeant Snell served proudly in the United States Army where, in only two years, he was promoted to the rank of sergeant; and

WHEREAS, Sergeant Snell was deployed on behalf of his country, to a combat theater, in support of Operation Iraqi Freedom; and

WHEREAS, Sergeant Snell was killed while conducting combat operations in a time of war in Iraq, as a member of the United States Army's 3rd Battalion, 61st Cavalry Regiment, 2nd Brigade Combat Team, 2nd Infantry Division, based in Fort Carson, Colorado; and

WHEREAS, Sergeant Snell has been recommended for some of our nation's highest military honors; and

WHEREAS, Sergeant Snell was a committed and highly trained professional soldier as well as a loving father, son, and teammate whose memory lives in the hearts of his family, friends, and fellow soldiers and teammates; and

WHEREAS, Sergeant Snell's patriotism and dedicated service to this country and his fellow soldiers make it appropriate and fitting for the State of New Jersey to remember him and his family, to mark his passing, and to honor his memory;

NOW, THEREFORE, I, JON S. CORZINE, Governor of the State of New Jersey, by virtue of the authority vested in me by the Constitution and by the Statutes of this State, do hereby ORDER and DIRECT:

1. The flag of the United States of America and the flag of New Jersey shall be flown at half-staff at all State departments, offices, agencies, and instrumentalities during appropriate hours on Friday, June 29, 2007, in recognition and mourning of a brave and loyal American, United States Army Sergeant Eric L. Snell.

2. This Order shall take effect immediately.

Dated June 27, 2007.

EXECUTIVE ORDER No. 75

WHEREAS, United States Army Sergeant Trista L. Moretti of South Plainfield, New Jersey, graduated from South Plainfield High School in 1998, where she excelled in field hockey and track, earning nine varsity letters; and

WHEREAS, Sergeant Moretti volunteered for enlistment in the United States Army in 2003; and

WHEREAS, Sergeant Moretti served proudly in the United States Army as a signal intelligence officer and paratrooper in the United States Army's 425th Brigade Special Troops Battalion, 4th Brigade Combat Team (Airborne), 25th Infantry Division; and

WHEREAS, Sergeant Moretti suffered fatal injuries on behalf of her country in an insurgent attack in Iraq; and

WHEREAS, Sergeant Moretti served her country in a time of war with skill and courage in demanding assignments; and

WHEREAS, Sergeant Moretti was a committed and highly trained professional soldier as well as a loving daughter, sister, and teammate, whose memory lives in the hearts of her family, fellow soldiers, and teammates; and

WHEREAS, Sergeant Moretti's patriotism and dedicated service to her country and her fellow soldiers make it appropriate and fitting for the State of New Jersey to remember her and her family, to mark her passing, and to honor her memory;

NOW, THEREFORE, I, JON S. CORZINE, Governor of the State of New Jersey, by virtue of the authority vested in me by the Constitution and by the Statutes of this State, do hereby ORDER and DIRECT:

1. The flag of the United States of America and the flag of New Jersey shall be flown at half-staff at all State departments, offices, agencies, and instrumentalities during appropriate hours on Tuesday, July 3, 2007, in recognition and mourning of a brave and loyal American, United States Army Sergeant Trista L. Moretti.

2. This Order shall take effect immediately.

Dated June 29, 2007.

EXECUTIVE ORDER No. 76

WHEREAS, Firefighter Stephen Dembski was a life-long resident of Ridgefield Park, a volunteer firefighter and a former Fire Chief serving the community for 23 years; and

WHEREAS, Firefighter Dembski followed a family tradition by joining the fire company, and served the Fire Department and the people of Ridgefield Park with exceptional courage, dedication and professionalism; and

WHEREAS, Firefighter Dembski was a loving husband and a devoted father of two sons; and

WHEREAS, Firefighter Dembski will be remembered as an “all around great guy” and an active member in his community who served as a little league coach and was involved in many other activities; and

WHEREAS, Firefighter Dembski has made the ultimate sacrifice, giving his life as a volunteer firefighter to help New Jersey’s citizens and, therefore, it is appropriate and fitting for the State of New Jersey to mark his passing and to honor his memory.

NOW, THEREFORE, I, JON S. CORZINE, Governor of the State of New Jersey, by virtue of the authority vested in me by the Constitution and by the Statutes of this State, do hereby ORDER and DIRECT:

1. The flag of the United States of America and the flag of the State of New Jersey shall be flown at half staff at all State departments, offices, agencies and instrumentalities during appropriate hours on Friday, July 20, 2007 in recognition of the life and mourning of the passing of Firefighter Stephen Dembski.

2. This Order shall take effect immediately.

Dated July 19, 2007.

EXECUTIVE ORDER No. 77

WHEREAS, United States Army Captain Maria I. Ortiz was born in Camden, New Jersey, where she lived for the first five years of her life; and

WHEREAS, Captain Ortiz’s mother and twin sister currently reside in Pennsauken, New Jersey; and

WHEREAS, Captain Ortiz graduated from the University of Puerto Rico, Mayaguez, in 1990 with a Bachelor of Science degree, received a Bachelor of Science degree in nursing from the University of Puerto Rico in 1999, and subsequently earned a masters degree from the National Graduate School in 2004; and

WHEREAS, Captain Ortiz enlisted in the United States Army in 1991 and served for eight years in the enlisted corps, before obtaining her nursing degree in 1999, and joining the officer corps; and

WHEREAS, Captain Ortiz has served on behalf of her country in Honduras, South Korea, and at Walter Reed Army Hospital in Washington, DC; and

WHEREAS, Captain Ortiz was the chief nurse of general medicine at the Kirk United States Army Health Clinic at Aberdeen Proving Ground Maryland, where she distinguished herself with her dedication and commitment to the highest standards of medical care; and

WHEREAS, Captain Ortiz was an expert military nurse, who volunteered for service in Iraq, with the 28th Combat Support Hospital, 3rd Medical Command, in order to treat wounded soldiers and civilians in a combat theater; and

WHEREAS, Captain Ortiz died as a result of wounds suffered while caring for others in the service of her country in Baghdad, Iraq; and

WHEREAS, Captain Ortiz has received some of our nation's highest combat decorations, including the Bronze Star; and

WHEREAS, Captain Ortiz was the exemplification of a committed and professional United States Army nurse and was a loving daughter, fiancé, and sister, whose memory lives in the hearts of her family, and her fellow soldiers and medical professionals; and

WHEREAS, Captain Ortiz's patriotism and dedicated service to her country and her fellow soldiers make it appropriate and fitting for the State of New Jersey to remember her and her family, to mark her passing, and to honor her memory;

NOW, THEREFORE, I, JON S. CORZINE, Governor of the State of New Jersey, by virtue of the authority vested in me by the Constitution and by the Statutes of this State, do hereby ORDER and DIRECT:

1. The flag of the United States of America and the flag of New Jersey shall be flown at half-staff at all State departments, offices, agencies,

instrumentalities in New Jersey during appropriate hours on Monday, August 6, 2007, in recognition and mourning of an American hero, United States Army Captain Maria I. Ortiz.

2. This Order shall take effect immediately.

Dated July 27, 2007.

EXECUTIVE ORDER No. 78

WHEREAS, New Jersey ranks 3rd in the nation in the number of its foreign-born residents as a percentage of the total State population; and

WHEREAS, Immigrants have historically contributed to the economic, social, and civic fabric of this State and this nation; and

WHEREAS, Immigrants face many challenges and obstacles on the path to becoming fully productive and self-sufficient members of society; and

WHEREAS, New Jersey recognizes that the successful integration of its immigrants as fully productive and self-sufficient members of society is critical to the future economic and social well-being of the State; and

WHEREAS, The federal government enacts immigration policy regarding the terms and conditions for entry and work in the United States; and

WHEREAS, The states have the responsibility for the development and implementation of policies that assist immigrants' integration into society; and

WHEREAS, A progressive and holistic approach by the State towards immigrant policy that leverages the skills and assets of its immigrants and directs State resources in accelerating immigrant integration will benefit the entire State;

NOW, THEREFORE, I, JON S. CORZINE, Governor of the State of New Jersey, by virtue of the authority vested in me by the Constitution and by the Statutes of this State, do hereby ORDER and DIRECT:

1. There is hereby established the Governor's Blue Ribbon Advisory Panel on Immigrant Policy ("Advisory Panel").

2. All public members of the Advisory Panel shall be appointed by the Governor and shall serve at his pleasure. The Governor shall select from among all of the members the chair of the Advisory Panel. All public members of the Advisory Panel shall serve without compensation.

3. The Advisory Panel shall consist of 27 members. The 18 public members shall be broadly representative of the following subjects and constituencies: civil rights, commerce, community-based organizations, education, faith-based organizations, immigration advocacy, labor, and service providers. The New Jersey Legislature's African-American and Latino Caucuses shall each select from their membership one member to serve on the Advisory Panel. The Attorney General, the Commissioners of Children and Families, Education, Health and Senior Services, Human Services, and Labor and Workforce Development, and the Public Advocate or their designees shall serve as ex-officio members of the Advisory Panel. Vacancies on the Advisory Panel shall be filled in the same manner as the original appointment.

4. The Advisory Panel shall organize as soon as practicable after the appointment of a majority of its members.

5. The Advisory Panel shall be authorized to call upon any department, office, division or agency of this State to supply it with any information, personnel or other assistance available as the Advisory Panel deems necessary to discharge its duties under this Order. Each department, office, division or agency of this State is hereby required, to the extent not inconsistent with law, to cooperate fully with the Advisory Panel within the limits of its statutory authority and to furnish the Advisory Panel with such assistance on as timely a basis as is necessary to accomplish the purposes of this Order. The Advisory Panel may consult with experts or other knowledgeable individuals in the public or private sector on any aspect of its mission. The Department of the Public Advocate shall provide staff support to the Advisory Panel.

6. The Advisory Panel is charged with developing recommendations for a comprehensive and strategic Statewide approach to successfully integrate the rapidly growing immigrant population in New Jersey.

7. The Advisory Panel shall develop recommendations on how the State can better prepare immigrants to become fully productive and self-sufficient members of society by addressing the need for greater access in the following areas: civil rights, citizenship status, education, employment/workforce training, fair housing, healthcare, language proficiency and other key areas as identified by the Advisory Panel.

8. The Advisory Panel shall elicit input by conducting public hearings to take testimony from individuals, community groups and other interested parties and by arranging for those who are not able to testify in person to forward their testimony by mail or by internet.

9. The Advisory Panel may report to the Governor from time to time and shall issue a final report to the Governor no later than 15 months from the date of the first organizational meeting. The final report shall include the Advisory Panel's recommendations, including whether a more permanent body is necessary for the implementation of immigrant policy in the State or whether another type of entity is more appropriate. The Advisory Panel shall expire upon the issuance of its final report.

10. Any reports of the Advisory Panel shall be provided to the Legislature and shall be made available to the public.

11. This Order shall take effect immediately.

Dated August 6, 2007.

EXECUTIVE ORDER No. 79

WHEREAS, United States Army Corporal Kareem R. Khan of Stafford, New Jersey, attended Manahawkin Elementary School and graduated from both Southern Regional Middle School and Southern Regional High School; and

WHEREAS, Corporal Khan volunteered for enlistment in the United States Army following his graduation from high school; and

WHEREAS, Corporal Khan received training at Fort Benning, Georgia, before being assigned to Fort Lewis, Washington; and

WHEREAS, Corporal Khan served proudly in the United States Army as a member of an elite Stryker Brigade Combat Team; and

WHEREAS, Corporal Khan was killed while on combat patrol in Baqouba, Iraq, during a time of war, as a member of the United States Army's 1st Battalion, 23rd Infantry Regiment, 3rd Brigade, 2nd Division. (Stryker Brigade Combat Team); and

WHEREAS, Corporal Khan has been recommended for some of our nation's highest military honors, including the Purple Heart; and

WHEREAS, Corporal Khan was a committed and highly trained professional soldier as well as a loving son and brother, whose memory lives in the hearts of his family and fellow soldiers; and

WHEREAS, Corporal Khan's patriotism and dedicated service to his country and his fellow soldiers make it appropriate and fitting for the State of New Jersey to remember him and his family, to mark his passing, and to honor his memory;

NOW, THEREFORE, I, JON S. CORZINE, Governor of the State of New Jersey, by virtue of the authority vested in me by the Constitution and by the Statutes of this State, do hereby ORDER and DIRECT:

1. The flag of the United States of America and the flag of New Jersey shall be flown at half-staff at all State departments, offices, agencies, and instrumentalities during appropriate hours on Thursday, August 23, 2007, in recognition and mourning of a brave and loyal American, United States Army Corporal Kareem R. Khan.

2. This Order shall take effect immediately.

Dated August 13, 2007.

EXECUTIVE ORDER No. 80

WHEREAS, Senator Wesley L. Lance was a significant contributor in creating the modern constitutional structure and legal institutions that govern New Jersey; and

WHEREAS, Senator Lance served New Jersey as an Assemblyman, jurist, Senator, Senate President, and delegate to the seminal 1947 New Jersey Constitutional Convention; and

WHEREAS, Senator Lance began his service to the citizens of New Jersey by teaching high school civics and coaching athletics, prior to entering Harvard Law School from which he graduated in 1935; and

WHEREAS, Senator Lance was first elected to New Jersey's General Assembly in 1937, was subsequently appointed to an unexpired Senate term in 1941, and was elected to the Senate in 1942; and

WHEREAS, Senator Lance resigned his position in 1943 to enlist in the United States Navy; and

WHEREAS, Senator Lance served as a sailor on the aircraft carrier U.S.S. Boxer in the Pacific Theater; and

WHEREAS, following Senator Lance's service in World War II, Governor Alfred E. Driscoll appointed Senator Lance to the position of Hunterdon County Judge in 1947; and

WHEREAS, Senator Lance was also elected as a delegate to New Jersey's 1947 Constitutional Convention; and

WHEREAS, Senator Lance was a significant voice in the deliberations of the 1947 Constitutional Convention and substantially contributed to drafting New Jersey's modern Constitution, which has served as a model for other states; and

WHEREAS, Senator Lance rejoined the New Jersey Senate in 1953 and, during his tenure as a Senator, was subsequently elected Senate President and, in that capacity, also served as Acting Governor of the State of New Jersey; and

WHEREAS, Senator Lance was a drafter and prime sponsor of the Fox-Lance Act, legislation that has substantially assisted in the redevelopment of our urban areas; and

WHEREAS, Senator Lance again served with distinction as a delegate to New Jersey's 1966 Constitutional Convention and, in that capacity, assisted in the development of New Jersey's modern Legislature; and

WHEREAS, Senator Lance practiced law in New Jersey for seventy years, was the attorney for Lebanon Township for more than 60 years, and provided legal advice and counsel to Hunterdon County and the State Farm Bureau; and

WHEREAS, Senator Lance's significant role in drafting New Jersey's Constitution will not be forgotten, nor will his devotion to the common good and welfare of the State; and

WHEREAS, Senator Lance was a trusted advisor and counsel to many citizens, lawyers, and public officials; and

WHEREAS, Senator Lance is widely recognized for his legal and legislative achievements, as well as his unique and long-standing commitment to the State of New Jersey; and

WHEREAS, It is with deep sadness that we mourn the loss of Senator Lance, recognize the extent of his achievements, and extend our sincere sympathy to his sons, family, and friends; and

WHEREAS, It is fitting and appropriate to honor the memory and passing of Senator Wesley L. Lance;

NOW, THEREFORE, I, RICHARD J. CODEY, Acting Governor of the State of New Jersey, by virtue of the authority vested in me by the Constitution and by the Statutes of this State, do hereby ORDER and DIRECT:

1. The flag of the United States of America and the flag of the State of New Jersey shall be flown at half-staff in all State departments, offices, agencies, and instrumentalities during appropriate hours on Thursday,

August 30, 2007, in recognition and mourning of the passing of Senator Wesley L. Lance.

2. This Order shall take effect immediately.

August 29, 2007.

EXECUTIVE ORDER No. 81

WHEREAS, United States Army Specialist Michael A. Hook, of Altoona, Pennsylvania, graduated from Altoona High School in 2001, where he played football; and

WHEREAS, Specialist Hook, has lived in Little Egg Harbor Township, New Jersey, over the years with family; and

WHEREAS, Specialist Hook volunteered for enlistment in the United States Army and served in the 2nd Battalion, 35th Infantry Regiment, 3rd Infantry Brigade Combat Team, 25th Infantry Division; and

WHEREAS, Specialist Hook was killed in action in Northern Iraq, during a time of war while serving as a member of the United States Army; and

WHEREAS, Specialist Hook was a dedicated soldier as well as a loving son and friend, whose memory lives in the hearts of his family and fellow soldiers; and

WHEREAS, Specialist Hook has been recommended for some of our nation's highest military honors; and

WHEREAS, Specialist Hook's patriotism and dedicated service to his country and his fellow soldiers make it appropriate and fitting for the State of New Jersey to remember him and his family, to mark his passing, and to honor his memory;

NOW, THEREFORE, I, JON S. CORZINE, Governor of the State of New Jersey, by virtue of the authority vested in me by the Constitution and by the Statutes of this State, do hereby ORDER and DIRECT:

1. The flag of the United States of America and the flag of New Jersey shall be flown at half-staff at all State departments, offices, agencies, and instrumentalities during appropriate hours on Tuesday, September 4, 2007, in recognition and mourning of a brave and loyal American, United States Army Specialist Michael A. Hook.

2. This Order shall take effect immediately.

Dated August 31, 2007.

EXECUTIVE ORDER No. 82

WHEREAS, United States Marine Corps Lance Corporal Jon T. Hicks, Jr., lived in Atco, Camden County, New Jersey, and graduated from Hammonton High School in 2005; and

WHEREAS, Lance Corporal Hicks enlisted in the United States Marines Corps in January 2006 following his graduation; and

WHEREAS, Lance Corporal Hicks served his country proudly at home and abroad with the 2nd Battalion, 9th Marine Regiment, 2nd Marine Division, II Marine Expeditionary Force, Camp Lejeune, North Carolina; and

WHEREAS, Lance Corporal Hicks was a committed and highly trained professional soldier, as well as a loving son, grandson, and brother, whose memory lives in the hearts of his family and fellow soldiers; and

WHEREAS, Lance Corporal Hicks's patriotism and dedicated service to his country and his fellow soldiers make it appropriate and fitting for the State of New Jersey to remember him and his family, to mark his passing, and to honor his memory;

NOW, THEREFORE, I, RICHARD J. CODEY, Acting Governor of the State of New Jersey, by virtue of the authority vested in me by the Constitution and by the Statutes of this State, do hereby ORDER and DIRECT:

1. The flag of the United States of America and the flag of New Jersey shall be flown at half-staff at all State departments, offices, agencies, and instrumentalities during appropriate hours on Thursday, September 20, 2007, in recognition and mourning of a brave and loyal American, United States Marine Corps Lance Corporal Jon T. Hicks, Jr.

2. This Order shall take effect immediately.

Dated September 19, 2007.

EXECUTIVE ORDER No. 83

WHEREAS, United States Army Staff Sergeant Jason M. Butkus was born in Arlington Heights, Illinois, and raised in West Milford, New Jersey; and

WHEREAS, Staff Sergeant Butkus graduated from West Milford High School, where he was a member of the track and wrestling teams; and

WHEREAS, Staff Sergeant Butkus volunteered for enlistment in the United States Army in 1995, and completed basic and advanced individual training at Fort Benning, Georgia; and

WHEREAS, Staff Sergeant Butkus served his country proudly at home and abroad with the 82nd Airborne Division, Fort Bragg, North Carolina; with the 2nd Infantry Division, Republic of Korea; at Fort Wainwright, Alaska; and as a training instructor at the U.S. Army Training Center, Fort Jackson, South Carolina; and

WHEREAS, Staff Sergeant Butkus graduated from both the Army Airborne Course and the Army Air Assault Course and attained his goal of becoming a United States Army non-commissioned officer; and

WHEREAS, Staff Sergeant Butkus was assigned in October 2006 to A Company, 1st Battalion, 28th Infantry Regiment, 4th Infantry Combat Team, 1st Infantry Division, Fort Riley, Kansas, and then deployed to Iraq in support of Operation Iraqi Freedom; and

WHEREAS, Staff Sergeant Butkus's distinguished record of service as a United States Army infantry and noncommissioned officer in elite units

and assignments is testament to his professionalism, skill, and courage;
and

WHEREAS, Staff Sergeant Butkus has received four Army Commendation Medals, five Army Achievement Medals, the Korean Defense Service Medal, the Iraq Campaign Medal, the Global War on Terrorism Service Medal, the Humanitarian Service Medal, two Noncommissioned Officer Professional Development Ribbons, the Army Service Ribbon, three Overseas Service Ribbons, two National Defense Service Medals, the Army Good Conduct Medal, the Expert Infantryman's Badge, the Expert Marksmanship Badge, the Basic Parachute Badge, the Air Assault Badge and the Senior Parachute Badge; and

WHEREAS, Staff Sergeant Butkus will be awarded some of our nation's highest military honors, such as the Bronze Star, the Purple Heart, and the Combat Infantryman's Badge, posthumously; and

WHEREAS, Staff Sergeant Butkus was a committed and highly trained professional soldier and infantry leader as well as a loving father, son, and brother whose memory lives in the hearts of his family and fellow soldiers; and

WHEREAS, Staff Sergeant Butkus's patriotism and dedicated service to his country and his fellow soldiers make it appropriate and fitting for the State of New Jersey to remember him and his family, to mark his passing, and to honor his memory;

NOW, THEREFORE, I, JON S. CORZINE, Governor of the State of New Jersey, by virtue of the authority vested in me by the Constitution and by the Statutes of this State, do hereby ORDER and DIRECT:

1. The flag of the United States of America and the flag of New Jersey shall be flown at half-staff at all State departments, offices, agencies, and instrumentalities during appropriate hours on Monday, September 24, 2007, in recognition and mourning of a brave and loyal American, United States Staff Sergeant Jason M. Butkus.

2. This Order shall take effect immediately.

Dated September 20, 2007.

EXECUTIVE ORDER No. 84

WHEREAS, United States Marine Corporal Terry Allen of Pennsauken, Camden County, New Jersey, graduated from Bishop Eustace Preparatory School in 2004, where he was an honor student, football player, and track star; and

WHEREAS, Corporal Allen enlisted in the United States Marine Corps while still in high school and served two tours of duty in a combat theater, while rising in the ranks; and

WHEREAS, Corporal Allen was a dedicated soldier, awaiting a scheduled promotion to Sergeant, as well as a loving son, brother, and husband, whose memory lives in the hearts of his family and fellow soldiers; and

WHEREAS, Corporal Allen was killed in Anbar, Iraq, during a time of war, while serving as a member of the United States Marine Corps; and

WHEREAS, Corporal Allen's patriotism and dedicated service to his country and his fellow soldiers make it appropriate and fitting for the State of New Jersey to remember him and his family, to mark his passing, and to honor his memory;

NOW, THEREFORE, I, JON S. CORZINE, Governor of the State of New Jersey, by virtue of the authority vested in me by the Constitution and by the Statutes of this State, do hereby ORDER and DIRECT:

1. The flag of the United States of America and the flag of New Jersey shall be flown at half-staff at all State departments, offices, agencies, and instrumentalities during appropriate hours on Wednesday, September 26, 2007, in recognition and mourning of a brave and loyal American, United States Marine Corporal Terry Allen.

2. This Order shall take effect immediately.

Dated September 25, 2007.

EXECUTIVE ORDER No. 85

WHEREAS, United States Army Corporal Luigi Marciante, Jr. was born and raised in Elizabeth, New Jersey, and graduated from Elizabeth High School in 1999; and

WHEREAS, Corporal Marciante enlisted in the United States Army and hoped to pursue a career in law enforcement when he finished his military service; and

WHEREAS, Corporal Marciante served his country proudly, at home and abroad, with the United States Army's elite 2nd Battalion, 23rd Infantry Regiment, 4th Brigade, 2nd Infantry Division, Stryker Brigade Combat Team, Fort Lewis, Washington; and

WHEREAS, Corporal Marciante was killed in the service of his country while conducting combat operations during a time of war in Muqdadiyah, Iraq; and

WHEREAS, Corporal Marciante was a courageous soldier, as well as a loving, son, husband, father, brother, and friend, whose memory lives in the hearts of his family and fellow soldiers; and

WHEREAS, Corporal Marciante's patriotism and dedicated service to his country and his fellow soldiers make it appropriate and fitting for the State of New Jersey to remember him and his family, to mark his passing, and to honor his memory;

NOW, THEREFORE, I, JON S. CORZINE, Governor of the State of New Jersey, by virtue of the authority vested in me by the Constitution and by the Statutes of this State, do hereby ORDER and DIRECT:

1. The flag of the United States of America and the flag of New Jersey shall be flown at half-staff at all State departments, offices, agencies, and instrumentalities during appropriate hours on Friday, September 28, 2007, in recognition and mourning of a brave and loyal American, United States Army Corporal Luigi Marciante, Jr.

2. This Order shall take effect immediately.

Dated September 26, 2007.

EXECUTIVE ORDER No. 86

WHEREAS, It is the public policy of this State to establish prevailing wage levels for the employees of contractors and subcontractors furnishing building services for any property or premises owned or leased by the State in order to safeguard the efficiency and general well-being of those employees and to protect them and their employers from the effects of serious and unfair competition based on low wage levels which are detrimental to efficiency and well-being; and

WHEREAS, Through the enactment on January 12, 2006, of P.L.2005, c.379, this policy was implemented in the context of the employees of contractors and subcontractors that, pursuant to a contract with the State, provide building services in certain property or premises owned or leased by the State; and

WHEREAS, This policy should also apply to those employees of contractors and subcontractors that, pursuant to contracts with lessors, providing buildings services in certain properties or premises leased to the State;

NOW, THEREFORE, I, JON S. CORZINE, Governor of the State of New Jersey, by virtue of the authority vested in me by the Constitution and by the Statutes of this State, do hereby ORDER and DIRECT:

1. All of the definitions set forth in Section 2 of P.L.2005, c.379 (C.34:11-56.59) ("Chapter 379"), shall apply to this Order.

2. Every lease for property or premises "leased by the State," as defined in Section 2 of Chapter 379, shall contain the following terms and conditions:

a. A provision requiring the lessor to ascertain from the Commissioner of Labor and Workforce Development the prevailing wage rates for the performance of building services and to specify in all contracts for the performance of building services in the property or premises leased by the State what the prevailing wage rate in the locality is for each worker employed in the performance of such contracts;

b. A provision requiring the lessor to include in all contracts for the performance of building services in the property or premises leased by the

State a stipulation that the workers performing such building services shall be paid not less than the applicable prevailing wage rates as ascertained by the lessor from the Commissioner of Labor and Workforce Development, and that the contractor shall provide to each such worker individual written notification every six months of the prevailing wage rates for each classification involved in the contractor's performance of building services;

c. A provision requiring the lessor to include in all contracts for the performance of building services in the property or premises leased by the State a statement that the contractor and any subcontractor covered under the contract shall: (i) keep accurate records showing the name, classification, and actual hourly rate of wages and any benefits paid to each worker employed by the contractor or subcontractor to perform building services in the property of premises leased by the State; (ii) preserve those records for two years after the date of payment; and (iii) make the contracts and the records available at all reasonable hours to the inspection of the Commissioner of Labor and Workforce Development and to any other party to the lease;

d. A provision requiring the lessor to include in all contracts for the performance of building services in the property or premises leased by the State a stipulation that the contractor and any subcontractor covered under the contract shall provide to the lessor on a biannual basis (no later than January 15 and July 15 of each year) a sworn certification, under penalty of perjury, that during the preceding six-month period the workers performing such building services were paid not less than the applicable prevailing wage rates as ascertained by the lessor from the Commissioner of Labor and Workforce Development and that these workers were provided with individual written notification of the prevailing wage rates for each classification involved in the contractor's performance of building services;

e. A provision requiring the lessor to provide to the State no later than January 31 and July 31 of each year a copy of the sworn certification required pursuant to Paragraph 2(d) above;

f. A provision stating that, if the State has not received a copy of the sworn certification required to be provided in accordance with Paragraph 2(e) above within 30 days of the due date under Paragraph 2(e), the State has the right to withhold up to 15% of the rent until the State receives the copy of the sworn certification and to take other action it deems appropriate to enforce this Order; and

g. A provision stating that if the Commissioner of Labor and Workforce Development determines that a contractor's certification pursuant to paragraph (d) is false and that the contractor has failed to pay its

employees the prevailing wage rates required by this Order, the Commissioner may formally request that the State leasing agency effect a rent abatement of no less than the amount of wages due to said employees and to take other action it deems appropriate to enforce this Order. The State leasing agency may take unilateral action without such written request in the case of a written decision by the Division of Wage and Hour Compliance finding a prevailing wage violation following the contractor's opportunity to be heard before the Director of the Division of Wage and Hour Compliance. If the contractor disagrees with the written decision of the Division of Wage and Hour Compliance, the contractor may appeal the decision to the Commissioner of Labor and Workforce Development, in accordance with the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.).

3. This Order shall take effect 30 days after its execution and shall apply to all leases entered into by the State after that date.

Dated September 27, 2007

EXECUTIVE ORDER No. 87

WHEREAS, The State of New Jersey has made great strides in the last 20 years in providing community based transportation services to its seniors, persons with disabilities, and economically disadvantaged populations; and

WHEREAS, Having access to employment, health care, education, and other community services and amenities is critical to the quality of life of transportation-disadvantaged citizens; and

WHEREAS, Enhancing access to transportation will improve mobility, employment opportunities, and availability of community services to citizens who are transportation-disadvantaged; and

WHEREAS, Both State and federal government have allocated millions of dollars to fund human service transportation programs through a variety of agencies within this State; and

WHEREAS, Federal law now requires that human service transportation projects selected for certain federal funding be derived from a locally developed, coordinated public transit human services transportation plan; and

WHEREAS, At the federal level this coordination activity is centered around the United We Ride Initiative; and

WHEREAS, There is a need to both identify additional resources as yet untapped or underutilized and maximize the benefit of the State's monetary resources currently earmarked for human service transportation programs through the creation of strategies that efficiently and effectively deliver services and centralize the management of information and resources; and

WHEREAS, The quality of decision making in these matters can be enhanced by providing a forum that brings together input and insight from the participating agencies, the providers, and the consumers of these transportation services;

NOW, THEREFORE, I, JON S. CORZINE, Governor of the State of New Jersey, by virtue of the authority vested in me by the Constitution and by the Statutes of this State, do hereby ORDER and DIRECT:

1. There is hereby established in the Department of Human Services the New Jersey Council on Access and Mobility (the "Council").

2. The Council shall be composed of four public members appointed by and serving at the pleasure of the Governor, one selected from each of the following communities: physically challenged individuals, seniors, individuals with developmental disabilities or mental health challenges, and low income individuals. The public members shall serve without compensation. In addition, the following individuals shall serve on the Council in an ex officio capacity and may appoint a designee to serve in his or her place: the Commissioners of Children and Families, Community Affairs, Education, Health and Senior Services, Human Services, Labor and Workforce Development, and Transportation, the State Treasurer, the Adjutant General, and the Executive Director of New Jersey Transit Corporation.

3. The Governor shall designate a chairman and vice chairman of the Council from among its members.

4. The Council is authorized to call upon any department, office, or agency of State government to provide such information, personnel, and assistance as deemed necessary to discharge its responsibilities under this Order. Each department, office, and agency of State government is hereby required, to the extent not inconsistent with law, to cooperate with the Council and to furnish it with such information, personnel, and assistance as is necessary to accomplish the purpose of this Order.

5. The Council shall inventory existing State and federal transportation funding sources used for transportation services within the various departments and agencies in the State, study ways to improve coordination of resources, and make recommendations for improving services and programs.

6. The Council shall participate in the Federal United We Ride Program and coordinate activities with the Federal Council on Access and Mobility.

7. The Council shall meet no less than four times a year. The Council shall establish an appropriate number of subcommittees which may be composed of staff from a department or agency identified in paragraph 2 and representatives of consumers served by that department or agency. Such subcommittees shall meet monthly and report to the Council on a quarterly basis. All Council progress will be documented in written reports. By December 31st of each year of the Council's existence, the Council shall make a report of its activities, findings, and recommendations to the Governor and Legislature.

8. The Council shall expire on January 1, 2010.

9. This Order shall take effect immediately.

Dated October 26, 2007.

EXECUTIVE ORDER No. 88

WHEREAS, United States Army Staff Sergeant John D. Linde was born in Secaucus, New Jersey and lived in Weehawken, New Jersey; and

WHEREAS, Sergeant Linde volunteered for enlistment in the United States Army, after his graduation from Union Hill High School, Union City, New Jersey, where he starred as a wrestler; and

WHEREAS, Sergeant Linde volunteered for re-enlistment in the United States Army following the September 11, 2001 attacks on this country; and

WHEREAS Sergeant Linde served with distinction as a proud member of the United States Army's famed 10th Mountain Division in Fort Drum, New York, and in dangerous and demanding overseas assignments in Korea, Bosnia, and Iraq; and

WHEREAS, Sergeant Linde was a veteran soldier and an experienced non-commissioned officer; and

WHEREAS, Sergeant Linde consistently demonstrated the finest values of the United States military, while leading the many soldiers who served under his command with honor, courage, and compassion; and

WHEREAS, Sergeant Linde has earned some of our nation's highest military honors, including the Purple Heart, Army Achievement Medal, the Combat Action Badge, and the Bronze Star; and

WHEREAS, Sergeant Linde was killed in the vicinity of Kirkuk, Iraq, during a time of war while serving as a member of the United States Army's 1st Brigade Special Troops Battalion, 1st Brigade Combat Team, 10th Mountain Division; and

WHEREAS, Sergeant Linde was a dedicated soldier as well as a loving husband, father, son, brother, son-in-law, and friend, whose memory lives in the hearts of his family and fellow soldiers; and

WHEREAS, Sergeant Linde's patriotism and dedicated service to his country and his fellow soldiers make it appropriate and fitting for the

State of New Jersey to remember him and his family, to mark his passing, and to honor his memory;

NOW, THEREFORE, I, JON S. CORZINE, Governor of the State of New Jersey, by virtue of the authority vested in me by the Constitution and by the Statutes of this State, do hereby ORDER and DIRECT:

1. The flag of the United States of America and the flag of New Jersey shall be flown at half-staff at all State departments, offices, agencies, and instrumentalities during appropriate hours on Wednesday, November 28, 2007, in recognition and mourning of a brave and loyal American, United States Army Staff Sergeant John D. Linde.

2. This Order shall take effect immediately.

Dated November 26, 2007.

EXECUTIVE ORDER No. 89

WHEREAS, United States Air Force Captain Stephen A. Rusch of Lambertville, New Jersey, was raised in West Amwell, New Jersey, a region of our State where his family has deep roots; and

WHEREAS, Captain Rusch graduated from the Hun School in Princeton, New Jersey, in 1961, and went on to serve with honor and distinction as an United States Air Force aviator and commissioned officer; and

WHEREAS, Captain Rusch was killed in action in the service of his country while conducting an armed mission in an F-4E Phantom Skyhawk in Salavan Province, Laos, on March 7, 1972; and

WHEREAS, Captain Rusch set a high standard of military excellence that lives on today in the enduring legacy of his own service and the Air Force service of his daughter; and

WHEREAS, Captain Rusch was a courageous aviator who loved his family, friends, and fellow airmen; and

WHEREAS, Captain Rusch was, in turn, loved by his family, friends, and fellow airmen, who take great pride in his commitment, heroism, and achievements; and

WHEREAS, United States Air Force Captain Rusch has made the ultimate sacrifice, giving his life in the line of duty, while fighting on behalf of his country; and

WHEREAS, It is appropriate and fitting for the State of New Jersey, the State where he was raised, to mark Captain Rusch's passing, remember his family as they mourn their loss, and honor his memory;

NOW, THEREFORE, I, JON S. CORZINE, Governor of the State of New Jersey, by virtue of the authority vested in me by the Constitution and by the Statutes of this State, do hereby ORDER and DIRECT:

1. The flag of the United States of America and the flag of New Jersey shall be flown at half-staff at all State departments, offices, agencies, and instrumentalities during appropriate hours on Friday, November 30, 2007, in recognition of the life and in mourning of the passing of United States Air Force Captain Stephen A. Rusch.

2. This Order shall take effect immediately.

Dated November 29, 2007.

EXECUTIVE ORDER No. 90

WHEREAS, United States Representative Joseph George Minish was a recognized leader in the organized labor movement, in more than two decades of public office, and in serving the constituents of New Jersey's 11th Congressional District; and

WHEREAS, Representative Minish was the son of a Pennsylvania coal miner who moved to New Jersey after serving in the United States Army from 1945 to 1946; and

WHEREAS, Thereafter he spent his entire career serving working men and women through his participation in the labor movement; and

WHEREAS, He assumed leadership positions in the labor movement serving as Executive Secretary of Essex-West Hudson Council, Congress of Industrial Organizations, from 1954 to 1960 and Executive Director, Essex-West Industrial Union Council, AFL-CIO, from 1960-1962; and

WHEREAS, He was elected to the U.S. House of Representatives in 1962 and was a member of Congress until 1984; and

WHEREAS, During his time in Congress, he addressed many difficult issues, including profiteering by defense contractors, price gouging by natural gas companies, and speculating by land developers; and

WHEREAS, Representative Minish fought for truth-in-lending laws and advocated for food safety reforms; and

WHEREAS, He was known by his constituents as “one of the good guys in politics,” a “regular guy who became a congressman”; and

WHEREAS, It is with deep sadness that we mourn the loss of Representative Minish and extend our sincere sympathy to his family and friends; and

WHEREAS, It is fitting and appropriate to honor the memory and the passing of Representative Minish;

NOW, THEREFORE, I, JON S. CORZINE, Governor of the State of New Jersey, by virtue of the authority vested in me by the Constitution and by the Statutes of this State, do hereby ORDER and DIRECT:

1. The flag of the United States of America and the flag of the State of New Jersey shall be flown at half-staff at all State departments, offices, agencies and instrumentalities during appropriate hours on Wednesday, December 5, 2007, in recognition and mourning of the passing of U.S. Representative Joseph George Minish.

2. This Order shall take effect immediately.

Dated December 3, 2007.

EXECUTIVE ORDER No. 91

WHEREAS, On April 6, 2007, the State of New Jersey established the Governor's Blue Ribbon Advisory Panel on Immigrant Policy (hereinafter referred to as "Advisory Panel") by Executive Order No. 78 (2007) to develop recommendations for a comprehensive and strategic Statewide approach to successfully integrating New Jersey's rapidly growing immigrant population into the life of this State; and

WHEREAS, The Advisory Panel's deliberations would benefit from the designation of eight additional members;

NOW, THEREFORE, I, JON S. CORZINE, Governor of the State of New Jersey, by virtue of the authority vested in me by the Constitution and by the Statutes of this State, do hereby ORDER and DIRECT:

1. The Governor's Blue Ribbon Advisory Panel on Immigrant Policy ("Advisory Panel") shall continue in existence as provided in Executive Order No. 78.

2. The membership of the Advisory Panel shall be modified to consist of thirty-five (35) members of whom twenty-six (26) shall be public members appointed by the Governor. The 26 public members shall be broadly representative of the following subjects and constituencies: civil rights, commerce, community-based organizations, education, faith-based organizations, immigration advocacy, labor, and service providers.

3. All other provisions of Executive Order No. 78 which are not inconsistent with this Order shall remain in full force and effect.

4. This Order shall take effect immediately.

Dated December 10, 2007.

EXECUTIVE ORDER No. 92

WHEREAS, United States Army Sergeant Eric J. Hernandez was born in Newburgh, New York, and raised in West Milford, New Jersey; and

WHEREAS, Sergeant Hernandez attended Macopin Middle School and West Milford High School, before receiving his high school diploma; and

WHEREAS, Sergeant Hernandez was an avid outdoorsman with a passion for hiking, camping, archery, and shooting; and

WHEREAS, Sergeant Hernandez volunteered for enlistment in the military in October 2003, and served two tours of duty in Iraq; and

WHEREAS, Sergeant Hernandez also served with the New Jersey National Guard, 2-113th Infantry Battalion, based in Riverdale, New Jersey; and

WHEREAS, During his military career, Sergeant Hernandez rose, in a short time, to the rank of a non-commissioned officer, and exemplified the finest qualities of a professional soldier; and

WHEREAS Sergeant Hernandez served with distinction and pride as a member of the United States Army's elite 101st Airborne Division, where he was a crack marksman; and

WHEREAS, Sergeant Hernandez was planning a career in public service as a law enforcement officer; and

WHEREAS, Sergeant Hernandez was killed in the vicinity of Bayji, Iraq, in the service of his country, during a time of war, while a member of the United States Army's 1st Battalion, 327th Infantry Regiment, 1st Brigade Combat Team, 101st Airborne Division (Air Assault), based in Fort Campbell, Kentucky; and

WHEREAS, Sergeant Hernandez has received some of our nation's highest military honors, including the Combat Infantry Badge, the Army Achievement Medal, the Army Good Conduct Medal, the National Defense Service Medal, the Global War on Terrorism Expeditionary Medal, the Global War on Terrorism Service Medal, the Noncommissioned Officer Professional Development Ribbon, the Army Service Ribbon, the Expert Infantry Badge, the Air Assault Badge, and Weapons Qualification, M4 Expert; and

WHEREAS, Sergeant Hernandez was a dedicated soldier as well as a loving son and brother, whose memory lives in the hearts of his family and fellow soldiers; and

WHEREAS, Sergeant Hernandez's patriotism and dedicated service to his country and his fellow soldiers make it appropriate and fitting for the State of New Jersey to remember him and his family, to mark his passing, and to honor his memory;

NOW, THEREFORE, I, JON S. CORZINE, Governor of the State of New Jersey, by virtue of the authority vested in me by the Constitution and by the Statutes of this State, do hereby ORDER and DIRECT:

1. The flag of the United States of America and the flag of New Jersey shall be flown at half-staff at all State departments, offices, agencies, and instrumentalities during appropriate hours on Friday, December 14, 2007, in recognition and mourning of a brave and loyal American hero, United States Army Sergeant Eric J. Hernandez.

2. This Order shall take effect immediately.

Dated December 13, 2007.

REORGANIZATION PLANS

(2359)

A PLAN FOR THE REORGANIZATION, CONSOLIDATION AND
TRANSFER OF CERTAIN FUNCTIONS OF THE
COMMERCE, ECONOMIC GROWTH AND TOURISM COMMISSION

PLEASE TAKE NOTICE that on May 10, 2007, Governor Jon S. Corzine hereby issues the following Reorganization Plan No. 001-2007 (the "Plan") providing for the transfer of certain functions, powers and duties of the Commerce, Economic Growth and Tourism Commission ("Commerce Commission").

The Plan furthers an ongoing effort to consolidate and make more effective the structure and function of the Executive Branch in the interests of efficiency and economy, without quantitative or qualitative diminution of services to the public, by consolidating in the Board of the Commerce Commission regulatory and administrative responsibilities relating to economic development.

GENERAL STATEMENT OF PURPOSE

Economic growth and the creation of high-quality jobs are essential to the continued well-being and prosperity of the State of New Jersey. Sustaining New Jersey's position as one of the nation's most prosperous states and most vital centers of innovation demands proactive leadership in increasingly competitive times. Since the beginning of this administration, the Office of Economic Growth has been working to develop and implement Statewide economic development policies, including developing the Economic Growth Strategy for the State of New Jersey. One of the principles of the Economic Growth Strategy is to focus State government, and in particular the Commerce Commission, on the needs of the business community: how best to retain the companies currently located in the State and how to create user friendly processes for businesses that are interested in development and expansion in the State.

Travel and tourism are equally important components of the economic health of the State. This sector of the economy increases revenues and employment opportunities, and it is appropriate for State government to continue vigorously to support this sector through advertising, maintaining visitor centers and implementing the State's master plan for the development of the tourism industry.

Currently, the Commerce Commission has the dual obligation both of promoting the growth of the business community in the State and advertising and promoting tourism in New Jersey. In order to focus the Commerce Commission solely on State government's efficient and effective interaction with the business community, the functions, powers, duties and personnel of the Division of Travel and Tourism will be moved from the Commerce Commission into the Department of State. This move will also enable the Division of Travel and Tourism to create synergies with the New Jersey Council on the Arts, the Cultural Trust and other entities located in the Department of State.

Further, in an effort to streamline the approval process for various economic development programs, which at this time requires the approval of both the Chief Executive Officer and Secretary of the Commerce Commission and the Board of the Commerce Commission, the office of the Chief Executive Officer and Secretary of the Commerce Commission is hereby eliminated and the functions, powers and duties of the Chief Executive Officer and Secretary are continued and transferred to the Commerce Commission Board. This transfer will improve the delivery of services to the business community.

NOW, THEREFORE, pursuant to, the "Executive Reorganization Act of 1969," P.L.1969, c.203 (C.52:14C-1 et seq.) (the "Act"), I find, with respect to the transfer, reorganization and consolidation provided for in this Plan, that each aspect of the Plan is necessary to accomplish the purposes set forth in Section 2 of the Act and that each aspect will:

1. promote the better execution of the laws, the more effective management of the Executive Branch and of its agencies and functions and the expeditious administration of the public business;
2. reduce expenditures and promote economy to the fullest extent consistent with the efficient operation of the Executive Branch and, with respect to the abolition of the requirement pursuant to P.L.2006, c.16 (C.52:27I-6(b)), that the designee of the Chief Executive Officer and Secretary of the Commerce Commission to the Fort Monmouth Economic Revitalization Planning Authority be an employee or officer of the Commerce Commission, afford the Commerce Commission the broadest latitude to select a designee who will bring the special expertise required by that authority;

3. increase the efficiency of the operation of the Executive Branch to the fullest extent practicable;
4. group, coordinate and consolidate agencies and functions of the Executive Branch, as nearly as may be, according to major purposes;
5. reduce the number of agencies by consolidating those having similar functions under a single head and to abolish such agencies or functions thereof as may not be necessary for the efficient conduct of the Executive Branch; and
6. eliminate overlapping and duplication of effort.

PROVISIONS OF THE REORGANIZATION PLAN

Therefore, I hereby order the following reorganization of the Commerce, Economic Growth and Tourism Commission ("Commerce Commission"):

1. The office of the Chief Executive Officer and Secretary of the Commerce Commission, created pursuant to P.L.1998, c.44, as amended (C.52:27C-68 et seq.), is abolished.
2. The functions, powers and duties of the Chief Executive Officer and Secretary of the Commerce Commission pursuant to P.L. 1998, c. 44, as amended (C. 52:27C-68 et seq.), and pursuant to any other provision of law are continued and are transferred to the Board of the Commerce Commission, provided, however, that the requirement pursuant to P.L.2006, c.16 (C.52:27I-6(b)), that the designee of the Chief Executive Officer and Secretary of the Commerce Commission to the Fort Monmouth Economic Revitalization Planning Authority be an employee or officer of the Commerce Commission is abolished.
3. The name of the Commerce Commission is changed from the "New Jersey Commerce, Economic Growth and Tourism Commission" to the "New Jersey Commerce Commission."
4. The functions, powers, duties and personnel of the Division of Travel and Tourism in the Commerce Commission pursuant to P.L.1977, c.225, as amended (C. 34:1A-46 et seq.), and pursuant to any other

provision of law are continued and are transferred to the Secretary of State in the Department of State to be allocated in that department as determined by the Secretary.

5. The New Jersey Tourism Policy Council created pursuant to P.L.1977, c.225, as amended (C.34:1A-51 et seq.), is continued and transferred to the Department of State.

6. The functions, powers, duties and personnel of the Commerce Commission in support of the New Jersey-Israel Commission created pursuant to Executive Order No. 208 (1989) and continued pursuant to Executive Order No. 35 (1991), Executive Order No.90 (1993), Executive Order No. 37 (1995), Executive Order No. 70 (1997), Executive Order No. 12 (2002) and Executive Order. No. 49 (2007) are continued and are transferred to the Secretary of State in the Department of State to be allocated in that department as determined by the Secretary.

7. The above referenced programs and functions are transferred as set forth above, and all functions, powers and duties of the Commerce Commission and the Chief Executive Officer and Secretary of the Commerce Commission are continued and transferred as set forth above. Such programmatic, administrative and support staff presently comprising the Division of Travel and Tourism in the Commerce Commission and such staff as supports the New Jersey Tourism Policy Council and the New Jersey-Israel Commission, as may be agreed upon by the Secretary of State and the Commerce Commission shall be transferred to the Department of State. All records, property, furnishings and office equipment in support of the Division of Travel and Tourism in the Commerce Commission, the New Jersey Tourism Policy Council and the New Jersey-Israel Commission as may be agreed upon by the Secretary of State and the Commerce Commission shall be transferred to the Department of State. A proportionate share of those support services or funds to purchase such services and for the support the various functions and programs of the Division of Travel and Tourism in the Commerce Commission and in support of the New Jersey Tourism Policy Council and the New Jersey-Israel Commission shall be transferred to the Department of State. These transfers shall be made as determined by agreement between the Commerce Commission and the Secretary of State after considering the number and type of positions presently utilized for support of the Division of Travel and Tourism and in support of the New Jersey Tourism Policy Council and the

New Jersey-Israel Commission and the appropriateness of transferring personnel, positions or funding.

8. Any unexpended balance of funds appropriated or otherwise available to the Division of Travel and Tourism in the Commerce Commission are transferred to the Department of State.

9. All remaining functions, powers and duties of the Chief Executive Officer and Secretary of the Commerce Commission are transferred to the Board of the Commerce Commission to be organized and implemented as determined by Board of the Commerce Commission.

GENERAL PROVISIONS

1. I find that each aspect of this Plan is necessary to accomplish the purposes set forth in Section 2 of P.L.1969, c.203 (C.52:14C-2). In addition to the reasons set forth above, this Plan will promote the increased efficiency, coordination and functioning of the State's programs that support and finance economic development throughout the State.

2. All acts and parts of acts inconsistent with any of the provisions of this Plan are superseded to the extent of such inconsistencies.

3. Unless otherwise specified in this Plan, all transfers directed by this Plan shall be effected pursuant to the "State Agency Transfer Act," P.L. 1971, c. 375 (C. 52:14D-1 et seq.).

4. If any provision of this Plan or the application thereof to any person or circumstances or the exercise of any power or authority is held invalid or contrary to law, such holding shall not affect other provisions or applications of the Plan which can be given effect without the invalid provisions or application of the law or affect other exercises of power or authority under said provisions not contrary to law. To this end, the provisions of this Plan are declared to be severable.

5. This Plan is intended to protect and promote the public health, safety and welfare and shall be liberally construed to obtain the objective and effect the purposes thereof.

6. Whenever in any law, rule, regulation, order, contract, tariff, document, judicial or administrative proceeding or otherwise reference is made to the various programs and functions set forth above the same shall mean and refer to the various programs and functions within the agency to which these functions and programs have been transferred.

A copy of this Reorganization Plan was filed on May 10, 2007, with the Secretary of State and the Office of Administrative Law for publication in the New Jersey Register.

This Plan shall become effective in 60 days, on July 9, 2007, unless disapproved by each House of the Legislature by the passage of a concurrent resolution stating in substance that the Legislature does not favor this Plan, or at a date later than July 9, 2007, should the Governor establish such later date for the effective date for the Plan, or any part thereof, by Executive Order.

PLEASE TAKE NOTICE that this Plan, if not disapproved, has the force and effect of law and will be printed and published in the annual edition of the Public Laws and in the New Jersey Register under the heading "Reorganization Plans."

Filed May 10, 2007.

Effective July 9, 2007.

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Local units, certain, provision of broadband telecommunications service by wireless community networks; permitted, C.40:9D-1 et seq., Ch.191.

Local units, investment in federally insured certificates of deposit, certain circumstances; authorized, amends N.J.S.40A:5-14, Ch.241.

“Uniform Shared Services and Consolidation Act,” C.40A:65-1 et al., amends N.J.S.18A:17-14.1 et al., repeals N.J.S.11A:9-8 et al., Ch.63.

COURTS

Bail funds, source, inquiry by court, certain circumstances; required, amends C.2A:162-12 et seq., Ch.46.

Judicial, prosecutorial salaries; increased, amends N.J.S.2B:2-4 et al., Ch.350.

CRIMES AND OFFENSES

- Bail funds, source, inquiry by court, certain circumstances; required, amends C.2A:162-12 et seq., Ch.46.
- Chemicals, certain, industrial use not deemed controlled dangerous substance, C.2C:35-29, Ch.152.
- Community guns, penalties for possession, receipt, transfer; increased, amends N.J.S.2C:39-4, Ch.24.
- Corruption of public resources, crime; established, C.2C:27-12, Ch.158.
- Criminal street gang, recruiting of certain people, penalties; upgraded, amends C.2C:33-28, Ch.234.
- Drug offenses, certain, court granted discretion to lessen penalties, reformatory service, allowed, amends N.J.S.2C:35-15, Ch.297.
- Electronic communications devices, sale, possession, use in correctional facilities, certain; criminalized, C.2C:29-10, Ch.127.
- Environmental crimes, certain, statute of limitations; eliminated, amends N.J.S.2C:1-6, Ch.131.
- Firearms, transport into State for purposes of unlawful sale, transfer, second degree crime, amends N.J.S.2C:39-9, Ch.298.
- Gang criminality, organized street crime, grading of offenses; provided, C.2C:33-29 et seq., amends C.2A:4A-26 et al., Ch.341.
- Grave sites, thefts, certain, mandatory fines, community service; provided, C.2C:20-2.3, Ch.321.
- Handgun ammunition, sale of; regulated, C.2C:58-3.3, Ch.318.
- Handguns, certain, unlawful possession, second degree crime; established, sentencing, amends N.J.S.2C:39-5, Ch.284.
- Hate crimes, bullying, laws concerning; revised, Commission on Bullying in Schools; established, C.52:17B-5.4a et al., amends N.J.S.2C:16-1 et al., Ch.303.
- Human body parts, actions concerning disposition, certain, criminal penalties; imposed, C.2C:22-2, amends N.J.S.2C:20-2, Ch.36.
- Impersonation, wearing of military uniform, medal, insignia, fourth degree crime, amends N.J.S.38A:14-5, Ch.148.
- Internet access, use by sex offenders, certain; restricted, C.2C:43-6.6 et al., amends C.2C:7-2 et al., Ch.219.
- Laser, pointing at operator of vehicle, interference with transportation, penalties; established, amends N.J.S.2C:33-14, Ch.145.
- Luring, enticing an adult, mandatory term of imprisonment, luring, enticing a child, mandatory term; increased, amends C.2C:13-6 et seq., Ch.273.
- “Megan’s Law,” study of implementation, application, by Violence Institute of UMDNJ; required, C.2C:7-20 et seq., Ch.227.
- Murder, death penalty; eliminated, replacement with life imprisonment without parole, certain circumstances, C.2C:11-3b et seq., amends N.J.S.2C:11-3 et al., repeals C.2C:49-1 et seq., Ch.204.

CRIMES AND OFFENSES (Continued)

Nicole's Law, victim of sex offense, obtaining restraining order against offender; permitted, C.2C:14-11 et al., amends N.J.S.2C:45-1 et seq., Ch.133.

"Public Corruption Profiteering Penalty Act," C.2C:30-8, Ch.159.

Public utility employee identification badge, penalties for misuse, falsifying; upgraded, C.2C:21-35, amends C.48:3-45, Ch.232.

Sex offender, failure to register, verify address, penalty; upgraded, verification prior to release from confinement; required, C.2C:7-2.1, amends C.2C:7-2, Ch.19.

"Sex Offender Monitoring Act," C.30:4-123.89 et seq., repeals C.30:4-123.80 et seq., Ch.128.

"Skinner's and Michelle's Law," leaving scene of motor vehicle accident involving death, serious bodily injury; penalties increased, amends C.2C:11-5.1 et al., Ch.83.

Tampering, offenses; upgraded, certain circumstances, second degree crime, amends C.2C:40-16 et seq., Ch.69.

"Toxic chemical," definition broadened to include nitrous oxide, other substances, amends C.2C:35-10.4 et al., Ch.31.

Victims of Crime Compensation Agency, name adopted, compensation for crime victims, laws; amended, C.52:4B-3.2 et al., amends C.52:4B-2 et al., repeals C.52:4B-3 et al., Ch.95.

DOMESTIC RELATIONS

Divorce, new cause of action based on irreconcilable differences; provided, amends N.J.S.2A:34-2, Ch.6.

Resource family parents, review of records, certain, from other states, right to be heard at hearings, certain; provided, amends C.9:3-45.2 et al., Ch.228.

DRUGS

Pharmacist, filling of prescriptions, certain, under certain circumstances; required, C.45:14-67.1, Ch.199.

Prescription Monitoring Program; established, registration, control of controlled dangerous substances, certain; provided, C.24:21-54 et al., amends C.24:21-2 et al., repeals C.24:21-41, Ch.244.

"Toxic chemical," definition broadened to include nitrous oxide, other substances, amends C.2C:35-10.4 et al., Ch.31.

ELECTIONS

"Agreement Among the States to Elect the President by National Popular Vote"; enacted, C.19:36-4, amends R.S.19:13-15 et al., Ch.334.

Campaign funds, contribution to charitable organizations under certain circumstances; prohibited, amends C.19:44A-11.2, Ch.202.

Division of Elections, transfer to Department of State, Secretary of State as chief election official; designated, C.52:16A-98, amends C.19:31-6a, Ch.254.

ELECTIONS (Continued)

- Election results, audit in election districts, certain; required, C.19:61-9, Ch.349.
- Political contribution disclosures, certain, applicability solely to for-profit entities, amends C.19:44A-20.26 et seq., Ch.304.
- Political contributions by State, local public agencies; prohibited, C.19:44A-11.9, Ch.197.
- Presidential primary election moved to Tuesday next after first Monday in February, amends R.S.19:2-1 et al., Ch.61.
- Simultaneous holding of more than one elective public office, certain circumstances; prohibited, C.19:3-5.2, amends R.S.19:3-5 et al., Ch.161.
- "The 2007 New Jersey Fair and Clean Elections Pilot Project Act," Ch.60.
- Voting machines, deadline for voter-verified paper record of votes cast, changed to June 3, 2008, amends R.S.19:48-1 et al., Ch.301.

ENVIRONMENT

- Child care centers, certain, receipt of grants from Hazardous Discharge Site Remediation Fund; permitted, C.52:27D-130.7, amends C.58:10B-4 et seq., Ch.135.
- Contaminated property, standards for safe building interiors; established, documentation for receipt of construction permit for certain sites; required, C.52:27D-130.4 et al., amends C.13:1K-9 et al., Ch.1.
- Contaminated sites, provision of written notice to certain health departments, agencies; required, amends C.58:10B-24.1 et al., Ch.276.
- Creosote, creosote-treated products, sale, use, burning; prohibited, C.13:1K-36 et seq., Ch.113.
- Delaware and Raritan Canal Commission, charging of project application review fees, issuance of general permits for projects, certain; authorized, amends C.13:13A-12 et al., Ch.142.
- "Electronic Waste Management Act," C.13:1E-99.94 et seq., amends C.13:1E-99.13 et al., Ch.347.
- Environmental crimes, certain, statute of limitations; eliminated, amends N.J.S.2C:1-6, Ch.131.
- Financing for closure, remediation of underground storage tanks, certain, application deadline; extended, notification, certain, to municipalities; required, C.58:10A-37.3a, amends C.58:10A-37.6 et seq., Ch.10.
- Fluorescent light bulbs, use by State, education of public on benefits; required, C.52:34-6.5, Ch.156.
- Forest Health Advisory Council; established, C.13:1L-26 et seq., Ch.44.
- "Global Warming Response Act," C.26:2C-37 et seq., amends C.48:3-87, Ch.112.
- Green building manual, preparation, availability to public; DCA authorized, C.52:27D-130.6, Ch.132.
- Green product purchasing, course for purchasing agents; required, list of product purchasing sources, compilation, maintenance; required, C.40A:11-9.1, amends C.40A:11-9, Ch.332.

ENVIRONMENT (Continued)

Greenhouse gas emissions, reduction; encouraged, “Global Warming Solutions Fund”; established, C.26:2C-45 et al., amends C.48:3-87, Ch.340.

Hazardous Discharge Site Remediation Fund, grant money, allocation, limitation; removed, amends C.58:10B-6, Ch.25.

Hazardous substances in flood plains; regulated, C.58:16A-55.8, amends C.34:5A-14, Ch.190.

Laws, environmental, certain, uniformity of enforcement; provided, amends R.S.12:5-6 et al., Ch.246.

New Jersey Environmental Infrastructure Trust Financing Program, statutory debt ceiling; raised, statutory date for incurring additional indebtedness; extended, procedures, certain; changed, C.58:11B-9.1, amends C.58:11B-5 et al., Ch.138.

New Jersey Marine Sciences Consortium; established, C.52:18C-1 et seq., Ch.206.

NJ Coastal and Ocean Protection Council; established, C.13:19-34 et seq., amends C.13:1D-9, Ch.288.

“Recycling Enhancement Act,” C.13:1E-96.2 et seq., amends C.13:1E-96 et al., repeals C.13:1E-139 et al., Ch.311.

Riparian land in Jersey City, certain, approval of State tidelands, riparian grant; authorized, C.12:3-27.1 et al., Ch.136.

Shore protection projects, proposed, public hearing, provision for public input by DEP; required, C.13:19-16.3, Ch.278.

Solar collectors on roofs, certain, homeowners’ association authority to regulate; limited, C.45:22A-48.2, Ch.153.

State buildings, certain, meeting of high performance green building standards; required, C.52:32-5.3 et seq., Ch.269.

ESTATES

Principal, income, trustee’s power to adjust; revised, amends C.3B:19B-4, Ch.93.

ETHICS

Ethics, consultation, training in Legislative Branch; required, position of Ethics Counsel; established, amends C.52:13D-22 et al., Ch.203.

EXECUTIVE ORDERS

Alexander J. Menza; death commemorated, No.59.

Byron M. Baer; death commemorated, No.72.

Charleston, South Carolina firefighters, New Jersey firefighters who died in the line of duty; deaths commemorated, No.71.

Federal Bureau of Investigation Special Agent Barry Lee Bush; death commemorated, No.63.

Firefighter Stephen Dembski, Ridgefield Park; death commemorated, No.76.

Governor’s Blue Ribbon Advisory Panel on Immigrant Policy; established, No.78; membership increased, No.91.

Greenhouse gas emissions reduction targets; established, No.54.

EXECUTIVE ORDERS (Continued)

- Joseph George Minish; death commemorated, No.90.
- New Jersey Council on Access and Mobility, in Department of Human Services; established, No.87.
- Police Officer Tyron Franklin, Paterson; death commemorated, No.53.
- Police Officer William Preslar, Lakewood; death commemorated, No.69.
- Police Sergeant Tommaso Popolizio, Newark; death commemorated, No.57.
- Prevailing wage levels for employees of contractors, subcontractors furnishing building services under contracts with lessors for property, premises owned, leased by the State; applicable, No.86.
- Richard W. Van Wagner; death commemorated, No.58.
- State boards, authorities, commissions, other public bodies, establishment, maintenance of interactive electronic database containing information regarding mission, membership; public accessibility, No.51.
- State Government departments, annual report to Governor's Office of Appointments as to elimination, continuance, consolidation of boards within its jurisdiction; required, No.52.
- State of emergency relative to weather conditions; declared, No.64; terminated, No.66.
- U.S. Air Force Captain Stephen A. Rusch; death in Laos in 1972 commemorated, No.89.
- U.S. Army Captain Maria I. Ortiz; death commemorated, No.77.
- U.S. Army Chief Warrant Officer John A. Quinlan; death commemorated, No.56.
- U.S. Army Corporal Kareem R. Khan; death commemorated, No.79.
- U.S. Army Corporal Luigi Marciante, Jr.; death commemorated, No.85.
- U.S. Army Private First Class David J. Bentz, III; death commemorated, No.73.
- U.S. Army Sergeant Eric J. Hernandez; death commemorated, No.92.
- U.S. Army Sergeant Eric L. Snell; death commemorated, No.74.
- U.S. Army Sergeant First Class Benjamin L. Sebban; death commemorated, No.60.
- U.S. Army Sergeant Sameer Rateb; death commemorated, No.68.
- U.S. Army Sergeant Trista L. Moretti; death commemorated, No.75.
- U.S. Army Specialist Michael A. Hook; death commemorated, No.81.
- U.S. Army Staff Sergeant Jason M. Butkus; death commemorated, No.83.
- U.S. Army Staff Sergeant John D. Linde; death commemorated, No.88.
- U.S. Army Staff Sergeant Joseph M. Weiglein; death commemorated, No.70.
- U.S. Army Staff Sergeant Vincenzo Romeo; death commemorated, No.67.
- U.S. Marine Corporal Terry Allen; death commemorated, No.84.
- U.S. Marine Corporal Thomas E. Saba; death commemorated, No.55.
- U.S. Marine Corps Lance Corporal Jon T. Hicks, Jr.; death commemorated, No.82.
- U.S. Marine Private First Class Miguel A. Marcial; death commemorated, No.62.
- U.S. Navy Commander Peter Mongilardi, Jr.; death commemorated, No.61.
- Virginia Polytechnic and State University, deaths of students, faculty; commemorated, No.65.
- Wesley L. Lance; death commemorated, No.80.

EXPLOSIVES

“Explosives Act,” fees, penalties relative to; increased, amends C.21:1A-134 et al., Ch.274.

FIRE SAFETY

Fire departments, volunteer, death benefit of group insurance policies; maximum increased, amends N.J.S.40A:14-37 et al., Ch.220.

Fire drills conducted in schools open during summer months; required, amends N.J.S.18A:41-1, Ch.205.

“Matthew Albrecht Act,” federal flammability standards for mattresses, bedding; adoption, C.52:27D-198.15 et seq., Ch.141.

“The Reduced Cigarette Ignition Propensity and Firefighter Protection Act,” C.54:40A-54 et seq., Ch.86.

FISH, GAME AND WILDLIFE

Shellfisheries, laws concerning; revised, C.50:2-7.1, amends C.4:27-8 et al., repeals C.50:3-16.2 et al., Ch.338.

FOOD AND BEVERAGES

Food products, fresh or salt water, certain, use of outline of State on packaging; permitted, amends R.S.4:10-1, Ch.32.

Foods, beverages served, sold, given away in schools, certain, nutritional restrictions; established, C.18A:33-15 et seq., Ch.45.

GAMES AND GAMBLING

Lottery prizes, certain, offset of debt, certain to State agencies; required, C.5:9-13.17 et seq., Ch.106.

Publication of financial disclosure statements of Casino Control Commission, Division of Gaming Enforcement employees, agents, certain; limited, amends C.5:12-58, Ch.154.

HANDICAPPED PERSONS

“Adult Onset Disability Awareness Month,” May; designated, C.36:2-88, J.R.1.

Handicapped parking area, removal of snow, ice within 24 hours; required, fines; increased, amends C.39:4-207.9, Ch.287.

Intermediate care facilities for the mentally retarded, annual assessment; reduced, amends C.30:6D-46, Ch.230.

“New Jersey Early Intervention Week,” third week of May; designated, C.36:2-89, J.R.2.

Parking, unauthorized, in handicapped parking space, penalties applicable even when not posted on sign, amends R.S.39:4-198, Ch.164.

Scooters, certain, operation on public property by people with mobility-related disabilities, certain; permitted, C.39:4-14.15, amends C.39:4-14.12, Ch.21.

HEALTH

- “Access to Medical Research Act,” informed consent by surrogate, conditions, C.26:14-1 et seq., Ch.316.
- “Alzheimer’s Disease Awareness Day,” first Monday in November; designated, amends C.36:2-24 et seq., Ch.66.
- Ambulance service payments, coverage by health insurers, certain circumstances; required, C.17B:30-58 et seq., Ch.194.
- Asperger’s Syndrome Pilot Initiative; established, C.30:6D-62.3 et seq., Ch.169.
- Autism medical research and treatment; law revised, C.30:6D-58.1, amends C.30:6D-56 et al., Ch.168.
- Autism medical research, treatment, funding; extended, amends R.S.39:5-41, Ch.174.
- Autism, reported diagnoses registry, establishment by DHSS; required, C.26:2-185 et seq., Ch.170.
- Catastrophic Illness in Children Relief Fund Commission, independence; clarified, funding; increased, amends C.26:2-151 et al., Ch.342.
- “Charity Care Fraud Prevention and Detection Act,” C.26:2H-18.60a et al., amends R.S.54:50-9 et al., Ch.217.
- Contaminated property, standards for safe building interiors; established, documentation for receipt of construction permit for certain sites; required, C.52:27D-130.4 et al., amends C.13:1K-9 et al., Ch.1.
- Early intervention program services for children with autism, law regarding; revised, C.26:1A-36.7a, amends C.26:1A-36.7, Ch.172.
- “Health Care Facility-Associated Infection Reporting and Prevention Act,” C.26:2H-12.39 et al., Ch.196.
- Health care facilities, religious accommodation, certain, relative to admission procedures; required, C.26:2H-12b, Ch.216.
- HIV testing for pregnant women, newborns; required, exceptions, C.26:2-111.2, amends C.26:5C-15 et al., Ch.218.
- Human papillomavirus (HPV), school distribution of information to parents, guardians of students, certain, patient brochure to pediatricians; required, C.26:4-95.3 et al., Ch.134.
- Infection prevention programs, implementation in hospitals, MRSA reporting to DHSS; required, C.26:2H-12.35 et seq., Ch.120.
- Long-term care, adult day health services facilities, information availability on DHSS website; required, C.26:2H-12.33, Ch.65.
- “Medicaid Program Integrity and Protection Act,” C.30:4D-53 et seq., amends C.2C:21-22.1, Ch.58.
- NJ Electronic Death Registration Support Fund; burial, removal, transit permit fees; increased, amends R.S.26:6-17, Ch.98.
- New Jersey Adults with Autism Task Force; established, Ch.173.

HEALTH (Continued)

- “New Jersey Disease Management Study Commission,” assessment as to how disease management programs can reduce costs for, improve health of persons receiving benefits under Medicaid and NJ FamilyCare Program; required, amends section 3 of P.L.2005, c.200, Ch.277.
- “New Jersey Health Information Technology Act,” Office for e-HIT; established, C.26:1A-132 et al., Ch.330.
- “New Jersey Safe Haven Infant Protection Act,” distribution of informational materials to public school students, certain; required, C.30:4C-15.11 et al., Ch.143.
- Organ donor information, sharing by MVC with organ procurement organizations, certain; required, amends C.39:3-12.2 et al., Ch.80.
- Orthotic, prosthetic appliances, health insurance coverage, provision; required, C.17:48-6ff et al., Ch.345.
- “Reflex Sympathetic Dystrophy Syndrome Education and Research Program Act,” C.26:2AA-1 et seq., Ch.255.
- Renal dialysis services for uninsured low-income individuals, provision by ambulatory care facilities; required, C.26:2H-18.72 et seq., Ch.79.
- “Rett Syndrome Awareness Day,” third Tuesday in October; designated, C.36:2-90, J.R.4.
- “Safe Patient Handling Act,” C.26:12H-14.8 et seq., Ch.225.
- Stroke centers, primary, neuro-imaging capability necessary; clarified, amends C.26:2H-12.29, Ch.270.
- Umbilical cord blood, placental tissues, informing pregnant patients of option to donate; required, C.26:2H-12.46 et seq., Ch.247.

HIGHWAYS

- Division of Highway Traffic Safety, nonprofit applicants for federal grants, certain; permitted, amends C.27:5F-20 et al., Ch.84.
- DOT, entry into contract, agreements with local government entities for repair, maintenance on State highways; permitted, C.27:7-21.13, Ch.17.
- Roadway contractors, partial payment by New Jersey Turnpike Authority, certain circumstances; established, C.27:23-6.3 et seq., Ch.180.
- “Robert A. Roe Highway,” New Jersey Route 23; designated, Ch.238.
- Terrell James’ Law,” highway entry, exit ramps, certain, location within proximity, certain, to schools, certain circumstances; prohibited, C.27:7-44.10 et al., Ch.308.
- Traffic control signal monitoring systems, pilot program; established, C.39:4-8.12 et seq., Ch.348.

HISTORICAL AFFAIRS

- Historic site real property tax exemptions, laws concerning; clarified, C.54:4-3.5a1 et seq., amends C.54:4-3.52 et al., Ch.157.

HISTORICAL AFFAIRS (Continued)

U.S.S. New Jersey Battleship Commission, Foundation for the U.S.S. New Jersey Battleship; abolished, C.13:15A-15, amends C.39:3-27.67 et al., repeals C.13:15A-1 et al., Ch.262.

HOLIDAYS

“Alzheimer’s Disease Awareness Day,” first Monday in November; designated, amends C.36:2-24 et seq., Ch.66.

“Diwali Month,” October 15 through March 14; designated, C.36:2-93 et seq., J.R.6.

“Gifted and Talented Students Month,” March; designated, C.36:2-91 et seq., J.R.5.

HERO Campaign state, New Jersey designated, annual observance, C.36:2-98 et seq., J.R.10.

“Lymphedema Awareness Day,” March 6; designated, C.36:2-95 et seq., J.R.8.

“Mitochondrial Disease Awareness Week,” third full week in September; designated, C.36:2-100, J.R.11.

“Motorcycle Awareness Month,” May; designated, C.36:2-97, J.R.9.

“New Jersey Eyeglass Recycling Month,” May; designated, C.36:2-101 et seq., J.R.12.

“Pulmonary Hypertension Awareness Month,” November; designated, C.36:2-107 et seq., J.R.16.

“Veterans’ Month,” November; designated, C.36:2-105 et seq., J.R.14.

“Volunteer Blood Donor Awareness Month,” September; designated, C.36:2-103 et seq., J.R.13.

HOSPITALS

“Charity Care Fraud Prevention and Detection Act,” C.26:2H-18.60a et al., amends R.S.54:50-9 et al., Ch.217.

Health care facilities, religious accommodation, certain, relative to admission procedures; required, C.26:2H-12b, Ch.216.

Health Care Facilities Financing Authority, asset transformation program, purposes; expanded, amends C.26:2I-7, Ch.110.

“Health Care Facility-Associated Infection Reporting and Prevention Act,” C.26:2H-12.39 et al., Ch.196.

HIV testing for pregnant women, newborns; required, exceptions, C.26:2-111.2, amends C.26:5C-15 et al., Ch.218.

Hospital trustees, certain, training; required, C.26:2H-12.34, Ch.74.

Infection prevention programs, implementation in hospitals, MRSA reporting to DHSS; required, C.26:2H-12.35 et seq., Ch.120.

“Safe Patient Handling Act,” C.26:12H-14.8 et seq., Ch.225.

Stroke centers, primary, neuro-imaging capability necessary; clarified, amends C.26:2H-12.29, Ch.270.

HOSPITALS (Continued)

Umbilical cord blood, placental tissues, informing pregnant patients of option to donate; required, C.26:2H-12.46 et seq., Ch.247
“Violence Prevention in Health Care Facilities Act,” C.26:2H-5.17 et seq., Ch.236.

HOUSING

Condominium associations, fee for capital contribution to defray common expenses; permitted, bylaws, certain; validated, amends C.46:8B-15, Ch.165.
Continuing care retirement communities, participation of residents in certain aspects of governing body; required, amends C.52:27D-345 et al., Ch.192.
Joint Committee on Housing Affordability; created, C.52:9RR-1 et seq., Ch.55.
Lead paint inspection requirements, single-, two-family dwellings, certain circumstances; extended, C.55:13A-12.2 et al., amends C.52:27D-437.6 et al., Ch.251.
Rental housing, State-sponsored, quarterly meetings to discuss tenants’ complaints; required, C.55:14K-7.3, Ch.8.
Solar collectors on roofs, certain, homeowners’ association authority to regulate; limited, C.45:22A-48.2, Ch.153.
State rental assistance grants, amount reserved for veterans, certain; required, amends C.52:27D-287.1 et al., Ch.208.
State rental assistance grants to low-income senior citizens, age for eligibility; reduced, amends C.52:27D-287.1, Ch.237.

HUMAN SERVICES

Asperger’s Syndrome Pilot Initiative; established, C.30:6D-62.3 et seq., Ch.169.
Autism medical research and treatment; law revised, C.30:6D-58.1, amends C.30:6D-56 et al., Ch.168.
“Billy’s Law,” regulations for out-of-State placements in residential schools, programs; required, C.9:3A-7.3 et al., Ch.286.
Early intervention program services for children with autism, law regarding; revised, C.26:1A-36.7a, amends C.26:1A-36.7, Ch.172.
Intermediate care facilities for the mentally retarded, annual assessment; reduced, amends C.30:6D-46, Ch.230.
Long-term care, adult day health services facilities, information availability on DHSS website; required, C.26:2H-12.33, Ch.65.
“Medicaid Program Integrity and Protection Act,” C.30:4D-53 et seq., amends C.2C:21-22.1, Ch.58.
New Jersey Adults with Autism Task Force; established, Ch.173.
State properties, use as residential treatment facilities, list of available properties; required, C.9:3A-7.2 et al., Ch.76.
“Violence Prevention in Health Care Facilities Act,” C.26:2H-5.17 et seq., Ch.236.
Work First New Jersey, earned income disregards, sanction policy for noncompliance; revised, C.44:10-63.1, amends C.44:10-37 et al., repeals C.44:10-63, Ch.97.

INSURANCE

- Ambulance service payments, coverage by health insurers, certain circumstances; required, C.17B:30-58 et seq., Ch.194.
- Automobile insurance urban enterprise zone program, expiration date; extended, amends C.17:29D-1, Ch.37.
- Boards of education, self insurance, joint insurance, certain; authorized, C.18A:16-13.1, amends N.J.S.40:10-6 et al., Ch.18.
- Dental decisions by insurers, third party administrators; regulated, C.17:48G-1 et al., Ch.259.
- Domestic property, casualty insurance companies, investment options, certain; increased, C.17:24-1.1 et seq., amends R.S.17:24-1, Ch.252.
- Fire policy, standard, commercial lines insurance risks, certain; excluded, C.17:36-5.20b, Ch.324.
- Motor vehicle liability policies, “step-down” provisions; prohibited, amends C.17:28-1.1, Ch.163.
- New Jersey Automobile Insurance Risk Exchange, board membership requirements; changed, amends C.39:6A-21, Ch.72.
- “New Jersey Health Information Technology Act,” Office for e-HIT; established, C.26:1A-132 et al., Ch.330.
- New Jersey Merit Rating Plan, renamed Motor Vehicle Violations Surcharge System, procedures for payment of outstanding surcharges; changed, amends C.17:29A-35, Ch.282.
- Orthotic, prosthetic appliances, health insurance coverage, provision; required, C.17:48-6ff et al., Ch.345.
- Premium options information for automobile insurance, certain circumstances; requirement eliminated, amends C.17:29A-52 et al., Ch.240.
- Vehicle protection product warranties; regulated, C.17:18-19 et al., Ch.166.

INTERNATIONAL RELATIONS

- Pension, annuity funds, investment by State in foreign companies engaged in business with Iran; prohibited, C.52:18A-89.12, Ch.250.

INTERSTATE RELATIONS

- “Agreement Among the States to Elect the President by National Popular Vote”; enacted, C.19:36-4, amends R.S.19:13-15 et al., Ch.334.
- Interstate Civil Defense and Disaster Compact, Article 15; adopted, C.38A:20-3.1, Ch.116.
- “Waterfront Commission Act,” denial of license applications, revocation, grounds; clarified, hearings, certain, postponement; permitted, amends C.32:23-92 et al., Ch.333.
- Waterfront Commission of New York Harbor, acceptance of applications for addition to longshoremen’s register; required, amends C.32:23-114, Ch.167.

JOINT RESOLUTIONS

- “Adult Onset Disability Awareness Month,” May; designated, C.36:2-88, J.R.1.
 Department of Education, independent entity to conduct a thorough, comprehensive evaluation; authorized, J.R.3.
- “Diwali Month,” October 15 through March 14; designated, C.36:2-93 et seq., J.R.6.
- “Employee Free Choice Act,” enactment by Congress; encouraged, J.R.15.
- “Gifted and Talented Students Month,” March; designated, C.36:2-91 et seq., J.R.5.
- HERO Campaign state, New Jersey designated, annual observance, C.36:2-98 et seq., J.R.10.
- “Lymphedema Awareness Day,” March 6; designated, C.36:2-95 et seq., J.R.8.
- “Mitochondrial Disease Awareness Week,” third full week in September; designated, C.36:2-100, J.R.11.
- “Motorcycle Awareness Month,” May; designated, C.36:2-97, J.R.9.
- “New Jersey Early Intervention Week,” third week of May; designated, C.36:2-89, J.R.2.
- “New Jersey Eyeglass Recycling Month,” May; designated, C.36:2-101 et seq., J.R.12.
- “Pulmonary Hypertension Awareness Month,” November; designated, C.36:2-107 et seq., J.R.16.
- “Rett Syndrome Awareness Day,” third Tuesday in October; designated, C.36:2-90, J.R.4.
- “Shawn Carson and Robert Nguyen Memorial Bridge,” Lincoln Highway Bridge over Hackensack River; designated, J.R.7.
- “Veterans’ Month,” November; designated, C.36:2-105 et seq., J.R.14.
- “Volunteer Blood Donor Awareness Month,” September; designated, C.36:2-103 et seq., J.R.13.

JUDGES

Judicial, prosecutorial salaries; increased, amends N.J.S.2B:2-4 et al., Ch.350.

LABOR

- Business relocation, retention tax credits, minimum full-time jobs requirement for eligibility; lowered, amends C.34:1B-115 et al., Ch.310.
- “Construction Industry Independent Contractor Act,” C.34:20-1 et seq., Ch.114.
- Construction on property owned by public entity, prevailing wage for workers, certain circumstances; required, amends C.34:11-56.26 et al., Ch.68.
- Debarred contractors, prohibitions discouraging circumvention; reinforced, prevailing wage requirements for workers, amends C.34:11-56.38 et al., Ch.67.
- Disadvantaged Youth Employment Opportunities Council, report to Chairperson of State Employment and Training Commission, membership; increased, amends C.34:15F-12 et seq., Ch.189.
- “Employee Free Choice Act,” enactment by Congress; encouraged, J.R.15.

LABOR (Continued)

- Employees' religious practices; discrimination in the workplace; prohibited, amends C.10:5-5 et al., Ch.325.
- Employees on military leave, certain, employment protections, certain; provided, amends C.38:23-4 et al., Ch.239.
- "Mine Safety Act," fees, penalties for violations, certain; increased, amends C.34:6-98.2 et al., Ch.155.
- Plant closings, transfer and mass layoffs, notification to affected employees; required, C.34:21-1 et seq., Ch.212.
- Public utility contractors, wages, training, provision; regulated, C.34:13B-2.1, amends C.34:13B-16, Ch.343.
- Temporary help service firms:
 - Transportation of workers, certain; regulated, amends C.56:8-1.1, Ch.14.
 - Withholding, diversion of wages, certain; prohibited, C.56:8-1.2, Ch.15.
- Wage rates, prevailing, payment on public work projects, certain; required, amends C.34:1B-5.1, Ch.245.

LANDLORD AND TENANT

- Lead paint inspection requirements, single-, two-family dwellings, certain circumstances; extended, C.55:13A-12.2 et al., amends C.52:27D-437.6 et al., Ch.251.
- Rental housing, State-sponsored, quarterly meetings to discuss tenants' complaints; required, C.55:14K-7.3, Ch.8.
- Security deposit, return to State subsidized tenants, certain; required, C.46:8-21.5, amends C.46:8-21.1, Ch.9.
- Truth in Renting information, free dissemination, Internet posting by DCA; required, amends C.46:8-45, Ch.177.

LEGISLATURE

- Dr. Hutchins F. Inge, first African-American State Senator, Walter Gilbert Alexander, first African-American Assemblyman, display of plaques honoring; provided, C.52:11-5a et seq., Ch.64.
- Ethics, consultation, training in Legislative Branch; required, position of Ethics Counsel; established, amends C.52:13D-22 et al., Ch.203.
- Fiscal notes, law concerning; revised, amends C.52:13B-6 et al., repeals C.52:13B-12, Ch.151.
- Joint Committee on Housing Affordability; created, C.52:9RR-1 et seq., Ch.55.
- Voting records of legislators in electronic form, availability to public; required of Office of Legislative Services, amends C.52:11-78, Ch.160.

MILITARY AND VETERANS

- Armed services members' spouses, unemployment benefits, certain circumstances; provided, amends R.S.43:21-5, Ch.162.
- Commission on Women Veterans; established, C.38A:3-38 et seq., Ch.319.

MILITARY AND VETERANS (Continued)

- Disabled veteran's surviving spouse, claiming of property tax exemption, certain circumstances; permitted, amends C.54:4-3.30 et seq., Ch.317.
- Employees on military leave, certain, employment protections, certain; provided, amends C.38:23-4 et al., Ch.239.
- Home health care services, provision for veterans, certain, departmental evaluation, report; required, Ch.123.
- Impersonation, wearing of military uniform, medal, insignia, fourth degree crime, amends N.J.S.38A:14-5, Ch.148.
- Medals, ribbons, certain, eligibility for issuance to long-term, former State residents, certain; permitted, amends N.J.S.38A:15-2 et al., Ch.309.
- "New Jersey Veterans Haven Support Fund"; established, voluntary contributions on State gross income tax return, C.54A:9-25.24, Ch.233.
- NJ STARS, NJ STARS II, military service exemption for continuous enrollment requirement; provided, amends C.18A:71B-85 et al., Ch.214.
- State rental assistance grants, amount reserved for veterans, certain; required, amends C.52:27D-287.1 et al., Ch.208.
- Tuition assistance for members, dependents of New Jersey National Guard, certain, eligibility; extended, amends C.18A:62-24 et seq., Ch.11.
- Veteran status, proof required for civil service examinations, certain; changed, amends N.J.S.11A:5-1, Ch.115.
- Veterans, free admission to State parks, forests during certain events; provided, C.13:1L-12.1, Ch.275.
- Veteran's discharge, certified copy, fee; eliminated, amends C.22A:4-4.1, Ch.144.

MOTOR FUELS

- Motor fuels, sales, certain, penalties for violations, certain; maximum increased, amends C.56:6-3, Ch.221.

MOTOR VEHICLES

- Accident reports, police department to mail, fax upon request; required, amends R.S.39:4-131, Ch.20.
- Autobuses, operation, penalties for certificate violations; revised, amends R.S.48:4-3, Ch.13.
- Driver's license suspension, difference between non-driving, driving offenses; clarified, amends R.S.39:3-40, Ch.187.
- Handicapped parking area, removal of snow, ice within 24 hours; required, fines; increased, amends C.39:4-207.9, Ch.287.
- Implied consent for blood alcohol content testing for underage drivers, certain; provided, amends C.39:4-50.2 et al., Ch.267.
- Limousine services, authority over, transfer from DOT to MVC, amends C.48:16-22.3a et al., Ch.35.
- Minor's motor vehicle records, provision by MVC to parent, guardian; required, C.39:3-13b, Ch.285.

MOTOR VEHICLES (Continued)

- Motorcycle safety education course, offer by motorcycle dealers; permitted, amends C.27:5F-36, Ch.179.
- Motorist, use of hand-held wireless telephone, electronic communication device while driving, primary offense, amends C.39:4-97.3 et al., Ch.198.
- Motor vehicle fines, fees, certain, payment options; authorized, amends C.39:4-203.1 et al., Ch.283.
- Motor vehicle owner, provision of information relating to certain motor vehicle accidents; responsibility, amends R.S.39:4-129 et seq., Ch.266.
- Motor vehicle registration, suspension; authorized, amends C.39:4-139.10 et seq., Ch.280.
- New Jersey Merit Rating Plan, renamed Motor Vehicle Violations Surcharge System, procedures for payment of outstanding surcharges; changed, amends C.17:29A-35, Ch.282.
- New Jersey Motor Vehicle Commission, organization, functions, certain; revised, C.39:2A-36.1, amends C.39:2A-3 et al., Ch.335.
- “Omnibus Safety Enforcement Fund”; created, operation of omnibuses; regulations changed, C.39:3-79.22 et seq., amends R.S.39:3-19.1 et al., Ch.40.
- Organ donor information, sharing by MVC with organ procurement organizations, certain; required, amends C.39:3-12.2 et al., Ch.80.
- Parking, unauthorized, in handicapped parking space, penalties applicable even when not posted on sign, amends R.S.39:4-198, Ch.164.
- “Predatory Towing Prevention Act,” C.56:13-7 et seq., amends C.27:23-6.2 et al., repeals C.39:3-84.9 et al., Ch.193.
- Public awareness campaign by MVC relative to reporting change of address; established, amends C.39:3C-10 et al., Ch.281.
- Public utility employees, use of logo, warning light on vehicles, certain; permitted, C.39:3-54.24 et seq., amends R.S.39:3-50, Ch.242.
- Recreation vehicles, maximum length, width; prescribed, amends R.S.39:3-84, Ch.249.
- Registration of vehicles by new resident; required, amends C.39:3-17.1 et al., Ch.178.
- School crossing guard, signal to stop, noncompliance by motor vehicle operator, penalty; established, C.39:4-80.1, Ch.78.
- Scooters, certain, operation on public property by people with mobility-related disabilities, certain; permitted, C.39:4-14.15, amends C.39:4-14.12, Ch.21.
- “Skinner’s and Michelle’s Law,” leaving scene of motor vehicle accident involving death, serious bodily injury; penalties increased, amends C.2C:11-5.1 et al., Ch.83.
- Teenage Driver Safety Study Commission; established, Ch.48.
- Traffic control signal monitoring systems, pilot program; established, C.39:4-8.12 et seq., Ch.348.

MUNICIPALITIES

- Alternative electrical energy, promotion by MUAs of production, use; authorized, amends C.40:14B-3 et al., Ch.306.
- Charitable clothing bins, regulation by municipalities; provided, C.40:48-2.60 et seq., Ch.209.
- Construction code violations, assignment of same inspector, team for reinspection; required, amends C.52:27D-132, Ch.149.
- Dog license fee, maximum amount; increased, amends C.4:19-15.12, Ch.7.
- DOT, entry into contract, agreements with local government entities for repair, maintenance on State highways; permitted, C.27:7-21.13, Ch.17.
- Fire departments, volunteer, death benefit of group insurance policies; maximum increased, amends N.J.S.40A:14-37 et al., Ch.220.
- Local units, certain, provision of broadband telecommunications service by wireless community networks; permitted, C.40:9D-1 et seq., Ch.191.
- Local units, investment in federally insured certificates of deposit, certain circumstances; authorized, amends N.J.S.40A:5-14, Ch.241.
- Major places of amusement, certain, surcharge on admission charges, imposition; authorized, C.40:48G-1, Ch.302.
- “Municipal Rehabilitation and Economic Recovery Act”; revised, C.52:27BBB-2.2 et al., amends C.52:27BBB-6 et al., Ch.176.
- “Neighborhood Revitalization State Tax Credit Act,” amount of State tax credits provided; increased, amends C.52:27D-492, Ch.89.
- Payroll taxes, delinquent, certain, payment of interest by employer; required, amends C.40:48C-16 et al., Ch.294.
- Real property tax abatements, rehabilitation of property, certain circumstances; permitted, C.40A:21-6.1, amends C.40A:12A-14, Ch.90.
- Real property tax exemptions, abatements for improvements to housing for accommodation of disabled persons, certain; permitted, C.40A:21-6.2, amends C.40A:12A-14, Ch.91.
- Riparian land in Jersey City, certain, approval of State tidelands, riparian grant; authorized, C.12:3-27.1 et al., Ch.136.
- Short term tax exemptions, abatements, commencement on date of completion of project, amends C.40A:21-3 et al., Ch.268.
- Special event parking tax surcharge, imposition by municipalities, certain; authorized, amends C.40:48C-6 et al., Ch.296.
- “Sports and Entertainment District Urban Revitalization Act,” C.34:1B-190 et seq., Ch.30.
- Tax appeal judgments against municipality, threshold for alternate method of calculating reserve for uncollected taxes; lowered, amends N.J.S.40A:4-41, Ch.344.
- “Uniform Shared Services and Consolidation Act,” C.40A:65-1 et al., amends N.J.S.18A:17-14.1 et al., repeals N.J.S.11A:9-8 et al., Ch.63.
- “Urban Transit Hub Tax Credit Act,” C.34:1B-207 et seq., Ch.346.

NURSING HOMES, ROOMING AND BOARDING HOUSES

Licensure for operating rooming, boarding house, State fee; maximum increased, amends C.55:13B-7, Ch.339.

Long-term care, adult day health services facilities, information availability on DHSS website; required, C.26:2H-12.33, Ch.65.

“Safe Patient Handling Act,” C.26:12H-14.8 et seq., Ch.225.

“Violence Prevention in Health Care Facilities Act,” C.26:2H-5.17 et seq., Ch.236.

PENSIONS AND RETIREMENT

Pension and health contribution rates, new employees’ compensation base and retirement age; changed, C.52:14-17.46.1 et al., amends N.J.S.18A:66-29 et al., Ch.103.

Public employee benefits, terms, conditions of public office and employment, recommendations, certain, by Joint Legislative Committee on Public Employee Benefits Reform; implemented, C.43:15C-1 et al., amends C.43:3C-9 et al., Ch.92.

Public officers, employees, certain, convicted of certain crimes involving office, employment, mandatory imprisonment, forfeiture of pension, retirement benefits; imposed, C.43:1-3.1 et al., amends C.43:1-3 et al., Ch.49.

Trustees for pension funds of school district employees in first class counties, reimbursement of expenses; provided, amends N.J.S.18A:66-98, Ch.71.

POLICE

Accident reports, police department to mail, fax upon request; required, amends R.S.39:4-131, Ch.20.

“Blue Heart Law Enforcement Assistance Program,” counseling, support for wounded law enforcement officers; established, amends C.11A:2-25, Ch.59.

“Patricia’s Law,” missing persons legislation, standards for law enforcement agencies; established, C.52:17B-212 et seq., Ch.279.

Retired law enforcement officers, certain, qualifications to carry firearms; revised, amends N.J.S.2C:39-6, Ch.313.

State Police, handling of missing persons cases involving Alzheimer’s patients, juveniles, establishment of standards; required, C.52:17B-9.8d, Ch.146.

PROFESSIONS AND OCCUPATIONS

Accountants, newly licensed, certain, continuing education; required, amends C.45:2B-68, Ch.70.

Athletic trainers, licensure requirements; changed, amends C.45:9-37.36 et al., repeals C.45:9-37.47, Ch.323.

Court reporters, certified, administration of oaths, affirmations, affidavits; authorized, amends R.S.41:2-1, Ch.73.

Dentist registration certificates, limited; provided, C.45:6-70 et al., Ch.259.

Dentistry, criteria for eligibility for receipt of limited teaching certificates in dental schools; changed, amends C.45:6-16.1 et seq., Ch.235.

PROFESSIONS AND OCCUPATIONS (Continued)

- Governmental affairs agents, report to ELEC on particular items in appropriation legislation; required, amends C.52:13C-22, Ch.201.
- Information relative to residence of persons licensed by certain professional boards, confidentiality, certain; required, C.45:1-21.4, Ch.307.
- Licensed public movers, responsibilities for owners, operators working for; established, C.45:14D-11.1 et al., amends C.45:14D-2 et al., Ch.50.
- Licensing examinations, establishment of alternate testing dates to accommodate religious observances; required, C.45:1-42 et seq., Ch.215.
- Massage and bodywork therapists, licensure; provided, registration of employers, certain; required, law; revised, C.45:11-68 et seq., amends C.45:11-53 et al., repeals C.45:11-56 et al., Ch.337.
- Pharmacist, filling of prescriptions, certain, under certain circumstances; required, C.45:14-67.1, Ch.199.
- Tax preparation services, certain; refund anticipation loans, regulated, C.17:11D-1 et seq., Ch.258.
- "The State Heating, Ventilating, Air Conditioning and Refrigeration Contracting License Law," C.45:16A-1 et seq., amends C.45:1-2.1 et al., Ch.211.
- Waterfront Commission of New York Harbor, acceptance of applications for addition to longshoremen's register; required, amends C.32:23-114, Ch.167.

PUBLIC CONTRACTS

- Alternative electrical energy contracts, certain local entities, joining with State for provision; authorized, C.48:3-91.6, Ch.305.
- Bidding on local public, public school contracts, due dates, days, certain; prohibited, amends C.40A:11-23 et al., Ch.4.
- Construction, financing of public school facilities, laws concerning; revised, New Jersey Schools Development Authority; created, C.52:18A-235 et al., amends C.18A:7G-5 et al., repeals C.34:1b-5.6 et seq., Ch.137.
- Construction on property owned by public entity, prevailing wage for workers, certain circumstances; required, amends C.34:11-56.26 et al., Ch.68.
- Debarred contractors, prohibitions discouraging circumvention; reinforced, prevailing wage requirements for workers, amends C.34:11-56.38 et al., Ch.67.
- "Energy Star" products, purchase by State; required, C.52:34-6.4, Ch.126.
- Fluorescent light bulbs, use by State, education of public on benefits; required, C.52:34-6.5, Ch.156.
- Green product purchasing, course for purchasing agents; required, list of product purchasing sources, compilation, maintenance; required, C.40A:11-9.1, amends C.40A:11-9, Ch.332.

PUBLIC EMPLOYEES AND OFFICERS

- Certificate of rehabilitation for public employment, issuance for certain persons with criminal records; provided, C.2A:168A-7 et seq., Ch.327.

PUBLIC EMPLOYEES AND OFFICERS (Continued)

- Pension and health contribution rates, new employees' compensation base and retirement age; changed, C.52:14-17.46.1 et al., amends N.J.S.18A:66-29 et al., Ch.103.
- Public employee benefits, terms, conditions of public office and employment, recommendations, certain, by Joint Legislative Committee on Public Employee Benefits Reform; implemented, C.43:15C-1 et al., amends C.43:3C-9 et al., Ch.92.
- Public officers, employees, certain, convicted of certain crimes involving office, employment, mandatory imprisonment, forfeiture of pension, retirement benefits; imposed, C.43:1-3.1 et al., amends C.43:1-3 et al., Ch.49.
- Simultaneous holding of more than one elective public office, certain circumstances; prohibited, C.19:3-5.2, amends R.S.19:3-5 et al., Ch.161.

PUBLIC UTILITIES

- Alternative electrical energy contracts, certain local entities, joining with State for provision; authorized, C.48:3-91.6, Ch.305.
- Electric power net metering, safety, power quality interconnection standards, laws concerning; revised, adoption by BPU of renewable energy credit rules, certain; required, amends C.48:3-87, Ch.300.
- Energy services, certain, purchase, joining with State by public entities, certain; permitted, C.48:3-91.1 et seq., Ch.104.
- "Global Warming Response Act," C.26:2C-37 et seq., amends C.48:3-87, Ch.112.
- Greenhouse gas emissions, reduction; encouraged, "Global Warming Solutions Fund"; established, C.26:2C-45 et al., amends C.48:3-87, Ch.340.
- Manufacturing facilities, certain, exemption from taxes, energy charges, certain; provided, C.48:2-21.36 et al., amends C.54:32B-8.47 et al., Ch.94.
- Natural gas, hazardous liquid facilities, safety violations, civil penalties; increased, amends C.48:2-86 et al., Ch.118.
- Public utility contractors, wages, training, provision; regulated, C.34:13B-2.1, amends C.34:13B-16, Ch.343.
- Public utility employee identification badge, penalties for misuse, falsifying; upgraded, C.2C:21-35, amends C.48:3-45, Ch.232.
- Renewable energy installers, voluntary program for certification, establishment by BPU; required, C.48:3-107, Ch.264.
- "Voice over Internet Freedom Act," C.48:17-32 et seq., Ch.195.

RAILROADS

- Condemnation of property, certain, use of power of eminent domain by railroads, laws concerning; revised, amends C.48:12-35.1, Ch.290.

REAL PROPERTY

- Out-of-State properties, certain, advertising to NJ residents, secondary registration; required, C.45:15-16.30a, amends C.45:15-16.32, Ch.292.

RECREATION

“Internet Dating Safety Act,” C.56:8-168 et seq., Ch.272.

“Sports and Entertainment District Urban Revitalization Act,” C.34:1B-190 et seq., Ch.30.

Veterans, free admission to State parks, forests during certain events; provided, C.13:1L-12.1, Ch.275.

REORGANIZATION PLANS

Commerce, Economic Growth and Tourism Commission, reorganization, consolidation, renamed Commerce Commission, transfer of certain functions, No.001-2007.

SCHOOLS

Boards of education, county vocational, special services, consolidation; permitted, C.18A:46-47 et al., Ch.222.

Boards of education, self insurance, joint insurance, certain; authorized, C.18A:16-13.1, amends N.J.S.40:10-6 et al., Ch.18.

Bus drivers, inspection of bus for pupils remaining at end of route; required, C.18A:39-28 et seq., Ch.77.

Construction, financing of public school facilities, laws concerning; revised, New Jersey Schools Development Authority; created, C.52:18A-235 et al., amends C.18A:7G-5 et al., repeals C.34:1b-5.6 et seq., Ch.137.

Criminal history record checks for unpaid volunteers, permitted, reimbursement required to volunteers, employees; permitted, amends C.18A:-6-7.1 et seq., Ch.82.

Electronic communication, added to definition of “harassment, intimidation or bullying” in public school prevention policies, C.18A:37-15.1, amends C.18A:37-14, Ch.129.

Epinephrine, emergency administration to students for anaphylaxis, certain circumstances; permitted, C.18A:40-12.6a et seq., amends C.18A:40-12.3 et al. Ch.57; recruitment, training of volunteer designees by school nurse in nonpublic schools; clarified, amends C.18A:40-12.6c, Ch.229.

Eye examinations, comprehensive, pilot program for second grade students; established, C.18A:40-35 et seq., Ch.122.

Fire drills conducted in schools open during summer months; required, amends N.J.S.18A:41-1, Ch.205.

Foods, beverages served, sold, given away in schools, certain, nutritional restrictions; established, C.18A:33-15 et seq., Ch.45.

Gang education seminars, annual, for school administrators; required, C.52:17B-4.7, Ch.188.

Gang violence prevention, instruction offered in elementary schools; required, C.18A:35-4.26, Ch.22.

SCHOOLS (Continued)

Hate crimes, bullying, laws concerning; revised, Commission on Bullying in Schools; established, C.52:17B-5.4a et al., amends N.J.S.2C:16-1 et al., Ch.303.

Human papillomavirus (HPV), school distribution of information to parents, guardians of students, certain, patient brochure to pediatricians; required, C.26:4-95.3 et al., Ch.134.

Instruction, continuing education in autism, developmental disabilities awareness, teaching methods, required for teaching certification, current teachers, paraprofessionals, C.18A:26-2.8 et seq., Ch.171.

“New Jersey Safe Haven Infant Protection Act,” distribution of informational materials to public school students, certain; required, C.30:4C-15.11 et al., Ch.143.

Public school districts:

Joining certain voluntary associations overseeing Statewide interscholastic sports projects, certain circumstances; prohibited, C.18A:11-3.1, Ch.41.

Mandates certain; eliminated, C.18A:36-13.1, amends C.18A:17-46 et al., repeals N.J.S.18A:36-8, Ch.42.

Monitoring system, NJ QSAC; revised, C.18A:-7A-53.1 et al., amends C.18A:7A-3 et al., repeals C.18A:7A-15.2, Ch.16.

Pupil absences, certain, notification to DYFS by school district; required, C.18A:36-25.2 et seq., Ch.248.

School district accountability measures, efficiency standards for receipt of State aid; required, C.18A:55-3 et al., amends C.18A:7A-55 et al., Ch.53.

School district joint self-insurance groups, participation by New Jersey School Boards Association; permitted, amends C.18A:18B-1, Ch.312.

“School Funding Reform Act of 2008,” C.18A:7F-43 et seq., amends C.18A:7A-10 et al., repeals C.18A:7F-1 et al., Ch.260.

Sick leave banks for school board employees, establishment; permitted, C.18A:30-10 et seq., Ch.223.

Special education issues, burden of proof, production on school district relative to due process hearings, C.18A:46-1.1, Ch.331.

Sudden cardiac death of student athletes, development, distribution of information to parents; required, C.18A:40-41, Ch.125.

Terrell James’ Law,” highway entry, exit ramps, certain, location within proximity, certain, to schools, certain circumstances; prohibited, C.27:7-44.10 et al., Ch.308.

SENIOR CITIZENS

Continuing care retirement communities, participation of residents in certain aspects of governing body; required, amends C.52:27D-345 et al., Ch.192.

State Police, handling of missing persons cases involving Alzheimer’s patients, juveniles, establishment of standards; required, C.52:17B-9.8d, Ch.146.

SENIOR CITIZENS (Continued)

State rental assistance grants to low-income senior citizens, age for eligibility; reduced, amends C.52:27D-287.1, Ch.237.

SOLID WASTE

“Recycling Enhancement Act,” C.13:1E-96.2 et seq., amends C.13:1E-96 et al., repeals C.13:1E-139 et al., Ch.311.

STATE GOVERNMENT

Commissions, committees, councils, boards, inactive, certain; eliminated, amends C.26:6A-8 et al., repeals R.S.43:20-1 et al., Ch.39.

Department of Education, independent entity to conduct a thorough, comprehensive evaluation; authorized, J.R.3.

Division of Elections, transfer to Department of State, Secretary of State as chief election official; designated, C.52:16A-98, amends C.19:31-6a, Ch.254.

Division of Risk Management in Department of the Treasury; established, Office of Information Technology; reorganized, C.52:18A-219 et seq., amends C.5:12-100.2 et al., Ch.56.

Dr. Hutchins F. Inge, first African-American State Senator, Walter Gilbert Alexander, first African-American Assemblyman, display of plaques honoring; provided, C.52:11-5a et seq., Ch.64.

Emergency deployment program for building inspection following disaster, emergency; established, C.52:27D-126.3 et seq., Ch.2.

Governmental affairs agents, report to ELEC on particular items in appropriation legislation; required, amends C.52:13C-22, Ch.201.

“Local Unit Alignment, Reorganization and Consolidation Commission”; established, C.52:27D-501 et al., amends C.52:27D-181.1, Ch.54.

Lottery prizes, certain, offset of debt, certain to State agencies; required, C.5:9-13.17 et seq., Ch.106.

Pension, annuity funds, investment by State in foreign companies engaged in business with Iran; prohibited, C.52:18A-89.12, Ch.250.

Property, certain in Stafford Township, Ocean County, exchange of land on behalf of Motor Vehicle Commission; authorized, Ch.243.

Sale of State-owned property, certain, special fund; established, use for State debt reduction, capital projects; required, C.52:31-1.3b, Ch.108.

Sale of surplus property, State Police office, barracks; authorized, Edgewater Park, Ch.87; East Windsor, Ch.99; Holmdel, Ch.107.

South Jersey Port Corporation, membership; increased, amends C.12:11A-5, Ch.320.

State agencies, economic development activities, certain; reorganized, C.34:1A-48.1 et al., amends C.34:1A-46 et al., repeals C.52:27C-72, Ch.253.

State buildings, certain, meeting of high performance green building standards; required, C.52:32-5.3 et seq., Ch.269.

STATE GOVERNMENT (Continued)

State Comptroller, Office; established, C.52:15C-1 et seq., amends C.52:15B-1 et al., Ch.52.

“The Development Subsidy Job Goals Accountability Act,” C.52:39-1 et seq., Ch.200.

“Uniform Shared Services and Consolidation Act,” C.40A:65-1 et al., amends N.J.S.18A:17-14.1 et al., repeals N.J.S.11A:9-8 et al., Ch.63.

Victims of Crime Compensation Agency, name adopted, compensation for crime victims, laws; amended, C.52:4B-3.2 et al., amends C.52:4B-2 et al., repeals C.52:4B-3 et al., Ch.95.

Voting records of legislators in electronic form, availability to public; required of Office of Legislative Services, amends C.52:11-78, Ch.160.

TAXATION

Business relocation, retention tax credits, minimum full-time jobs requirement for eligibility; lowered, amends C.34:1B-115 et al., Ch.310.

Corporation business tax credit for digital media content expenses, film production expenses, certain; provided, amends C.54:10A-5.39 et al., Ch.257.

Disabled veteran’s surviving spouse, claiming of property tax exemption, certain circumstances; permitted, amends C.54:4-3.30 et seq., Ch.317.

Earned income tax credit program, eligibility; expanded, benefit amount; increased, amends C.54A:4-7, Ch.109.

Historic site real property tax exemptions, laws concerning; clarified, C.54:4-3.5a1 et seq., amends C.54:4-3.52 et al., Ch.157.

Homestead credits, caps on tax levies for reduction of property taxes; established, C.18A:7F-37 et al., amends C.18A:7F-7 et al., Ch.62.

Liability, personal, for persons required to collect taxes, fees, assessments, certain; imposed, amends C.40:54D-9 et al., Ch.102.

Manufacturing facilities, certain, exemption from taxes, energy charges, certain; provided, C.48:2-21.36 et al., amends C.54:32B-8.47 et al., Ch.94.

“Neighborhood Revitalization State Tax Credit Act,” amount of State tax credits provided; increased, amends C.52:27D-492, Ch.89.

“New Jersey Tax and Fiscal Policy Study Commission”; established, C.52:9H-39 et seq., Ch.43.

“New Jersey Veterans Haven Support Fund”; established, voluntary contributions on State gross income tax return, C.54A:9-25.24, Ch.233.

Payroll taxes, delinquent, certain, payment of interest by employer; required, amends C.40:48C-16 et al., Ch.294.

Real property assessment appeals, filing deadlines; extended following revaluations, amends R.S.54:3-21, Ch.256.

Real property tax abatements, rehabilitation of property, certain circumstances; permitted, C.40A:21-6.1, amends C.40A:12A-14, Ch.90.

TAXATION (Continued)

- Real property tax exemptions, abatements for improvements to housing for accommodation of disabled persons, certain; permitted, C.40A:21-6.2, amends C.40A:12A-14, Ch.91.
- Sales and use tax, membership fees, dues of charitable clubs, organizations, parking services, certain; excluded, amends C.54:32B-3, Ch.105.
- Short term tax exemptions, abatements, commencement on date of completion of project, amends C.40A:21-3 et al., Ch.268.
- State Uniform Tax Procedure Law, compliance; enhanced, C.54:50-38, amends R.S.54:49-10 et al., Ch.100.
- Tax appeal judgments against municipality, threshold for alternate method of calculating reserve for uncollected taxes; lowered, amends N.J.S.40A:4-41, Ch.344.
- Tax clearance certificate program for awards of business assistance and incentives, certain; established, C.54:50-39, Ch.101.
- UEZ sales tax rebate program, exception; annual gross receipts less than \$3,000,000, amends C.52:27H-79, Ch.328.
- "Urban Transit Hub Tax Credit Act," C.34:1B-207 et seq., Ch.346.

TOBACCO

- Master Settlement Agreement, formula for early release of escrow funds; altered, C.52:4D-3.1 et seq., amends C.52:4D-3, Ch.96.
- "The Reduced Cigarette Ignition Propensity and Firefighter Protection Act," C.54:40A-54 et seq., Ch.86.

TRANSPORTATION

- Commuter transportation services public awareness campaign; established, C.27:1A-5.20 et seq., Ch.12.
- New Jersey Transit Corporation, report on New Jersey Travel Independence Program, study feasibility of expansion; required, Ch.213.
- NJ Transit annual report, on-time performance data; required, amends C.27:25-20, Ch.263.

UNEMPLOYMENT COMPENSATION

- Armed services members' spouses, unemployment benefits, certain circumstances; provided, amends R.S.43:21-5, Ch.162.
- Retirement funds, certain, rollover without penalty for recipient of unemployment compensation; permitted, amends C.43:21-5a, Ch.34.
- Temporary disability benefits, payment for disability incurred during commission of fourth degree crime, gross misconduct; prohibited, amends C.43:21-39, Ch.322.

WEAPONS

Community guns, penalties for possession, receipt, transfer; increased, amends N.J.S.2C:39-4, Ch.24.

County corrections officers, certain, carrying firearms at all times in New Jersey; permitted, amends N.J.S.2C:39-6, Ch.314.

Firearm, loss, theft, report by owner within 36 hours; required, C.2C:58-19, Ch.299.

Firearms, transport into State for purposes of unlawful sale, transfer, second degree crime, amends N.J.S.2C:39-9, Ch.298.

Handgun ammunition, sale of; regulated, C.2C:58-3.3, Ch.318.

Handguns, certain, unlawful possession, second degree crime; established, sentencing, amends N.J.S.2C:39-5, Ch.284.

Retired law enforcement officers, certain, qualifications to carry firearms; revised, amends N.J.S.2C:39-6, Ch.313.

WELFARE

Work First New Jersey, earned income disregards, sanction policy for noncompliance; revised, C.44:10-63.1, amends C.44:10-37 et al., repeals C.44:10-63, Ch.97.

WORKERS' COMPENSATION

Employee expenses in suits against third parties in workers' compensation cases, amount of expenses; raised, amends R.S.34:15-40, Ch.23.

Late payment of benefits, late payment period after which interest is charged; shortened, amends R.S.34:15-28, Ch.3.