LAWS = NEW JERSEY
1997

New Jersey State Library

ACTS

OF THE

Second Annual Session

OF THE

Two Hundred and Seventh Legislature

OF THE

STATE OF NEW JERSEY

1997

New Jersey State Library

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

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[1] Resigned 4/11/97.
[2] Sworn in 5/22/97.
[3] Sworn in 1/29/97.
[4] Sworn in 2/20/97.

LAWS

(13)

ACTS

ENACTED BY THE

Second Annual Session

OF THE

Two Hundred and Seventh Legislature

CHAPTER 1

AN ACT concerning the unauthorized practice of immigration 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:21-31 Unauthorized practice of immigration law; penalties.

1. a. As used in this section:

(1) "Immigration consultant" means any person rendering services for a fee, including the completion of forms and applications, to another person in furtherance of that person's desire to determine or modify his status in an Gimmigration or naturalization matter under federal law.

(2) "Immigration or naturalization matter" means any matter which involves any law, action, filing or proceeding related to a person's immigration or citizenship status in the United States.

(3) "Immigration-related document" means any birth certificate or marriage certificate; any document issued by the government of the United States, any foreign country, any state, or any other public entity relating to a person's immigration or naturalization status.

b. Any immigration consultant not licensed as an attorney or counselor at law who:

(1) Engages in this State in the practice of law; or

(2) Holds himself out to the public, either alone or together with, by or through another person, whether such other person is licensed as an attorney or counselor at law or not, as engaging in or entitled to engage in the practice of law, or as rendering legal service or advice, or as furnishing attorneys or counsel, in any immigration or naturalization matter; or

(3) Assumes, uses or advertises the title of lawyer or attorney at law, or equivalent terms, in the English language or any other language, is guilty of a crime of the fourth degree.

c. Any person who knowingly retains possession of another person's immigration-related document for more than a reasonable time after the person who owns the document has submitted a written request for the document's return is guilty of a crime of the fourth degree.

d. Nothing in this section shall be construed to prohibit a person accredited as a representative by federal law pursuant to 8 CFR 292.2 from providing immigration services.

2. This act shall take effect on the ninetieth day following enactment.

Approved January 24, 1997.

CHAPTER 2

AN ACT concerning certain liens, and amending N.J.S.2A:44-51.

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

1. N.J.S.2A:44-51 is amended to read as follows:

Right of lien; retention of property when amount due unpaid; "keeper of a livery stable" defined.

2A:44-51. Every keeper of a livery stable or boarding and exchange stable, shall have a lien on all animals left with him in livery, for board, sale or exchange and upon all carriages, wagons, sleighs and harness left with him for storage, sale or exchange for the amount due such proprietor for the board and keep of such animal and also for such storage, and shall have the right, without process of law, to retain the same until the amount of such indebtedness is discharged.

As used in this section, "keeper of a livery stable" shall include, but need not be limited to, a proprietor of a stable, a trainer, a veterinarian, a farrier, or any other person who has a financial relationship with the owner of the horse.

2. This act shall take effect immediately.

Approved January 24, 1997.

CHAPTER 3

AN ACT concerning civil liability for the fraudulent sale of securities and amending P.L.1967, c.93.

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

1. Section 24 of P.L.1967, c.93 (C.49:3-71) is amended to read as follows:

C.49:3-71 Action for deceit; liability.

24. (a) Any person who

(1) Offers or sells a security in violation of section 8(b), 9(a) or 13 of this act, or

(2) Offers or sells a security in violation of subsection (a) or (c) of section 5 of P.L.1967, c.93 (C.49:3-52) or by means of any untrue statement of material fact or any omission to state a material fact necessary in order to make the statements made, in the light of the circumstances under which they are made, not misleading (the buyer not knowing of the untruth or omission), is liable to the person buying the security from him, who may sue to recover the consideration paid for the security, together with interest at 12% per year from the date of payment and costs, less the amount of any income received on the security, upon the tender of the security and any income received on it, or for damages if he no longer owns the security; provided, however, that the person buying the security must sustain the burden of proof that the seller knew of the untruth or omission and intended to deceive the buyer, and provided further that the buyer has suffered a financial detriment. Damages are the amount that would be recoverable upon a tender less the value of the security when the buyer disposed of it and interest at 12% per year from the date of disposition;

(b) Every person who directly or indirectly controls a seller liable under paragraph (a), every partner, officer, or director of such a seller, every person occupying a similar status or performing similar functions, every employee of such a seller who materially aids in the sale, and every broker-dealer or agent who materially aids in the sale are also liable jointly and severally with and to the same extent as the seller, unless the nonseller who is so liable sustains the burden of proof that he did not know, and in the exercise of reasonable care could not have known, of the existence of the facts by reason of which the liability is alleged to exist. There is contribution as in cases of contract among the several persons so liable;

(c) Any tender specified in this section may be made at any time before entry of judgment;

(d) Every cause of action under this law survives the death of any person who might have been a plaintiff or defendant;

(e) No person may sue under this section more than two years after the contract of sale, or within two years of the time when the person aggrieved knew or should have known of the existence of his cause of action, whichever is later. No person may sue under this section (1) if the buyer received a written offer, before suit and at a time when he owned the security, to refund the consideration paid, together with interest at 12% per year from the date of payment, less the amount of any income received on the security, and he failed to accept the offer within 30 days of its receipt, or (2) if the buyer received such an offer before suit and at a time when he did not own the security, unless he rejected the offer in writing within 30 days of its receipt;

(f) No person who has made or engaged in the performance of any contract in violation of any provision of this law or any rule or order hereunder, or who has acquired any purported right under any such contract with knowledge of the facts by reason of which its making or performance was in violation, may base any suit on the contract;

(g) Any condition, stipulation or provision binding any person acquiring any security to waive compliance with any provision of this law or any rule or order hereunder is void;

(h) The rights and remedies provided by this act are in addition to any other rights or remedies that may exist at law or in equity, but this law does not create any cause of action not specified in this section or section 10, paragraph (e).

2. This act shall take effect immediately.

Approved January 24, 1997.

CHAPTER 4

AN ACT concerning State land acquired for transportation purposes and supplementing chapter 1A of Title 27 of the Revised Statutes.

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

C.27:1A-5.15 Inventory of certain State-owned properties, preparation.

1. The Department of Transportation shall annually prepare, and submit to the Governor and the Legislature, an inventory of the properties owned by the State of New Jersey and held for transportation projects which are not under construction. The inventory shall include the location and size of the property, the date and cost of acquisition, the purpose for which the land was acquired and the reasons why the property has not been used for that purpose.

2. This act shall take effect immediately.

Approved January 24, 1997.

CHAPTER 5

AN ACT concerning installment payments for municipal improvement assessments and amending R.S.40:56-35.

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

1. R.S.40:56-35 is amended to read as follows:

Assessments, payment in installments; delinquent installments.

40:56-35. The governing body may by resolution provide that the owner of any real estate upon which any assessments for any improvement shall have been made may pay such assessments in such equal yearly or quarterly installments, not exceeding ten years in duration, except as hereinafter provided, with legal interest thereon, and at such time in each year as the governing body shall determine, but any person assessed may pay the whole of any assessment, or any balance of installments, with accrued interest thereon, at one time. If any such installment shall remain unpaid for 30 days after the time when the same shall have become due, either:

a. the whole assessment or balance due thereon shall become and be immediately due, shall draw interest at the rate imposed upon the arrearage of taxes in such municipality and be collected in the same manner as is provided by this subtitle for other past due assessments; or

b. the governing body may, by resolution, permit any person who is delinquent in the payment of such an installment to pay only the amount of the delinquent payment and any interest on the delinquent payment that has

accrued from the date that the installment was due and payable until the date that payment of the delinquent installment is made. After the delinquent installment is satisfied, the person assessed shall be reinstated on a regular installment payment schedule.

Whenever any owner shall be given the privilege of paying any assessment in installments such assessment shall remain a lien upon the land described therein until the same with all installments and accrued interest thereon shall be paid, and no proceedings to collect or enforce the same need be taken until default shall be made in the payment of any installment as hereinbefore in this subtitle provided.

In any municipality which is constructing a local improvement with funds secured from the Federal Government, through the public works administration, under the terms of the national recovery act, the governing body may provide that the assessments may be payable in yearly or quarterly installments, with legal interest thereon, over a period of years up to but in no event exceeding the term of years for which the funds therefor are borrowed from the Federal Government, and at such time in each year as the governing body shall determine. The governing body may fix the yearly installments in such amounts as in its opinion are equitable and just.

In any municipality in which the local improvement is being financed by the sale of bonds, the governing body may provide that the assessments may be payable in yearly or quarterly installments, with legal interest thereon, over a period of years up to but in no event exceeding the period of years for which the bonds were issued, or for 20 years, whichever shall be less, and at such time in each year as the governing body shall determine. The governing body may fix the yearly installments in such amounts as in its opinion are equitable and just.

2. This act shall take effect immediately.

Approved January 24, 1997.

CHAPTER 6

AN ACT concerning telecommunications crime and revising 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.2C:20-1 is amended to read as follows:

Definitions.

2C:20-1. Definitions. In chapters 20 and 21, unless a different meaning plainly is required:

a. "Deprive" means: (1) to withhold or cause to be withheld property of another permanently or for so extended a period as to appropriate a substantial portion of its economic value, or with purpose to restore only upon payment of reward or other compensation; or (2) to dispose or cause disposal of the property so as to make it unlikely that the owner will recover it.

b. "Fiduciary" means an executor, general administrator of an intestate, administrator with the will annexed, substituted administrator, guardian, substituted guardian, trustee under any trust, express, implied, resulting or constructive, substituted trustee, executor, conservator, curator, receiver, trustee in bankruptcy, assignee for the benefit of creditors, partner, agent or officer of a corporation, public or private, temporary administrator, administrator, administrator pendente lite, administrator ad prosequendum, administrator ad litem or other person acting in a similar capacity.

c. "Financial institution" means a bank, insurance company, credit union, savings and loan association, investment trust or other organization held out to the public as a place of deposit of funds or medium of savings or collective investment.

d. "Government" means the United States, any state, county, municipality, or other political unit, or any department, agency or subdivision of any of the foregoing, or any corporation or other association carrying out the functions of government.

e. "Movable property" means property the location of which can be changed, including things growing on, affixed to, or found in land, and documents, although the rights represented thereby have no physical location. "Immovable property" is all other property.

f. "Obtain" means: (1) in relation to property, to bring about a transfer or purported transfer of a legal interest in the property, whether to the obtainer or another; or (2) in relation to labor or service, to secure performance thereof.

g. "Property" means anything of value, including real estate, tangible and intangible personal property, trade secrets, contract rights, choses in action and other interests in or claims to wealth, admission or transportation tickets, captured or domestic animals, food and drink, electric, gas, steam or other power, financial instruments, information, data, and computer software, in either human readable or computer readable form, copies or originals.

h. "Property of another" includes property in which any person other than the actor has an interest which the actor is not privileged to infringe, regardless of the fact that the actor also has an interest in the property and regardless of the fact that the other person might be precluded from civil recovery because the property was used in an unlawful transaction or was subject to forfeiture as contraband. Property in possession of the actor shall not be deemed property of another who has only a security interest therein, even if legal title is in the creditor pursuant to a conditional sales contract or other security agreement.

i. "Trade secret" means the whole or any portion or phase of any scientific or technical information, design, process, procedure, formula or improvement which is secret and of value. A trade secret shall be presumed to be secret when the owner thereof takes measures to prevent it from becoming available to persons other than those selected by the owner to have access thereto for limited purposes.

j. "Dealer in property" means a person who buys and sells property as a business.

k. "Traffic" means:

(1) To sell, transfer, distribute, dispense or otherwise dispose of property to another person; or

(2) To buy, receive, possess, or obtain control of or use property, with intent to sell, transfer, distribute, dispense or otherwise dispose of such property to another person.

l. "Broken succession of title" means lack of regular documents of purchase and transfer by any seller except the manufacturer of the subject property, or possession of documents of purchase and transfer by any buyer without corresponding documents of sale and transfer in possession of seller, or possession of documents of sale and transfer by seller without corresponding documents of purchase and transfer in possession of any buyer.

m. "Person" includes any individual or entity or enterprise, as defined herein, holding or capable of holding a legal or beneficial interest in property.

n. "Anything of value" means any direct or indirect gain or advantage to any person.

o. "Interest in property which has been stolen" means title or right of possession to such property.

p. "Stolen property" means property that has been the subject of any unlawful taking.

q. "Enterprise" includes any individual, sole proprietorship, partnership, corporation, business trust, association, or other legal entity, and 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.

r. "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.

s. "Access device" means property consisting of any telephone calling card number, credit card number, account number, mobile identification number, electronic serial number, personal identification number, or any other data intended to control or limit access to telecommunications or other computer networks in either human readable or computer readable form, either copy or original, that can be used to obtain telephone service.

t. "Defaced access device" means any access device, in either human readable or computer readable form, either copy or original, which has been removed, erased, defaced, altered, destroyed, covered or otherwise changed in any manner from its original configuration.

2. N.J.S.2C:20-2 is amended to read as follows:

Consolidation of theft offenses; grading; provisions applicable to theft generally.

2C:20-2. Consolidation of Theft Offenses; Grading; Provisions Applicable to Theft Generally. a. Consolidation of Theft Offenses. Conduct denominated theft in this chapter constitutes a single offense, but each episode or transaction may be the subject of a separate prosecution and conviction. A charge of theft may be supported by evidence that it was committed in any manner that would be theft under this chapter, notwithstanding the specification of a different manner in the indictment or accusation, subject only to the power of the court to ensure fair trial by granting a bill of particulars, discovery, a continuance, or other appropriate relief where the conduct of the defense would be prejudiced by lack of fair notice or by surprise.

b. Grading of theft offenses.

(1) Theft constitutes a crime of the second degree if:

(a) The amount involved is $75,000.00 or more;

(b) The property is taken by extortion;

(c) The property stolen is a controlled dangerous substance or controlled substance analog as defined in N.J.S.2C:35-2 and the quantity is in excess of one kilogram; or

(d) The property stolen is a person's benefits under federal or State law, or from any other source, which the Department of Human Services or an

agency acting on its behalf has budgeted for the person's health care and the amount involved is $75,000 or more.

(2) Theft constitutes a crime of the third degree if:

(a) The amount involved exceeds $500.00 but is less than $75,000.00;

(b) The property stolen is a firearm, motor vehicle, vessel, boat, horse or airplane;

(c) The property stolen is a controlled dangerous substance or controlled substance analog as defined in N.J.S.2C:35-2 and the amount involved is less than $75,000.00 or is undetermined and the quantity is one kilogram or less;

(d) It is from the person of the victim;

(e) It is in breach of an obligation by a person in his capacity as a fiduciary;

(f) It is by threat not amounting to extortion;

(g) It is of a public record, writing or instrument kept, filed or deposited according to law with or in the keeping of any public office or public servant;

(h) The property stolen is a person's benefits under federal or State law, or from any other source, which the Department of Human Services or an agency acting on its behalf has budgeted for the person's health care and the amount involved is less than $75,000;

(i) The property stolen is any real or personal property related to, necessary for, or derived from research, regardless of value, including, but not limited to, any sample, specimens and components thereof, research subject, including any warm-blooded or cold-blooded animals being used for research or intended for use in research, supplies, records, data or test results, prototypes or equipment, as well as any proprietary information or other type of information related to research;

(j) The property stolen is a New Jersey Prescription Blank as referred to in R.S.45:14-14; or

(k) The property stolen consists of an access device or a defaced access device.

(3) Theft constitutes a crime of the fourth degree if the amount involved is at least $200.00 but does not exceed $500.00. If the amount involved was less than $200.00 the offense constitutes a disorderly persons offense.

(4) The amount involved in a theft shall be determined by the trier of fact. The amount shall include, but shall not be limited to, the amount of any State tax avoided, evaded or otherwise unpaid, improperly retained or disposed of. Amounts involved in thefts committed pursuant to one scheme or course of conduct, whether from the same person or several persons, may be aggregated in determining the grade of the offense.

c. Claim of right. It is an affirmative defense to prosecution for theft that the actor:

(1) Was unaware that the property or service was that of another;

(2) Acted under an honest claim of right to the property or service involved or that he had a right to acquire or dispose of it as he did; or

(3) Took property exposed for sale, intending to purchase and pay for it promptly, or reasonably believing that the owner, if present, would have consented.

d. Theft from spouse. It is no defense that theft was from the actor's spouse, except that misappropriation of household and personal effects, or other property normally accessible to both spouses, is theft only if it occurs after the parties have ceased living together.

3. N.J.S.2C:20-7 is amended to read as follows:

Receiving stolen property.

2C:20-7. Receiving Stolen Property.

a. Receiving. A person is guilty of theft if he knowingly receives or brings into this State movable property of another knowing that it has been stolen, or believing that it is probably stolen. It is an affirmative defense that the property was received with purpose to restore it to the owner. "Receiving" means acquiring possession, control or title, or lending on the security of the property.

b. Presumption of knowledge. The requisite knowledge or belief is presumed in the case of a person who:

(1) Is found in possession or control of two or more items of property stolen on two or more separate occasions; or

(2) Has received stolen property in another transaction within the year preceding the transaction charged; or

(3) Being a person in the business of buying or selling property of the sort received, acquires the property without having ascertained by reasonable inquiry that the person from whom he obtained it had a legal right to possess and dispose of it; or

(4) Is found in possession of two or more defaced access devices.

4. N.J.S.2C:20-8 is amended to read as follows:

2C:20-8. Theft of Services.

Theft of services.

a. A person is guilty of theft if he purposely obtains services which he knows are available only for compensation, by deception or threat, or by false token, slug, or other means, including but not limited to mechanical or electronic devices or through fraudulent statements, to avoid payment for

the service. "Services" include labor or professional service; transportation, telephone, telecommunications, electric, water, gas, cable television, or other public service; accommodation in hotels, restaurants or elsewhere; entertainment; admission to exhibitions; use of vehicles or other movable property. Where compensation for service is ordinarily paid immediately upon the rendering of such service, as in the case of hotels and restaurants, absconding without payment or offer to pay gives rise to a presumption that the service was obtained by deception as to intention to pay.

b. A person commits theft if, having control over the disposition of services of another, to which he is not entitled, he knowingly diverts such services to his own benefit or to the benefit of another not entitled thereto.

c. Any person who, without permission and for the purpose of obtaining electric current, gas or water with intent to defraud any vendor of electricity, gas or water or a person who is furnished by a vendor with electric current, gas or water:

(1) Connects or causes to be connected by wire or any other device with the wires, cables or conductors of any such vendor or any other person; or

(2) Connects or disconnects the meters, pipes or conduits of such vendor or any other person or in any other manner tampers or interferes with such meters, pipes or conduits, or connects with such meters, pipes or conduits by pipes, conduits or other instruments--is guilty of a disorderly persons offense.

The existence of any of the conditions with reference to meters, pipes, conduits or attachments, described in this subsection, is presumptive evidence that the person to whom gas, electricity or water is at the time being furnished by or through such meters, pipes, conduits or attachments has, with intent to defraud, created or caused to be created with reference to such meters, pipes, conduits or attachments, the condition so existing; provided, however, that the presumption shall not apply to any person so furnished with gas, electricity or water for less than 31 days or until there has been at least one meter reading.

A violation of this subsection shall be deemed to be a continuing offense as long as the conditions described in this subsection exist.

d. Any person who, without permission or authority, connects or causes to be connected by wires or other devices, any meter erected or set up for the purpose of registering or recording the amount of electric current supplied to any customer by any vendor of electricity within this State, or changes or shunts the wiring leading to or from any such meter, or by any device, appliance or means whatsoever tampers with any such meter so that the meter will not measure or record the full amount of electric current supplied to such customer, is guilty of a disorderly persons offense.

The existence of any of the conditions with reference to meters or attachments described in this subsection is presumptive evidence that the person to whom electricity is at the time being furnished by or through such meters or attachments has, with intent to defraud, created or caused to be created with reference to such meters or attachments, the condition so existing; provided, however, that the presumption shall not apply to any person so furnished with electricity for less than 31 days or until there has been at least one meter reading.

A violation of this subsection shall be deemed to be a continuing offense as long as the conditions described in this subsection exist.

e. Any person who, with intent to obtain cable television service without payment, in whole or in part, of the lawful charges therefor, or with intent to deprive another of the lawful receipt of such service, damages, cuts, tampers with, installs, taps or makes any connection with, or who displaces, removes, injures or destroys any wire, cable, conduit, apparatus or equipment of a cable television company operating a CATV system; or who, without authority of a cable television company, intentionally prevents, obstructs or delays, by any means or contrivance, the sending, transmission, conveyance, distribution or receipt of programming material carried by equipment of the cable television company operating a CATV system, is a disorderly person.

The existence of any of the conditions with reference to wires, cables, conduits, apparatus or equipment described in this subsection is presumptive evidence that the person to whom cable television service is at the time being furnished has, with intent to obtain cable television service without authorization or compensation or to otherwise defraud, created or caused to be created the condition so existing.

f. Any person who purposely or knowingly manufactures, constructs, sells, offers for sale, distributes or installs any equipment, device or instrument designed or intended to facilitate the interception, decoding or receipt of any cable television service with intent to obtain such service and avoid the lawful payment of the charges therefor to the provider, in whole or in part, is a disorderly person.

Any communications paraphernalia prohibited under this subsection shall be subject to forfeiture and may be seized by the State or any law enforcement officer in accordance with the provisions of N.J.S.2C:64-1 et seq.

g. Any person who purposely or knowingly maintains or possesses any equipment, device or instrument of the type described in subsection f. of this section or maintains or possesses any equipment, device or instrument actually used to facilitate the interception, decoding or receipt of any cable television service with intent to obtain such service and avoid the lawful

payment, in whole or in part, of the charges therefor to the provider, is a disorderly person.

Any communications paraphernalia prohibited under this subsection shall be subject to forfeiture and may be seized by the State or any law enforcement officer in accordance with the provisions of N.J.S.2C:64-1 et seq.

h. Any person who, with the intent of depriving a telephone company of its lawful charges therefor, purposely or knowingly makes use of any telecommunications service by means of the unauthorized use of any electronic or mechanical device or connection, or by the unauthorized use of billing information, or by the use of a computer, computer equipment or computer software, or by the use of misidentifying or misleading information given to a representative of the telephone company is guilty of a crime of the third degree.

The existence of any of the conditions with reference to electronic or mechanical devices, computers, computer equipment or computer software described in this subsection is presumptive evidence that the person to whom telecommunications service is at the time being furnished has, with intent to obtain telecommunications service without authorization or compensation or to otherwise defraud, created or caused to be created the condition so existing.

i. Any person who purposely or knowingly manufactures, constructs, sells, offers for sale, distributes, installs, or otherwise provides any service, equipment, device, computer, computer equipment, computer software or instrument designed or intended to facilitate the receipt of any telecommunications service and avoid the lawful payment of the charges therefor to the provider, in whole or in part, is guilty of a crime of the third degree.

Any communications paraphernalia, computer, computer equipment or computer software prohibited under this subsection shall be subject to forfeiture and may be seized by the State or any law enforcement officer in accordance with the provisions of N.J.S.2C:64-1 et seq.

j. Any person who purposely or knowingly maintains or possesses any equipment, device, computer, computer equipment, computer software or instrument of the type described in subsection i. of this section, or maintains or possesses any equipment, device, computer, computer equipment, computer software or instrument actually used to facilitate the receipt of any telecommunications service with intent to obtain such service and avoid the lawful payment, in whole or in part, of the charges therefor to the provider, is guilty of a crime of the third degree.

Any communications paraphernalia, computer, computer equipment or computer software prohibited under this subsection shall be subject to

forfeiture and may be seized by the State or any law enforcement officer in accordance with the provisions of N.J.S.2C:64-1 et seq.

k. In addition to any other disposition authorized by law, and notwithstanding the provisions of N.J.S.2C:43-3, every person who violates this section shall be sentenced to make restitution to the vendor and to pay a minimum fine of $500.00 for each offense. In determining the amount of restitution, the court shall consider the costs expended by the vendor, including but not limited to the repair and replacement of damaged equipment, the cost of the services unlawfully obtained, investigation expenses, and attorney fees.

l. The presumptions of evidence applicable to offenses defined in subsections c., d., e. and h. of this section shall also apply in any prosecution for theft of services brought pursuant to the provisions of subsection a. or b. of this section.

5. N.J.S.2C:21-1 is amended to read as follows:

Forgery and related offenses.

2C:21-1. Forgery and Related Offenses.

a. Forgery. A person is guilty of forgery if, with purpose to defraud or injure anyone, or with knowledge that he is facilitating a fraud or injury to be perpetrated by anyone, the actor:

(1) Alters or changes any writing of another without his authorization;

(2) Makes, completes, executes, authenticates, issues or transfers any writing so that it purports to be the act of another who did not authorize that act or of a fictitious person, or to have been executed at a time or place or in a numbered sequence other than was in fact the case, or to be a copy of an original when no such original existed; or

(3) Utters any writing which he knows to be forged in a manner specified in paragraph (1) or (2).

"Writing" includes printing or any other method of recording information, money, coins, tokens, stamps, seals, credit cards, badges, trademarks, access devices, and other symbols of value, right, privilege, or identification.

b. Grading of forgery. Forgery is a crime of the third degree if the writing is or purports to be part of an issue of money, securities, postage or revenue stamps, or other instruments, certificates or licenses issued by the government, New Jersey Prescription Blanks as referred to in R.S.45:14-14, or part of an issue of stock, bonds or other instruments representing interest in or claims against any property or enterprise, or an access device.

Otherwise forgery is a crime of the fourth degree.

c. Possession of forgery devices. A person is guilty of possession of forgery devices, a crime of the third degree, when with purpose to use, or to

aid or permit another to use the same for purposes of forging written instruments, including access devices, he makes or possesses any device, apparatus, equipment, computer, computer equipment, computer software or article specially designed or adapted to such use.

C.2C:20-1.1 Offense involving access device; presumption of unlawful purpose.

6. In any prosecution for an offense enumerated in chapter 20 of Title 2C of the New Jersey Statutes involving a defaced access device, any removal, erasure, defacement, alteration, destruction, covering or other change in such access device from its original configuration performed by any person other than an authorized manufacturer of, or service provider to access devices shall be presumed to be for an unlawful purpose.

7. This act shall take effect immediately.

Approved January 24, 1997.

CHAPTER 7

AN ACT concerning underground facilities and amending P.L.1994, c.118.

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

1. Section 5 of P.L.1994, c.118 (C.48:2-77) is amended to read as follows:

C.48:2-77 Operation of One-Call Damage Prevention System.

5. a. Five years after the effective date of this act, the board shall designate, through an appropriate administrative mechanism, a person to operate the One-Call Damage Prevention System. The board may, as necessary, adopt rules establishing the process by which it shall select a person to operate the system.

b. The board shall designate the Garden State Underground Plant Location Service (GSUPLS), a nonprofit corporation of this State, to operate the One-Call Damage Prevention System, on an interim basis, for five years after the effective date of this act. During this interim period, GSUPLS will operate the system in conformance with the provisions of this act and the board shall have policy oversight over operation of the system.

2. Section 8 of P.L.1994, c.118 (C.48:2-80) is amended to read as follows:

C.48:2-80 Underground facility operator, responsibilities; underground facility markings.

8. a. Except as provided in sections 6 and 9 of this act, the operator of an underground facility shall:

(1) Participate in and comply with the requirements of the One-Call Damage Prevention System established pursuant to section 4 of this act; and

(2) Mark, stake, locate or otherwise provide the position and number of its underground facilities which may be affected by a planned excavation or demolition within three business days after receipt of the information concerning a notice of intent to excavate transmitted pursuant to subsection a. of section 10 of this act. An underground facility shall be marked in accordance with standards approved by the board, which shall be based upon approved industry standards, and shall be marked at the site within 18 inches horizontally from the outside wall of the facility, in a manner that will enable the excavator to employ prudent techniques, which may include hand-dug test holes, to determine the precise position of the operator's underground facility. An underground facility shall be marked from information available in the operator's records or by use of standard locating techniques other than excavation. In temporarily marking the approximate position of an underground facility, an operator shall utilize the following color coding:

Utility and Type Product	Identifying color
Electric Power Distribution and Transmission	Safety Red
Municipal Electric Systems	Safety Red
Gas Distribution and Transmission	High Visibility Safety Yellow
Oil Distribution and Transmission	High Visibility Safety Yellow
Dangerous Materials, Product Lines, Steam Lines	High Visibility Safety Yellow
Telephone and Telecommunications	Safety Alert Orange
Police and Fire Communications	Safety Alert Orange
Cable Television	Safety Alert Orange
Water Systems	Safety Precaution Blue
Slurry Systems	Safety Precaution Blue
Sewer Lines	Safety Green

b. If an operator does not own, operate or control any underground facilities at the site concerning which he received information of a notice of intent to excavate transmitted pursuant to subsection c. of section 4 of this act, the operator shall make a reasonable effort to so advise the person giving the notice of intent to excavate, providing the notice is given within the time frame set forth in subsection a. of section 10 of this act.

c. An operator shall maintain a record of all damage to its underground facilities, including all damage reported by an excavator pursuant to subsection e. of section 10 of this act. An operator shall provide an updated copy of this record to the board on a quarterly basis.

3. Section 15 of P.L.1994, c.118 (C.48:2-87) is amended to read as follows:

C.48:2-87 Illegal excavation; disorderly persons offense, third degree crime.

15. Any person who knowingly engages in an excavation without:

a. First using the One-Call Damage Prevention System to determine the location of underground facilities in the area being excavated; or

b. Heeding appropriate location information or markings established by any operator; or

c. Otherwise complying with the provisions of this act; is guilty of a disorderly persons offense. If, because of the violation, damage occurs to an underground facility resulting in death, serious bodily harm, or actual damage to property or loss of service revenue exceeding $50,000, or damage occurs to an underground hazardous liquid pipeline facility resulting in the release of more than 50 barrels of product, the person shall, upon conviction, be guilty of a crime of the third degree.

Nothing in this section shall limit the jurisdiction of the board with respect to natural gas pipeline safety or limit the jurisdiction of the board or a court of competent jurisdiction with respect to the civil administrative penalty and enforcement provisions of this act.

4. This act shall take effect immediately.

Approved January 24, 1997.

CHAPTER 8

AN ACT concerning privileges of certain plenary retail consumption licenses and amending R.S.33:1-1 and R.S.33:1-12.

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

1. R.S.33:1-1 is amended to read as follows:

Definitions.

33:1-1. For the purpose of this chapter, the following words and terms shall be deemed to have the meanings herein given to them:

a. "Alcohol." Ethyl alcohol, hydrated oxide of ethyl or neutral spirits from whatever source or by whatever process produced.

b. "Alcoholic beverage." Any fluid or solid capable of being converted into a fluid, suitable for human consumption, and having an alcohol content of more than one-half of one per centum (1/2 of 1%) by volume, including alcohol, beer, lager beer, ale, porter, naturally fermented wine, treated wine, blended wine, fortified wine, sparkling wine, distilled liquors, blended distilled liquors and any brewed, fermented or distilled liquors fit for use for beverage purposes or any mixture of the same, and fruit juices.

c. "Building." A structure of which licensed premises are or may be a part, including all rooms, cellars, outbuildings, passageways, closets, vaults, yards, attics, and every part of the structure of which the licensed premises are a part, and of any other structure to which there is a common means of access, and any other appurtenances.

d. "Commissioner." The Director of the Division of Alcoholic Beverage Control.

e. "Container." Any glass, can, bottle, vessel or receptacle of any material whatsoever used for holding alcoholic beverages, which container is covered, corked or sealed in any manner whatsoever.

f. "Eligible." The status of a person who is a citizen of the United States, a resident of this State, of good moral character and repute, and of legal age.

g. "Governing board or body." The board or body which governs a municipality, including a board of aldermen in municipalities so governed; but in every municipality having a board of public works which exercises general licensing powers such board shall be considered as the governing board or body.

h. "Importing." The act of bringing or causing to be brought any alcoholic beverage into this State.

i. "Illicit beverage." Any alcoholic beverage manufactured, distributed, bought, sold, bottled, rectified, blended, treated, fortified, mixed, processed, warehoused, possessed or transported in violation of this chapter, or on which any federal tax or tax imposed by the laws of this State has not been paid; and any alcoholic beverage possessed, kept, stored, owned or imported with intent to manufacture, sell, distribute, bottle, rectify, blend, treat, fortify, mix, process, warehouse or transport in violation of the provisions of this chapter.

j. "Licensed building." Any building containing licensed premises.

k. "Licensed premises." Any premises for which a license under this chapter is in force and effect.

l. "Magistrate." The Superior Court or municipal court.

m. "Manufacturer." Any person who, directly or indirectly, personally or through any agency whatsoever, engages in the making or other processing whatsoever of alcoholic beverages.

n. "Municipality." Any city, town, township, village, or borough, including a municipality governed by a board of commissioners or improvement commission, but excluding a county.

o. "Municipal board." The municipal board of alcoholic beverage control as established by this chapter.

p. "Officer." Any sheriff, deputy sheriff, constable, police officer, member of the Division of State Police, or any other person having the power to execute a warrant for arrest, or any inspector or investigator of the Division of Alcoholic Beverage Control.

q. "Original container." Any container in which an alcoholic beverage has been delivered to a retail licensee.

r. "Person." Any natural person or association of natural persons, association, trust company, partnership, corporation, organization, or the manager, agent, servant, officer, or employee of any of them.

s. "Premises." The physical place at which a licensee is or may be licensed to conduct and carry on the manufacture, distribution or sale of alcoholic beverages, but not including vehicular transportation.

t. "Restaurant." An establishment regularly and principally used for the purpose of providing meals to the public, having an adequate kitchen and dining room equipped for the preparing, cooking and serving of food for its customers and in which no other business, except such as is incidental to such establishment, is conducted.

u. "Retailer." Any person who sells alcoholic beverages to consumers.

v. "Rules and regulations." The rules and regulations established from time to time by the director.

w. "Sale." Every delivery of an alcoholic beverage otherwise than by purely gratuitous title, including deliveries from without this State and deliveries by any person without this State intended for shipment by carrier or otherwise into this State and brought within this State, or the solicitation or acceptance of an order for an alcoholic beverage, and including exchange, barter, traffic in, keeping and exposing for sale, serving with meals, delivering for value, peddling, possessing with intent to sell, and the gratuitous delivery or gift of any alcoholic beverage by any licensee.

x. "Unlawful alcoholic beverage activity." The manufacture, sale, distribution, bottling, rectifying, blending, treating, fortifying, mixing, processing, warehousing or transportation of any alcoholic beverage in

violation of this chapter, or the importing, owning, possessing, keeping or storing in this State of alcoholic beverages with intent to manufacture, sell, distribute, bottle, rectify, blend, treat, fortify, mix, process, warehouse or transport alcoholic beverages in violation of this chapter, or the owning, possessing, keeping or storing in this State of any implement or paraphernalia for the manufacture, sale, distribution, bottling, rectifying, blending, treating, fortifying, mixing, processing, warehousing or transportation of alcoholic beverages with intent to use the same in the manufacture, sale, distribution, bottling, rectifying, blending, treating, fortifying, mixing, processing, warehousing or transportation of alcoholic beverages in violation of this chapter, or to aid or abet another in the manufacture, sale, distribution, bottling, rectifying, blending, treating, fortifying, mixing, processing, warehousing or transportation of alcoholic beverages in violation of this chapter, or the aiding or abetting of another in any of the foregoing activities.

y. "Unlawful property." All illicit beverages and all implements, vehicles, vessels, airplanes, and paraphernalia for the manufacture, sale, distribution, bottling, rectifying, blending, treating, fortifying, mixing, processing, warehousing or transportation of illicit beverages used in the manufacture, sale, distribution, bottling, rectifying, blending, treating, fortifying, mixing, processing, warehousing or transportation of illicit beverages or owned, possessed, kept or stored with intent to use the same in the manufacture, sale, distribution, bottling, rectifying, blending, treating, fortifying, mixing, processing, warehousing or transportation of illicit beverages, whether such use be by the person owning, possessing, keeping, or storing the same, or by another with the consent of such person; and all alcoholic beverages, fixtures and personal property located in or upon any premises, building, yard or inclosure connected with a building, in which an illicit beverage is found, possessed, stored or kept.

z. "Wholesaler." Any person who sells an alcoholic beverage for the purpose of resale either to a licensed wholesaler or to a licensed retailer, or both.

aa. "Limousine." A vehicle with a carrying capacity of not more than nine passengers, not including the driver, used in the business of carrying passengers for hire which is hired by charter or for a particular contract, or by the day or hour or other fixed period, or to transport passengers to a specified place, or which charges a fare or price agreed upon in advance between the operator and the passenger or which is furnished as an accommodation for a patron in connection with other business purposes. This shall not include taxicabs, hotel or airport shuttles and buses, or buses employed solely in transporting schoolchildren or teachers to and from

school, or vehicles owned and operated without charge or remuneration by a business entity for its own purposes.

bb. "Entertainment facility" is a privately-owned facility in which athletic, commercial, cultural, or artistic events are featured.

Any definition herein contained shall apply to the same word in any form. Thus "sell" means to make a "sale" as above defined.

2. R.S.33:1-12 is amended to read as follows:

Class C licenses.

33:1-12. Class C licenses shall be subdivided and classified as follows:

Plenary retail consumption license. 1. The holder of this license shall be entitled, subject to rules and regulations, to sell any alcoholic beverages for consumption on the licensed premises by the glass or other open receptacle, and also to sell any alcoholic beverages in original containers for consumption off the licensed premises; but this license shall not be issued to permit the sale of alcoholic beverages in or upon any premises in which a grocery, delicatessen, drug store or other mercantile business is carried on, except as hereinafter provided. Subject to such rules and regulations established from time to time by the director, the holder of this license shall be permitted to sell alcoholic beverages in or upon the premises in which any of the following is carried on: the keeping of a hotel or restaurant including the sale of mercantile items incidental thereto as an accommodation to patrons; the sale, at an entertainment facility as defined in R.S.33:1-1, having a seating capacity for no less than 4,000 patrons, of mercantile items traditionally associated with the type of event or program held at the site; the sale of distillers', brewers' and vintners' packaged merchandise prepacked as a unit with other suitable objects as gift items to be sold only as a unit; the sale of novelty wearing apparel identified with the name of the establishment licensed under the provisions of this section; the sale of cigars, cigarettes, packaged crackers, chips, nuts and similar snacks and ice at retail as an accommodation to patrons, or the retail sale of nonalcoholic beverages as accessory beverages to alcoholic beverages; or, in commercial bowling establishments, the retail sale or rental of bowling accessories and the retail sale from vending machines of candy, ice cream and nonalcoholic beverages. The fee for this license shall be fixed by the governing board or body of the municipality in which the licensed premises are situated, by ordinance, at not less than $200.00 and not more than $2,000.00. No ordinance shall be enacted which shall raise or lower the fee to be charged for this license by more than 20% from that charged in the preceding license year or $500.00, whichever is the lesser. The governing board or body of

each municipality may, by ordinance, enact that no plenary retail consumption license shall be granted within its respective municipality.

The holder of this license shall be permitted to obtain a restricted brewery license issued pursuant to subsection 1c. of R.S.33:1-10 and to operate a restricted brewery immediately adjoining the licensed premises in accordance with the restrictions set forth in that subsection. All fees related to the issuance of both licenses shall be paid in accordance with statutory law.

Seasonal retail consumption license. 2. The holder of this license shall be entitled, subject to rules and regulations, to sell any alcoholic beverages for consumption on the licensed premises by the glass or other open receptacle, and also to sell any alcoholic beverages in original containers for consumption off the licensed premises, during the summer season from May 1 until November 14, inclusive, or during the winter season from November 15 until April 30, inclusive; but this license shall not be issued to permit the sale of alcoholic beverages in or upon any premises in which a grocery, delicatessen, drug store or other mercantile business is carried on, except as hereinafter provided. Subject to such rules and regulations established from time to time by the director, the holder of this license shall be permitted to sell alcoholic beverages in or upon the premises in which any of the following is carried on: the keeping of a hotel or restaurant including the sale of mercantile items incidental thereto as an accommodation to patrons; the sale of distillers', brewers' and vintners' packaged merchandise prepacked as a unit with other suitable objects as gift items to be sold only as a unit; the sale of novelty wearing apparel identified with the name of the establishment licensed under the provisions of this section; the sale of cigars, cigarettes, packaged crackers, chips, nuts and similar snacks and ice at retail as an accommodation to patrons; or the retail sale of nonalcoholic beverages as accessory beverages to alcoholic beverages. The fee for this license shall be fixed by the governing board or body of the municipality in which the licensed premises are situated, by ordinance, at 75% of the fee fixed by said board or body for plenary retail consumption licenses. The governing board or body of each municipality may, by ordinance, enact that no seasonal retail consumption license shall be granted within its respective municipality.

Plenary retail distribution license. 3. a. The holder of this license shall be entitled, subject to rules and regulations, to sell any alcoholic beverages for consumption off the licensed premises, but only in original containers. The governing board or body of each municipality may, by ordinance, enact that this license shall not be issued to permit the sale of alcoholic beverages in or upon any premises in which any other mercantile business is carried on, except that any such ordinance, heretofore or hereafter adopted, shall not

prohibit the retail sale of distillers', brewers' and vintners' packaged merchandise prepacked as a unit with other suitable objects as gift items to be sold only as a unit; the sale of novelty wearing apparel identified with the name of the establishment licensed under the provisions of this act; cigars, cigarettes, packaged crackers, chips, nuts and similar snacks, ice, and nonalcoholic beverages as accessory beverages to alcoholic beverages. The fee for this license shall be fixed by the governing board or body of the municipality in which the licensed premises are situated, by ordinance, at not less than $100.00 and not more than $2,000.00. No ordinance shall be enacted which shall raise or lower the fee to be charged for this license by more than 20% from that charged in the preceding license year or $500.00, whichever is the lesser. The governing board or body of each municipality may, by ordinance, enact that no plenary retail distribution license shall be granted within its respective municipality.

Limited retail distribution license. 3. b. The holder of this license shall be entitled, subject to rules and regulations, to sell any unchilled, brewed, malt alcoholic beverages in quantities of not less than 72 fluid ounces for consumption off the licensed premises, but only in original containers; provided, however, that this license shall be issued only for premises operated and conducted by the licensee as a bona fide grocery store, meat market, meat and grocery store, delicatessen, or other type of bona fide food store at which groceries or other foodstuffs are sold at retail; and provided further that this license shall not be issued except for premises at which the sale of groceries or other foodstuffs is the primary and principal business and at which the sale of alcoholic beverages is merely incidental and subordinate thereto. The fee for this license shall be fixed by the governing body or board of the municipality in which the licensed premises are situated, by ordinance, at not less than $25.00 and not more than $50.00. The governing board or body of each municipality may, by ordinance, enact that no limited retail distribution license shall be granted within its respective municipality.

Plenary retail transit license. 4. The holder of this license shall be entitled, subject to rules and regulations, to sell any alcoholic beverages, for consumption only, on railroad trains, airplanes, limousines and boats, while in transit. The fee for this license for use by a railroad or air transport company shall be $300.00, for use by the owners of limousines shall be $25.00 per vehicle, and for use on a boat shall be $50.00 on a boat 65 feet or less in length, $100.00 on a boat more than 65 feet in length but not more than 110 feet in length, and $300.00 on a boat more than 110 feet in length; such boat lengths shall be determined in the manner prescribed by the Bureau of Customs of the United States Government or any federal agency successor thereto for boat measurement in connection with issuance of

marine documents. A license issued under this provision to a railroad or air transport company shall cover all railroad cars and planes operated by any such company within the State of New Jersey. A license for a boat or limousine issued under this provision shall apply only to the particular boat or limousine for which issued, and shall permit the purchase of alcoholic beverages for sale or service in a boat or limousine to be made from any Class A and B licensee or from any Class C licensee whose license privilege permits the sale of alcoholic beverages in original containers for off-premises consumption. An interest in a plenary retail transit license issued in accordance with this section shall be excluded in determining the maximum number of retail licenses permitted under P.L.1962, c.152 (C.33:1-12.31 et seq.).

Club license. 5. The holder of this license shall be entitled, subject to rules and regulations, to sell any alcoholic beverages but only for immediate consumption on the licensed premises and only to bona fide club members and their guests. The fee for this license shall be fixed by the governing board or body of the municipality in which the licensed premises are situated, by ordinance, at not less than $50.00 and not more than $150.00. The governing board or body of each municipality may, by ordinance, enact that no club licenses shall be granted within its respective municipality. Club licenses may be issued only to such corporations, associations and organizations as are operated for benevolent, charitable, fraternal, social, religious, recreational, athletic, or similar purposes, and not for private gain, and which comply with all conditions which may be imposed by the Commissioner of Alcoholic Beverage Control by rules and regulations.

3. This act shall take effect immediately.

Approved January 24, 1997.

CHAPTER 9

AN ACT concerning the retention of workers' compensation records and amending P.L.1953, c.94.

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

1. Section 1 of P.L.1953, c.94 (C.34:15-121) is amended to read as follows:

C.34:15-121 Workers' compensation formal cases; records, destruction.

1. Any records of, or pertaining to, workers' compensation formal cases, wherein original claim petitions have been on file for 45 or more years, may be destroyed by the Division of Workers' Compensation in the State Department of Labor; provided, the Commissioner of Labor shall approve such destruction.

2. Section 5 of P.L.1953, c.94 (C.34:15-125) is amended to read as follows:

C.34:15-125 Records on microfilm or other media, destruction.

5. Any records of, or pertaining to, workers' compensation formal cases, which have not been on file for 45 or more years but which have been microfilmed or retained in full in other media, provided such microfilms or information retained in other media shall be preserved in full and arranged for convenient examination, may be destroyed by the Division of Workers' Compensation; provided, the Commissioner of Labor shall approve such destruction.

3. Section 6 of P.L.1953, c.94 (C.34:15-126) is amended to read as follows:

C.34:15-126 Force, effect of microfilm or other media.

6. Any microfilm made or information retained in other media by the Division of Workers' Compensation pursuant to law, or a certified copy of such microfilm or information retained in other media, shall have the same force and effect as the original in any court or public proceeding and shall be evidential in like manner and to the same effect as though the original record had been there produced and proved.

4. This act shall take effect immediately.

Approved January 26, 1997.

CHAPTER 10

AN ACT concerning the membership of the New Jersey Tourism Advisory Council and amending P.L.1977, c.225.

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

1. 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 Advisory Council.

7. a. There is created in the division the New Jersey Tourism Advisory Council which shall consist of 18 members:

(1) Two members of the Senate, 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, to be appointed by the Speaker thereof, not more than one of whom shall be of the same political party;

(2) Thirteen public members, not more than seven of whom shall be of the same political party, who shall be appointed by the Governor with the advice and consent of the Senate, one of whom shall be designated as chairman by the Governor for the term of the member's appointment, and 12 of whom shall be chosen from persons who by experience or training represent the areas of the tourist industry cited in subparagraphs (a) through (l) of this paragraph:

(a) One representative of the lodging sector;
(b) One representative of the food service sector;
(c) One representative of the transportation sector;
(d) One representative of a regional tourism council;
(e) One representative of the convention and visitor bureaus sector;
(f) One representative of the tour/receptive services sector;
(g) One representative of the outdoor recreation sector;
(h) One representative of the historical and cultural arts sector;
(i) One representative of the entertainment or amusement sector;
(j) One representative of the financial community;
(k) One representative of the marketing/research sector; and
(l) One representative of the eco-tourism sector; and

(3) The director, who shall be a nonvoting member of the council.

b. The members of the council shall be appointed to three-year terms, except that of the initial appointments, the chairman and each representative of the transportation, tour/receptive services, the financial community, and marketing and research interests shall be appointed to a three-year term, each representative of the lodging, food service, convention and visitors bureaus, and entertainment interests shall be appointed to a two-year term, and each representative of the regional tourism councils, outdoor recreation, and historical and cultural arts interests shall be appointed to a one-year term. 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.

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 chairman and not less than four times a year.

2. This act shall take effect immediately.

Approved January 27, 1997.

CHAPTER 11

AN ACT appropriating $2,235,928 from the "Stormwater Management and Combined Sewer Overflow Abatement Bond Act of 1989," P.L.1989, c.181, for the purpose of providing grants to local government units for financing the cost of the planning of combined sewer overflow abatement projects.

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

1. a. There is appropriated 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, to the Department of Environmental Protection the sum of $2,235,928 for the purpose of providing grants to local government units for financing the cost of the planning of combined sewer overflow abatement projects, as follows:

LOCAL GOVERNMENT UNIT	**GRANT AWARD**
Passaic Valley Sewerage Commissioners	$2,235,928

b. The Passaic Valley Sewerage Commissioners are authorized, pursuant to the provisions of R.S.58:14-1 et seq., to collect, treat and dispose of sewage for contracting municipalities located within the Passaic Valley Sewerage District. The contracting municipalities comprising the Passaic Valley Sewerage District are located in parts of Bergen, Essex, Hudson, Passaic and Union counties, as follows:

(1) Bergen County: East Rutherford Boro, Elmwood Park Boro, Fair Lawn Boro, Franklin Lakes Boro, Garfield City, Glen Rock Boro,

Hackensack City, Hasbrouck Heights Boro, Lodi Boro, Lyndhurst Township, North Arlington Boro, Ridgewood Village, Rutherford Boro, Saddle Brook Township, South Hackensack Township, Wallington Boro and Wood-Ridge Boro.

(2) Essex County: Belleville Town, Bloomfield Town, Cedar Grove Township, East Orange City, Glen Ridge Boro, Montclair Town, Newark City, North Caldwell Boro, Nutley Town, Orange City, South Orange Village and West Orange Town.

(3) Hudson County: Bayonne City, East Newark Boro, Harrison Town, Jersey City, Kearny Town and Union City.

(4) Passaic County: Clifton City, Haledon Boro, Hawthorne Boro, North Haledon Boro, Little Falls Township, Passaic City, Paterson City, Prospect Park Boro, Totowa Boro and West Paterson Boro.

(5) Union County: Elizabeth City and Hillside Township.

c. Any transfer of any funds or project sponsor listed in subsection a. of this section shall require the approval of the Joint Budget Oversight Committee or its successor.

2. The Department of Environmental Protection may apply the provisions of the "Sewage Infrastructure Improvement Act," P.L.1988, c.90 (C.58:25-23 et seq.), and any rules or regulations adopted pursuant thereto, as appropriate, in awarding the grants authorized pursuant to section 1 of this act.

3. Subject to the approval of the Joint Budget Oversight Committee or its successor, the Commissioner of Environmental Protection may reduce the amount of any grant awarded pursuant to section 1 of this act based upon final allowable project cost determined in accordance with rules and regulations adopted pursuant to the "Sewage Infrastructure Improvement Act," P.L.1988, c.90 (C.58:25-23 et seq.).

4. The expenditure of the sums appropriated by this act is subject to the provisions and conditions of P.L.1989, c.181.

5. This act shall take effect immediately.

Approved January 27, 1997.

CHAPTER 12

AN ACT concerning open and closed end loans and amending P.L.1985, c.81 and repealing section 25 of P.L.1985, c.81.

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

1. Section 5 of P.L.1985, c.81 (C.17:3B-8) is amended to read as follows:

C.17:3B-8 Periodic percentage rates.

5. Periodic percentage rates. If the agreement governing the revolving credit plan provides that the periodic percentage rates of interest under the plan may increase or decrease, the increase or decrease shall take place only in correspondence with the movement of the market interest rate index specified in the revolving credit plan agreement, which index shall be readily verifiable by the borrower and beyond the control of the lender. Periodic percentage rate increases, based on a rise in the interest rate index, may be made at the option of the lender. Periodic percentage rate decreases shall be made whenever there is a decrease in the interest rate index which results in an interest rate which is less than the interest rate then applicable to the note or loan, except that the revolving credit plan agreement may stipulate a percentage decrease in the interest rate index below which a corresponding decrease in the periodic percentage rate need not be made by the lender, provided that the index decrement shall be the same as the index increment used for interest rate increases. Interest rate increases may, and interest rate decreases shall, apply to all outstanding unpaid indebtedness under the plan on or after the effective date of the rate variation, as provided in the plan agreement.

2. Section 9 of P.L.1985, c.81 (C.17:3B-12) is amended to read as follows:

C.17:3B-12 Loans under a revolving credit plan.

9. Loans under a revolving credit plan. If the agreement governing the revolving credit plan so provides, a lender may:

a. Take personal or real property, or both, as security on a loan made under a revolving credit plan;

b. Require that any property securing the loan be insured for the benefit of the lender against loss or damage of the security, and retain out of the proceeds of the loan the premium for the insurance;

c. Require that all taxes, assessments and other governmental charges against property securing the loan be paid when due and that the security be maintained free of all executions, levies, encumbrances, and other charges which may adversely affect the value of the lender's interest in the security;

d. Charge and collect fees and charges, in addition to interest and fees and charges specifically permitted by P.L.1985, c.81 (C.17:3B-4 et seq.), in

amounts as provided in the agreement or as established in the manner the agreement provides, such as, but not limited to, minimum charges, annual fees, check charges, maintenance charges, and late charges, except as may be specifically limited by P.L.1985, c.81 (C.17:3B-4 et seq.);

e. On a secured loan, charge and collect the actual costs of filing or recording the instrument of security, or notice or abstract thereof, if the filing or recording is authorized by law.

3. Section 10 of P.L.1985, c.81 (C.17:3B-13) is amended to read as follows:

C.17:3B-13 Revolving credit plan prohibitions.

10. Revolving credit plan prohibitions. No revolving credit plan agreement shall contain:

a. An acceleration clause under which any part or all of the balance, not yet matured, may be declared immediately due and payable because the lender deems himself to be insecure, which provision shall be void and unenforceable;

b. A provision whereby the borrower waives any right of action or defense against the lender or other person acting on his behalf for any illegal act committed in the collection of the payments under the revolving credit plan, which provision shall be void and unenforceable; and

c. A power of attorney to confess judgment or any other power of attorney, which provision shall be void and unenforceable.

d. (Deleted by amendment, P.L.1997, c.12.)

4. Section 12 of P.L.1985, c.81 (C.17:3B-15) is amended to read as follows:

C.17:3B-15 Changes in terms.

12. Changes in terms. a. A lender may, if the agreement governing a revolving credit plan so provides, at any time amend the terms of the agreement with respect to the periodic percentage rates used to calculate interest, the method of computing the outstanding unpaid indebtedness to which those rates are applied, and the terms of the installment repayment schedule, subject to the limitations of subsection b. of this section.

b. The lender shall notify each affected borrower of any amendment pursuant to subsection a. by mailing or delivering to the borrower, at least 30 days before the effective date of the amendment, a clear and conspicuous written notice which shall describe the amendment and the existing terms of the agreement affected by the amendment and shall also set forth the effective date of the amendment and the pertinent information contemplated by the following provisions of this section. If the amendment has the effect

of increasing the interest or other charges to be paid by the borrower by changing the method of calculating interest or the index used to calculate the interest, the amendment shall become effective only if the borrower uses the plan after a date specified in the notice which is at least 30 days after the giving of the notice, but which need not be the date the amendment becomes effective, by making a purchase or obtaining a loan, or if the borrower indicates to the lender in writing the borrower's express agreement to the amendment, and the amendment may become effective as to a particular borrower as of the first day of the billing period during which the borrower so used the borrower's account or so indicated agreement to the amendment. Any borrower who fails to use the borrower's account or so to indicate agreement to an amendment shall be permitted to pay the outstanding unpaid indebtedness in the borrower's account under the plan in accordance with the terms of the agreement governing the plan without giving effect to the amendment.

For purposes of this section a variation in periodic percentage rates of interest in accordance with the terms of the index established in the revolving credit plan agreement shall not be considered to be an amendment.

5. Section 15 of P.L.1985, c.81 (C.17:3B-18) is amended to read as follows:

C.17:3B-18 Periodic percentage rates.

15. Periodic percentage rates. The periodic percentage rates of interest charged and collected with respect to a loan under a closed end credit agreement may, subject to any limitations set forth in the loan agreement, vary in accordance with the market interest rate index specified in the loan agreement, which index shall be readily verifiable by the borrower and beyond the control of the lender. Periodic percentage rate increases, based on a rise in the interest rate index, may be made at the option of the lender. Periodic percentage rate decreases shall be made whenever there is a decrease in the interest rate index which results in an interest rate which is less than the interest rate then applicable to the note or loan, except that the loan agreement may stipulate a percentage decrease below which a corresponding decrease in the periodic percentage rate need not be made by the lender, provided the index decrement shall be the same as the index increment used for interest rate increases. Interest rate increases may, and interest rate decreases shall, apply to any outstanding and unpaid loan balances on or after the effective date of the rate variation. Upon an increase in the rate of interest, the term of the note shall be extended as necessary to provide for payment of the balance due without any increase in the amount

of each of the borrower's periodic payments, except that the periodic payments may be increased, if either a. the agreement so provides or the parties agree to the increase in writing, or b. if the periodic payment amounts would not be sufficient to reduce the principal amount due, the lender, no sooner than 30 days after notifying the borrower of that fact, may require that the periodic payments be increased, or that there be a combination of an extended term and increased periodic payments.

6. Section 16 of P.L.1985, c.81 (C.17:3B-19) is amended to read as follows:

C.17:3B-19 Additional charges.

16. Additional charges. If the closed end loan agreement on a secured loan so provides, a lender may:

a. Charge and collect the actual costs of filing or recording the instrument of security, or notice or abstract thereof, if the filing or recording is authorized by law.

b. Charge and collect fees and charges, in addition to interest and fees and charges specifically permitted by P.L.1985, c.81 (C.17:3B-4 et seq.), in amounts as provided in the agreement or as established in the manner the agreement provides, such as, but not limited to, minimum charges, check charges and maintenance charges, and late charges, except as may be specifically limited by P.L.1985, c.81 (C.17:3B-4 et seq.).

7. Section 18 of P.L.1985, c.81 (C.17:3B-21) is amended to read as follows:

C.17:3B-21 Insurance.

18. Insurance. A lender under a closed or open end credit agreement may:

a. Subject to the terms of the loan agreement, require any property securing the loan to be insured for the benefit of the lender against loss or damage of the security;

b. Offer credit life insurance or credit accident and health insurance, or both, on the borrower in accordance with the provisions of chapter 29 of Title 17B of the New Jersey Statutes.

A lender may deduct and retain from the proceeds of the loan the amount of the premium for any insurance provided by the lender to the borrower pursuant to this section.

Repealer.

8. Section 25 of P.L.1985, c.81 (C.17:3B-28) is repealed.

9. This act shall take effect immediately.

Approved January 27, 1997.

CHAPTER 13

AN ACT concerning welfare reform, supplementing Title 44 of the Revised Statutes and amending P.L.1968, c.413, P.L.1987, c.283 and P.L.1994, c.182.

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

C.44:10-34 Definitions relative to welfare reform, work activity.

1. As used in this act:

"Alternative work experience" means unpaid work and training only with a public, private nonprofit or private charitable employer that provides a recipient with the experience necessary to adjust to, and learn how to function in, an employment setting and the opportunity to combine that experience with education and job training. An alternative work experience participant shall not be assigned to work for a private, for profit employer.

"Assistance unit" means: a single person without dependent children; a couple without dependent children; dependent children only; or a person or couple with one or more dependent children who are legally or blood-related, or who is their legal guardian, and who live together as a household unit.

"Benefits" means any assistance provided to needy persons and their dependent children and needy single persons and couples without dependent children under the Work First New Jersey program.

"Commissioner" means the Commissioner of Human Services.

"Community work experience" means unpaid work and training only with a public, private nonprofit or private charitable employer, provided to a recipient when, and to the extent, that such experience is necessary to enable the recipient to adjust to, and learn how to function in, an employment setting. A community work experience participant shall not be assigned to work for a private, for profit employer.

"Dependent child" means a child:

a. under the age of 18;

b. under the age of 19 and a full-time student in a secondary school or an equivalent level of vocational or technical training, if, before the student

attains age 19, the student may reasonably be expected to complete the student's program of secondary school or training; or

c. under the age of 21 and enrolled in a special education program, who is living in New Jersey with the child's natural or adoptive parent or legal guardian, or with a relative designated by the commissioner in a place of residence maintained by the relative as the relative's home.

"Income" means, but is not limited to, commissions, salaries, self-employed earnings, child support and alimony payments, interest and dividend earnings, wages, receipts, unemployment compensation, any legal or equitable interest or entitlement owed that was acquired by a cause of action, suit, claim or counterclaim, insurance benefits, temporary disability claims, estate income, trusts, federal income tax refunds, State income tax refunds, homestead rebates, lottery prizes, casino and racetrack winnings, annuities, retirement benefits, veterans' benefits, union benefits, or other sources that may be defined as income by the commissioner; except that in the event that individual development accounts for recipients are established by regulation of the commissioner, any interest or dividend earnings from such an account shall not be considered income.

"Income eligibility standard" means the income eligibility threshold based on assistance unit size established by regulation of the commissioner for benefits provided within the limit of funds appropriated by the Legislature.

"Legal guardian" means a person who exercises continuing control over the person or property, or both, of a child, including any specific right of control over an aspect of the child's upbringing, pursuant to a court order.

"Poverty level" means the official poverty level based on family size, established and adjusted under Section 673 (2) of Subtitle B of the "Community Services Block Grant Act, " Pub.L.97-35 (42 U.S.C.§ 9902 (2)).

"Recipient" means a recipient of benefits under the Work First New Jersey program.

"Services" means any Work First New Jersey benefits that are not provided in the form of cash assistance.

"Standard of need" means the minimum amount of income and in-kind benefits or services needed by families and single persons living in New Jersey in order to maintain a decent and healthy standard of living, as established by regulation of the commissioner, and shall include necessary items such as housing, utilities, food, work-related transportation, clothing and personal and household essentials.

"Title IV-A" means the provisions of Title IV-A of the federal Social Security Act governing the program of aid to families with dependent children established pursuant to P.L.1959, c.86 (C.44:10-1 et seq.) and the

State Plan to implement those provisions that were in effect on July 16, 1996, including income methodologies for determining eligibility under those provisions and plan.

"Title IV-D" means the provisions of Title IV-D of the federal Social Security Act governing paternity establishment and child support enforcement activities and requirements.

"Work activity" includes, but is not limited to, the following, as defined by regulation of the commissioner: employment; on-the-job training; job search and job readiness assistance; vocational educational training; job skills training related directly to employment; community work experience; alternative work experience; supportive work; community service programs, including the provision of child care as a community service project; in the case of a teenage parent or a recipient under the age of 19 who is expected to graduate or complete their course of study by their 19th birthday, satisfactory attendance at a secondary school or in a course of study leading to a certificate of general equivalence; and education that is necessary for employment in the case of a person who has not received a high school diploma or a certificate of high school equivalency, a course of study leading to a certificate of general equivalence, or post-secondary education, when combined with community work experience participation or other approved work activities, including employment.

"Work First New Jersey program" or "program" means the program established pursuant to P.L.1997, c.38 (C.44:10-55 et seq.).

C.44:10-35 Evaluation of caregiver's eligibility for benefits.

2. A person, other than a natural or adoptive parent or stepparent, who is a care giver to a dependent child who is that care giver's legal or blood relative shall be evaluated to determine whether that person is eligible for benefits if that person's income is not in excess of 150% of the poverty level.

C.44:10-36 Eligibility of parent for benefits.

3. A parent who is eligible for benefits who is married to a person who is not the parent of one or more of the eligible parent's children shall not be eligible for benefits if the household income exceeds the income eligibility standard. The eligible parent's natural children, however, shall be eligible for benefits according to a sliding income scale established by the commissioner, which does not take into account the income of the eligible parent's spouse, if the total annual household income does not exceed 150% of the poverty level. The spouse of the eligible parent and the spouse's natural child, if any, who is living with the family, who is not the eligible parent's natural child, shall not be eligible for benefits.

C.44:10-37 Certain income disregarded in computing benefit.

4. In computing the cash assistance benefit provided to recipients, the following disregards shall be applied to the earned income of each person in the assistance unit:

a. 100% for the first month of employment; and

b. 50% for each month thereafter.

C.44:10-38 Provision of supportive services.

5. a. The program shall provide supportive services to a recipient as a last resort when no other source of support is available, except that the recipient shall be required to continuously seek other sources of support. The commissioner shall determine the amounts and extent of the support. The supportive services shall include, but not be limited to, one or more of the following:

(1) child care services, including after-school child care in the case of a child over six years of age, for eligible dependent children, to be provided during the recipient's program eligibility period and for 24 consecutive months following ineligibility for benefits as a result of receipt of earned income.

An adult recipient who continues to be eligible to receive child care services following ineligibility for benefits, and an adult recipient who is employed but continues to receive benefits, shall pay a copay for child care services in accordance with a sliding fee scale established by the commissioner, which shall be no greater than the child care co-payment schedule established pursuant to N.J.A.C. 10:81-14.18A;

(2) transportation services to be provided directly by the program or through an allowance or other means of subsidy by which the recipient may purchase transportation; and

(3) a limited allowance for each assistance unit to cover work-related expenses necessary to engage in required work activities, as determined by the commissioner.

b. Medical assistance shall be provided to an assistance unit with dependent children pursuant to P.L.1968, c.413 (C.30:4D-1 et seq.), in accordance with the provisions of section 2 of P.L.1987, c.283 (C.30:4D-6c) which provides for a continuation of medical assistance for a period of 24 consecutive months under certain circumstances, except that:

(1) coverage solely of the adult head of an assistance unit by an employer's health insurance plan shall not preclude other members of the assistance unit from receiving the additional 24 months of medical assistance; and

(2) an assistance unit with dependent children which, using the limits and methodologies contained in Title IV-A, would not be eligible for cash

assistance under Title IV-A as a result of the collection of child or spousal support under Title IV-D of the federal Social Security Act (42 U.S.C.s.651 et seq.), shall receive an additional four consecutive months of medical assistance beginning with the first month of ineligibility under the provisions of Title IV-A.

C.44:10-39 Subsidy for campus-based child care.

6. A community college which provides campus-based child care and any work activity to a recipient as part of that recipient's individual responsibility plan pursuant to section 8 of P.L.1997, c.38 (C.44:10-62), shall receive a subsidy for the provision of child care from the commissioner, in accordance with regulations adopted by the commissioner.

C.44:10-40 Medical assistance allowed, certain.

7. Single adults and couples without dependent children shall not be eligible for medical assistance for inpatient or outpatient hospital care or long-term care under the program, except that medical assistance shall be provided for the following, in accordance with regulations adopted by the commissioner:

(1) inpatient hospitalization costs for a recipient of general public assistance pursuant to P.L.1947, c.156 (C.44:8-107 et seq.) who is admitted to a special hospital licensed by the Department of Health and Senior Services which is not eligible to receive a charity care subsidy from the Health Care Subsidy Fund established pursuant to P.L.1992, c.160 (C.26:2H-18.51 et al.) and to which payments were made prior to July 1, 1991 on behalf of patients receiving general public assistance;

(2) nursing home costs for a person residing in a non-Medicaid certified nursing facility prior to July 1, 1995, whose income is above the Medicaid institutional cap and who does not otherwise qualify for State-funded nursing home care as a medically needy person pursuant to P.L.1968, c.413 (C.30:4D-1 et seq.), to be paid for out of a separate account from the Medicaid program; which assistance shall continue until the person is no longer eligible for long-term care; and

(3) nursing home costs for an alien residing in a Medicaid certified nursing facility prior to the effective date of this act who is not Medicaid-eligible under Pub.L.104-193; which assistance shall continue until the person is no longer eligible for long-term care.

C.44:10-41 Report on Work First New Jersey program.

8. a. The commissioner, in cooperation with other affected agencies of State government, shall report biennially to the Governor and the Legislature on the Work First New Jersey program, and shall include in that report any recommendations for changes in the law or regulations governing the

program that the commissioner deems necessary to further the goals of the program. The commissioner shall determine the manner and terms of the reporting in accordance with the requirements of federal law.

b. The commissioner shall issue a public report on at least a quarterly basis concerning the number of recipients in the program, the number of recipients classified as exempt from time limits or deferred from work requirements, the number of recipients classified as to the degree of employability as defined by the commissioner, the number of recipients who have obtained employment, the number of recipients terminated from the program and the reasons for the terminations, the average wages and benefits earned by recipients, the types of employment obtained by recipients and whether the employment is in the public or private sector, the average length of stay in their jobs by recipients who reapply for benefits, and the number of former recipients who have re-entered the program after being terminated.

c. To the extent not otherwise provided pursuant to subsection a. or b. of this section, the commissioner shall conduct such research as he deems appropriate to evaluate the outcomes for recipients, and the benefits, costs and other effects of the program, and shall submit any report resulting from that research to the Governor and the Legislature and otherwise make copies available to the public.

In addition, the commissioner shall initiate a study of the Michigan Civilian Conservation Corps program as a means of offering employment to economically disadvantaged youth that provides constructive work experience and training to increase their ability to secure unsubsidized employment. The commissioner shall study the effectiveness of the Michigan Civilian Conservation Corps program and the possibility of establishing such a program in this State. The commissioner shall submit a written report of his findings and recommendations to the Governor and the Legislature by January 1, 1998.

C.44:10-42 Establishment, updating of standard of need.

9. The commissioner shall establish by regulation a standard of need and update the standard annually. The standard of need shall serve only as a benchmark against which the Legislature may decide on appropriations to fund cash assistance benefits to recipients.

10. Section 3 of P.L.1968, c.413 (C.30:4D-3) is amended to read as follows:

C.30:4D-3 Definitions.

3. Definitions. As used in this act, and unless the context otherwise requires:

a. "Applicant" means any person who has made application for purposes of becoming a "qualified applicant."

b. "Commissioner" means the Commissioner of Human Services.

c. "Department" means the Department of Human Services, which is herein designated as the single State agency to administer the provisions of this act.

d. "Director" means the Director of the Division of Medical Assistance and Health Services.

e. "Division" means the Division of Medical Assistance and Health Services.

f. "Medicaid" means the New Jersey Medical Assistance and Health Services Program.

g. "Medical assistance" means payments on behalf of recipients to providers for medical care and services authorized under this act.

h. "Provider" means any person, public or private institution, agency or business concern approved by the division lawfully providing medical care, services, goods and supplies authorized under this act, holding, where applicable, a current valid license to provide such services or to dispense such goods or supplies.

i. "Qualified applicant" means a person who is a resident of this State and is determined to need medical care and services as provided under this act, and who:

(1) Is a dependent child or parent or caretaker relative of a dependent child and a recipient of benefits under the Work First New Jersey program established pursuant to P.L.1997, c.38 (C.44:10-55 et seq.) who would be, except for resources, eligible for the aid to families with dependent children program under the State Plan for Title IV-A of the federal Social Security Act as of July 16, 1996 ;

(2) Is a recipient of Supplemental Security Income for the Aged, Blind and Disabled under Title XVI of the Social Security Act;

(3) Is an "ineligible spouse" of a recipient of Supplemental Security Income for the Aged, Blind and Disabled under Title XVI of the Social Security Act, as defined by the federal Social Security Administration;

(4) Would be eligible to receive Supplemental Security Income under Title XVI of the federal Social Security Act or would be, except for resources, eligible for the aid to families with dependent children program under the State Plan for Title IV-A of the federal Social Security Act as of July 16, 1996, except for failure to meet an eligibility condition or requirement imposed under such State program which is prohibited under Title XIX of the federal Social Security Act such as a durational residency requirement, relative responsibility, consent to imposition of a lien;

(5) Is a child between 18 and 21 years of age who would be, except for resources, eligible for the aid to families with dependent children program under the State Plan for Title IV-A of the federal Social Security Act as of July 16, 1996, living in the family group except for lack of school attendance or pursuit of formalized vocational or technical training;

(6) Is an individual under 21 years of age who would be, except for resources or dependent child requirements, eligible for the aid to families with dependent children program under the State Plan for Title IV-A of the federal Social Security Act as of July 16, 1996, or groups of such individuals, including but not limited to, children in foster placement under supervision of the Division of Youth and Family Services whose maintenance is being paid in whole or in part from public funds, children placed in a foster home or institution by a private adoption agency in New Jersey or children in intermediate care facilities, including developmental centers for the developmentally disabled, or in psychiatric hospitals;

(7) Except for resources, would be eligible for the aid to families with dependent children program under the State Plan for Title IV-A of the federal Social Security Act in effect as of July 16, 1996 or the Supplemental Security Income program, but is not receiving such assistance and applies for medical assistance only;

(8) Is determined to be medically needy and meets all the eligibility requirements described below:

(a) The following individuals are eligible for services, if they are determined to be medically needy:

(i) Pregnant women;

(ii) Dependent children under the age of 21;

(iii) Individuals who are 65 years of age and older; and

(iv) Individuals who are blind or disabled pursuant to either 42 C.F.R.435.530 et seq. or 42 C.F.R.435.540 et seq., respectively.

(b) The following income standard shall be used to determine medically needy eligibility:

(i) For one person and two person households, the income standard shall be the maximum allowable under federal law, but shall not exceed 133 1/3% of the State's payment level to two person households under the aid to families with dependent children program under the State Plan for Title IV-A of the federal Social Security Act in effect as of July 16, 1996 ; and

(ii) For households of three or more persons, the income standard shall be set at 133 1/3% of the State's payment level to similar size households under the aid to families with dependent children program under the State Plan for Title IV-A of the federal Social Security Act in effect as of July 16, 1996.

(c) The following resource standard shall be used to determine medically needy eligibility:

(i) For one person households, the resource standard shall be 200% of the resource standard for recipients of Supplemental Security Income pursuant to 42 U.S.C. s.1382(1)(B);

(ii) For two person households, the resource standard shall be 200% of the resource standard for recipients of Supplemental Security Income pursuant to 42 U.S.C. s.1382(2)(B);

(iii) For households of three or more persons, the resource standard in subparagraph (c)(ii) above shall be increased by $100.00 for each additional person; and

(iv) The resource standards established in (i), (ii), and (iii) are subject to federal approval and the resource standard may be lower if required by the federal Department of Health and Human Services.

(d) Individuals whose income exceeds those established in subparagraph (b) of paragraph (8) of this subsection may become medically needy by incurring medical expenses as defined in 42 C.F.R.435.831(c) which will reduce their income to the applicable medically needy income established in subparagraph (b) of paragraph (8) of this subsection.

(e) A six-month period shall be used to determine whether an individual is medically needy.

(f) Eligibility determinations for the medically needy program shall be administered as follows:

(i) County welfare agencies are responsible for determining and certifying the eligibility of pregnant women and dependent children. The division shall reimburse county welfare agencies for 100% of the reasonable costs of administration which are not reimbursed by the federal government for the first 12 months of this program's operation. Thereafter, 75% of the administrative costs incurred by county welfare agencies which are not reimbursed by the federal government shall be reimbursed by the division;

(ii) The division is responsible for certifying the eligibility of individuals who are 65 years of age and older and individuals who are blind or disabled. The division may enter into contracts with county welfare agencies to determine certain aspects of eligibility. In such instances the division shall provide county welfare agencies with all information the division may have available on the individual.

The division shall notify all eligible recipients of the Pharmaceutical Assistance to the Aged and Disabled program, P.L.1975, c.194 (C.30:4D-20 et seq.) on an annual basis of the medically needy program and the program's general requirements. The division shall take all reasonable administrative actions to ensure that Pharmaceutical Assistance to the Aged and Disabled recipients, who notify the division that they may be eligible for

the program, have their applications processed expeditiously, at times and locations convenient to the recipients; and

(iii) The division is responsible for certifying incurred medical expenses for all eligible persons who attempt to qualify for the program pursuant to subparagraph (d) of paragraph (8) of this subsection;

(9) (a) Is a child who is at least one year of age and under six years of age; and

(b) Is a member of a family whose income does not exceed 133% of the poverty level and who meets the federal Medicaid eligibility requirements set forth in section 9401 of Pub.L.99-509 (42 U.S.C. s.1396a);

(10) Is a pregnant woman who is determined by a provider to be presumptively eligible for medical assistance based on criteria established by the commissioner, pursuant to section 9407 of Pub.L.99-509 (42 U.S.C. s.1396a(a));

(11) Is an individual 65 years of age and older, or an individual who is blind or disabled pursuant to section 301 of Pub.L.92-603 (42 U.S.C. s.1382c), whose income does not exceed 100% of the poverty level, adjusted for family size, and whose resources do not exceed 100% of the resource standard used to determine medically needy eligibility pursuant to paragraph (8) of this subsection;

(12) Is a qualified disabled and working individual pursuant to section 6408 of Pub.L.101-239 (42 U.S.C. s.1396d) whose income does not exceed 200% of the poverty level and whose resources do not exceed 200% of the resource standard used to determine eligibility under the Supplemental Security Income Program, P.L.1973, c.256 (C.44:7-85 et seq.);

(13) Is a pregnant woman or is a child who is under one year of age and is a member of a family whose income does not exceed 185% of the poverty level and who meets the federal Medicaid eligibility requirements set forth in section 9401 of Pub.L.99-509 (42 U.S.C. s.1396a), except that a pregnant woman who is determined to be a qualified applicant shall, notwithstanding any change in the income of the family of which she is a member, continue to be deemed a qualified applicant until the end of the 60-day period beginning on the last day of her pregnancy;

(14) Is a child born after September 30, 1983 who has attained six years of age but has not attained 19 years of age and is a member of a family whose income does not exceed 100% of the poverty level; or

(15) (a) Is a specified low-income medicare beneficiary pursuant to 42 U.S.C. s.1396a(a)10(E)iii whose resources beginning January 1, 1993 do not exceed 200% of the resource standard used to determine eligibility under the Supplemental Security Income program, P.L.1973, c.256 (C.44:7-85 et seq.) and whose income beginning January 1, 1993 does not

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exceed 110% of the poverty level, and beginning January 1, 1995 does not exceed 120% of the poverty level.

(b) An individual who has, within 36 months, or within 60 months in the case of funds transferred into a trust, of applying to be a qualified applicant for Medicaid services in a nursing facility or a medical institution, or for home or community-based services under section 1915(c) of the federal Social Security Act (42 U.S.C. s.1396n(c)), disposed of resources or income for less than fair market value shall be ineligible for assistance for nursing facility services, an equivalent level of services in a medical institution, or home or community-based services under section 1915(c) of the federal Social Security Act (42 U.S.C. s.1396n(c)). The period of the ineligibility shall be the number of months resulting from dividing the uncompensated value of the transferred resources or income by the average monthly private payment rate for nursing facility services in the State as determined annually by the commissioner. In the case of multiple resource or income transfers, the resulting penalty periods shall be imposed sequentially. Application of this requirement shall be governed by 42 U.S.C. s.1396p(c). In accordance with federal law, this provision is effective for all transfers of resources or income made on or after August 11, 1993. Notwithstanding the provisions of this subsection to the contrary, the State eligibility requirements concerning resource or income transfers shall not be more restrictive than those enacted pursuant to 42 U.S.C. s.1396p(c).

(c) An individual seeking nursing facility services or home or community-based services and who has a community spouse shall be required to expend those resources which are not protected for the needs of the community spouse in accordance with section 1924(c) of the federal Social Security Act (42 U.S.C. s.1396r-5(c)) on the costs of long-term care, burial arrangements, and any other expense deemed appropriate and authorized by the commissioner. An individual shall be ineligible for Medicaid services in a nursing facility or for home or community-based services under section 1915(c) of the federal Social Security Act (42 U.S.C. s.1396n(c)) if the individual expends funds in violation of this subparagraph. The period of ineligibility shall be the number of months resulting from dividing the uncompensated value of transferred resources and income by the average monthly private payment rate for nursing facility services in the State as determined by the commissioner. The period of ineligibility shall begin with the month that the individual would otherwise be eligible for Medicaid coverage for nursing facility services or home or community-based services.

This subparagraph shall be operative only if all necessary approvals are received from the federal government including, but not limited to, approval of necessary State plan amendments and approval of any waivers.

j. "Recipient" means any qualified applicant receiving benefits under this act.

k. "Resident" means a person who is living in the State voluntarily with the intention of making his home here and not for a temporary purpose. Temporary absences from the State, with subsequent returns to the State or intent to return when the purposes of the absences have been accomplished, do not interrupt continuity of residence.

l. "State Medicaid Commission" means the Governor, the Commissioner of Human Services, the President of the Senate and the Speaker of the General Assembly, hereby constituted a commission to approve and direct the means and method for the payment of claims pursuant to this act.

m. "Third party" means any person, institution, corporation, insurance company, group health plan as defined in section 607(1) of the federal "Employee Retirement and Income Security Act of 1974," 29 U.S.C. s.1167(1), service benefit plan, health maintenance organization, or other prepaid health plan, or public, private or governmental entity who is or may be liable in contract, tort, or otherwise by law or equity to pay all or part of the medical cost of injury, disease or disability of an applicant for or recipient of medical assistance payable under this act.

n. "Governmental peer grouping system" means a separate class of skilled nursing and intermediate care facilities administered by the State or county governments, established for the purpose of screening their reported costs and setting reimbursement rates under the Medicaid program that are reasonable and adequate to meet the costs that must be incurred by efficiently and economically operated State or county skilled nursing and intermediate care facilities.

o. "Comprehensive maternity or pediatric care provider" means any person or public or private health care facility that is a provider and that is approved by the commissioner to provide comprehensive maternity care or comprehensive pediatric care as defined in subsection b. (18) and (19) of section 6 of P.L.1968, c.413 (C.30:4D-6).

p. "Poverty level" means the official poverty level based on family size established and adjusted under Section 673(2) of Subtitle B, the "Community Services Block Grant Act," of Pub.L.97-35 (42 U.S.C. s.9902(2)).

11. Section 2 of P.L.1987, c.283 (C.30:4D-6c) is amended to read as follows:

C.30:4D-6c Continued Medicaid eligibility.

2. A dependent child or the parent or caretaker relative of a dependent child who would lose eligibility for the aid to families with dependent children program under the State Plan for Title IV-A of the federal Social

Security Act in effect as of July 16, 1996 due to earnings from, or increased hours of, employment, or receipt of benefits under the "unemployment compensation law," R.S.43:21-1 et seq. or the "Temporary Disability Benefits Law," P.L.1948, c.110 (C.43:21-25 et seq.), is eligible to continue receiving Medicaid benefits pursuant to P.L.1968, c.413 (C.30:4D-1 et seq.) for a period of 24 consecutive months, commencing with the month in which eligibility under provisions of the State Plan for Title IV-A of the federal Social Security Act in effect as of July 16, 1996 is no longer met, if the person:

a. (Deleted by amendment, P.L.1997, c.13).

b. would be eligible in accordance with the State Plan for Title IV-A of the federal Social Security Act in effect as of July 16, 1996, except for the person's income, resources or hours of employment.

12. Section 30 of P.L.1994, c.182 (C.44:10-5.9) is amended to read as follows:

C.44:10-5.9 Work First New Jersey program administrators, duties.

30. The director or other chief administrative officer of each agency or office administering assistance under the Work First New Jersey program established pursuant to P.L.1997, c.38 (C.44:10-55 et seq.) shall:

a. cause copies of the voter registration forms and instructions provided for under subsections e. and f. of section 16 of P.L.1974, c.30 (C.19:31-6.4) and the declination form provided for in subsection b. of section 26 of P.L.1994, c.182 (C.19:31-6.11) to be distributed at each such agency or office to each person appearing in person thereat to apply for services or assistance provided thereby or to seek a recertification, renewal or change of address relative to the assistance provided at such office. An employee of the agency or office shall inquire of every such person whether the person, if not already registered to vote from the place of his or her present residence, wishes to be so registered and shall inform the person that whether or not the applicant chooses to register will not affect the person's eligibility for those services. The employee shall subsequently review the forms to determine whether or not the person wishes to register to vote. If the person does not wish to register, the employee shall provide the person with any assistance necessary to complete the declination form and then inform the person that the form will be retained by the employee. If the person wishes to register, the employee shall provide the person with any assistance necessary in completing the voter registration form; shall inform the applicant that the applicant may leave the completed form with the employee or mail it personally to the Secretary of State; and if the applicant chooses to leave the form, shall accept the completed form, stamp or

otherwise mark the lower right hand corner of the document with the date on which it was so received, and forward it to the Secretary of State. The employee shall provide to each applicant who does not decline to register to vote the same degree of assistance with regard to the completion of the voter registration form as is provided by the office with regard to the completion of its own forms, unless the applicant refuses such assistance;

b. provide for the continuous supply of the forms and instructions specified in subsection a. of this section to every agency and office which provides assistance under P.L.1997, c.38 (C. 44:10-55 et seq.), 42 U.S.C. s.601 et seq. and the federal "Food Stamp Act of 1977," Pub.L.95-113 (7 U.S.C. s.2011 et seq.);

c. provide the forms and instructions specified in subsection a. of this section in both the English and Spanish languages to the agencies and offices which are located in any county in which bilingual sample ballots must be provided pursuant to R.S.19:14-21, R.S.19:49-4 or section 2 of P.L.1965, c.29 (C.19:23-22.4);

d. provide for the collection of completed voter registration forms by any employee of the agency or office for the transmittal of the forms to the Secretary of State;

e. provide that the forms, instructions and assistance specified in subsection a. of this section shall be provided to any person with a disability who receives assistance or services at that person's home from an employee of the agency or office;

f. inform each employee of the agency or office who assists in registering a person to vote that employee shall not:

(1) seek to influence an applicant's political preference or party registration;

(2) display any such political preference or party allegiance;

(3) make any statement to an applicant or take any action the purpose or effect of which is to discourage the applicant from registering to vote; or

(4) make any statement to an applicant or take any action the purpose or effect of which is to lead the applicant to believe that a decision to register or not to register has any bearing on the availability of services or benefits; and

g. make certain that no information relating to a declination to register to vote by an individual in connection with any type of application for service made by that individual at any agency or office is used for any purpose other than voter registration.

C.44:10-43 Rules, regulations.

13. 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 effectuate the purposes of this act and to comply with the requirements of Pub.L.104-193.

14. This act shall take effect immediately.

Approved January 29, 1997.

CHAPTER 14

AN ACT concerning welfare reform, supplementing Title 44 of the Revised Statutes and amending P.L.1994, c.147.

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

C.44:10-44 Definitions relative to welfare reform, eligibility.

1. As used in this act:

"Applicant" means an applicant for benefits provided by the Work First New Jersey program.

"Assistance unit" means: a single person without dependent children; a couple without dependent children; dependent children only; or a person or couple with one or more dependent children who are legally or blood-related, or who is their legal guardian, and who live together as a household unit.

"Benefits" means any assistance provided to needy persons and their dependent children and needy single persons and couples without dependent children under the Work First New Jersey program.

"Commissioner" means the Commissioner of Human Services.

"County agency" means the county agency that was administering the aid to families with dependent children program at the time the federal "Personal Responsibility and Work Opportunity Reconciliation Act of 1996," Pub.L.104-193, was enacted and which, upon the enactment of P.L.1997, c.14 (C.44:10-44 et al.) shall also administer the Work First New Jersey program in that county.

"Dependent child" means a child:

a. under the age of 18;

b. under the age of 19 and a full-time student in a secondary school or an equivalent level of vocational or technical training, if, before the student

attains age 19, the student may reasonably be expected to complete the student's program of secondary school or training; or

c. under the age of 21 and enrolled in a special education program,

who is living in New Jersey with the child's natural or adoptive parent or legal guardian, or with a relative designated by the commissioner in a place of residence maintained by the relative as the relative's home.

"Eligible alien" means one of the following:

a. a qualified alien admitted to the United States prior to August 22, 1996, who is eligible for means-tested, federally funded public benefits pursuant to federal law;

b. a refugee, asylee, or person granted withholding of deportation under federal law for the person's first five years after receiving that classification in the United States pursuant to federal law;

c. a qualified alien who is a veteran of, or on active duty in, the armed forces of the United States, or the spouse or dependent child of that person pursuant to federal law;

d. a recipient of refugee and entrant assistance activities or a Cuban or Haitian entrant pursuant to federal law;

e. a legal permanent resident alien who has worked 40 qualifying quarters of coverage as defined under Title II of the federal Social Security Act; except that, for any period after December 31, 1996, a quarter during which an individual received means-tested, federally funded public benefits shall not count toward the total number of quarters;

f. a qualified alien admitted to the United States on or after August 22, 1996,who has lived in the United States for at least five years and is eligible for means-tested, federally funded public benefits pursuant to federal law; or

g. a qualified alien who has been battered or subjected to extreme cruelty in the United States by a spouse, parent or a member of the spouse or parent's family residing in the same household as the alien, or a qualified alien whose child has been battered or subjected to extreme cruelty in the United States by a spouse or parent of the alien, without the active participation of the alien, or by a member of the spouse or parent's family residing in the same household as the alien. In either case, the spouse or parent shall have consented or acquiesced to the battery or cruelty and there shall be a substantial connection between the battery or cruelty and the need for benefits to be provided. The provisions of this subsection shall not apply to an alien during any period in which the individual responsible for the battery or cruelty resides in the same household or assistance unit as the individual subjected to the battery or cruelty. Benefits shall be provided to the extent and for the period of time that the alien or alien's child is eligible for the program.

For the purposes of this section, "qualified alien" is defined pursuant to the provisions of section 431 of Title IV of Pub.L.104-193.

"Income" means, but is not limited to, commissions, salaries, self-employed earnings, child support and alimony payments, interest and dividend earnings, wages, receipts, unemployment compensation, any legal or equitable interest or entitlement owed that was acquired by a cause of action, suit, claim or counterclaim, insurance benefits, temporary disability claims, estate income, trusts, federal income tax refunds, State income tax refunds, homestead rebates, lottery prizes, casino and racetrack winnings, annuities, retirement benefits, veterans' benefits, union benefits, or other sources that may be defined as income by the commissioner; except that in the event that individual development accounts for recipients are established by regulation of the commissioner, any interest or dividend earnings from such an account shall not be considered income.

"Income eligibility standard" means the income eligibility threshold based on assistance unit size established by regulation of the commissioner for benefits provided within the limit of funds appropriated by the Legislature.

"Legal guardian" means a person who exercises continuing control over the person or property, or both, of a child, including any specific right of control over an aspect of the child's upbringing, pursuant to a court order.

"Non-needy caretaker" means a relative caring for a dependent child, or a legal guardian of a minor child who, in the absence of a natural or adoptive parent, assumes parental responsibility and has income which exceeds the income eligibility standard but is less than 150% of the State median income adjusted for household size.

"Recipient" means a recipient of benefits under the Work First New Jersey program.

"Resources" means all real and personal property as defined by the commissioner; except that in the event that individual development accounts for recipients are established by regulation of the commissioner, all funds in such an account, up to the limit determined by the commissioner, including any interest or dividend earnings from such an account, shall not be considered to be a resource.

"Services" means any Work First New Jersey benefits that are not provided in the form of cash assistance.

"Title IV-D" means the provisions of Title IV-D of the federal Social Security Act governing paternity establishment and child support enforcement activities and requirements.

"Work First New Jersey program" or "program" means the program established pursuant to P.L.1997, c.38 (C.44:10-55 et seq.).

C.44:10-45 Determination of eligibility for benefits.

2. a. Benefits under the Work First New Jersey program shall be determined according to standards of income and resources established by the commissioner. These standards shall take into account, for the determination of eligibility and the provision of benefits, all income and resources of all persons in the assistance unit of which the applicant or recipient is a member, except as provided by law governing the Work First New Jersey program and as prescribed by the commissioner. The benefits to be granted shall be governed by standards established by regulation of the commissioner. The commissioner may set income and resource eligibility and benefits standards that differ with respect to types of assistance units.

b. A recipient, as a condition of eligibility for benefits, shall, subject to good cause exceptions as defined by the commissioner, be required to: do all acts stated herein necessary to establish the paternity of a child born out-of-wedlock, and to establish and participate in the enforcement of child support obligations; cooperate with work requirements established by the commissioner; make application for any other assistance for which members of the assistance unit may be eligible; be income and resource eligible as defined by the commissioner, including the deeming of income and resources as appropriate; provide all necessary documentation which shall include the federal Social Security number for all assistance unit members, except for an eligible alien who cannot be assigned a Social Security number due to his status, or make application for same; sign an agreement to repay benefits in the event of receipt of income or resources; and comply with personal identification requirements as a condition of receiving benefits, which may employ the use of high technology processes for the detection of fraud.

c. Notwithstanding any other provision of law or regulation to the contrary, an applicant shall not be eligible for benefits when the applicant's eligibility is the result of a voluntary cessation of employment without good cause, as determined by the commissioner, within 90 days prior to the date of application for benefits.

d. A voluntary assignment or transfer of income or resources within one year prior to the time of application for benefits for the purpose of qualifying therefor shall render the applicant and the applicant's assistance unit members ineligible for benefits for a period of time determined by regulation of the commissioner.

e. Any income or resources that are exempted by federal law for purposes of eligibility for benefits shall not reduce the amount of benefits received by a recipient and shall not be subject to a lien or be available for repayment to the State or county agency for benefits received by the individual.

C.44:10-46 Eligibility for persons with less than one year of State residence.

3. A recipient who has resided in New Jersey for less than 12 consecutive months shall be eligible to receive cash assistance benefits in the amount that the recipient would have received from the recipient's immediately prior state of residence if that amount is less than the cash assistance benefits provided by the program. This limitation on cash assistance benefits shall apply until the recipient has resided in New Jersey for 12 consecutive months.

C.44:10-47 Disclosure of applicant information.

4. Information concerning applicants or recipients shall not be disclosed except for purposes directly connected with the administration of the program, in accordance with regulations to be adopted by the commissioner. Any person or entity under contract to provide services to the program shall comply with these regulations. The provisions of this section shall not be construed to prohibit the exchange of information among agencies, organizations, or other entities as prescribed by the commissioner or pursuant to federal requirements.

C.44:10-48 Eligibility of citizens, eligible aliens.

5. a. Only those persons who are United States citizens or eligible aliens shall be eligible for benefits under the Work First New Jersey program. Single adults or couples without dependent children who are legal aliens who meet federal requirements and have applied for citizenship, shall not receive benefits for more than six months unless (1) they attain citizenship, or (2) they have passed the English language and civics components for citizenship, and are awaiting final determination of citizenship by the federal Immigration and Naturalization Service.

b. The following persons shall not be eligible for assistance and shall not be considered to be members of an assistance unit:

(1) non-needy caretakers, except that the eligibility of a dependent child shall not be affected by the income or resources of a non-needy caretaker;

(2) Supplemental Security Income recipients, except for the purposes of receiving emergency assistance benefits pursuant to section 8 of P.L.1997, c.14 (C.44:10-51);

(3) illegal aliens;

(4) other aliens who are not eligible aliens;

(5) a person absent from the home who is incarcerated in a federal, State, county or local corrective facility or under the custody of correctional authorities, except as provided by regulation of the commissioner;

(6) a person who: is fleeing to avoid prosecution, custody or confinement after conviction, under the laws of the jurisdiction from which the

person has fled, for a crime or an attempt to commit a crime which is a felony or a high misdemeanor under the laws of the jurisdiction from which the person has fled; or is violating a condition of probation or parole imposed under federal or state law;

(7) a person convicted on or after August 22, 1996 under federal or state law of any offense which is classified as a felony or crime, as appropriate, under the laws of the jurisdiction involved and which has as an element the possession, use, or distribution of a controlled substance as defined in section 102(6) of the federal "Controlled Substances Act" (21 U.S.C.s.802 (6)); except that a person convicted of any such offense which has as an element the possession or use only of such a controlled substance may be eligible for benefits if the person has successfully completed a drug treatment program approved by the commissioner. Eligibility for benefits shall commence upon completion of the drug treatment program, except that during the first 60 days after completion of the drug treatment program, the commissioner shall provide for testing of the person to determine if the person is free of any controlled substance. If the person is determined to not be free of any controlled substance during the 60-day period, the person's eligibility for benefits pursuant to this paragraph shall be terminated. The commissioner, in consultation with the Commissioner of Health and Senior Services, shall adopt regulations to carry out the provisions of this paragraph, which shall include the criteria for determining completion of a drug treatment program;

(8) a person found to have fraudulently misrepresented his residence in order to obtain means-tested, public benefits in two or more states or jurisdictions, who shall be ineligible for benefits for a period of 10 years from the date of conviction in a federal or state court; or

(9) a person who intentionally makes a false or misleading statement or misrepresents, conceals or withholds facts for the purpose of receiving benefits, who shall be ineligible for benefits for a period of six months for the first violation, 12 months for the second violation, and permanently for the third violation.

c. A person who makes a false statement with the intent to qualify for benefits and by reason thereof receives benefits for which the person is not eligible is guilty of a crime of the fourth degree.

C.44:10-49 Assignment of child support rights by signing application for benefits.

6. a. The signing of an application for benefits under the Work First New Jersey program shall constitute an assignment of any child support rights pursuant to Title IV-D on behalf of individual assistance unit members to the county agency. The assignment shall terminate with respect to current support rights when a determination is made by the county agency

that the person in the assistance unit is no longer eligible for benefits. The determination of the amount of repayment to the county agency and distribution of any unpaid support obligations that have accrued during the period of receipt of benefits shall be determined by regulation of the commissioner in accordance with federal law.

b. Effective no later than July 1, 1997, the county agency shall pass through to the assistance unit the full amount of the current child support collected on behalf of a child in those circumstances defined by the commissioner.

c. An assistance unit eligible for benefits and in receipt of child support shall receive, in addition to its regular grant of cash assistance benefits, an amount up to $50 per month based on the amount of current child support received for that month. If the amount of child support received is less than $50, the assistance unit shall receive that amount. If the amount of child support received is $50 or more, the assistance unit shall receive $50.

C.44:10-50 Absent child, eligibility for benefits.

7. a. A dependent child who has been or is expected by a parent, legal guardian or caretaker relative to be absent from the home for a period of time as established by regulation of the commissioner, shall remain eligible for benefits during that period, except that, an absence for periods or for reasons other than those stipulated in regulations adopted by the commissioner shall be cause for denial or termination of benefits for that dependent child.

b. A parent, legal guardian or caretaker relative who does not report the absence of a dependent child to the county agency by the end of the five-day period beginning on the day that the parent, legal guardian or caretaker relative becomes aware that the child will be absent, shall be ineligible for benefits pursuant to federal law for a period of time as determined by the commissioner.

C.44:10-51 Provision of emergency assistance.

8. a. Emergency assistance shall be provided only to recipients of Work First New Jersey and persons receiving Supplemental Security Income pursuant to P.L.1973, c.256 (C.44:7-85 et seq.) in emergent situations, as determined by the commissioner, for up to 12 cumulative months; except that:

(1) the commissioner may provide for an extension of emergency assistance for up to six additional months to an assistance unit with dependent children, if the commissioner determines that a case of extreme hardship exists. The commissioner shall review each such case on a monthly basis during the six-month period and shall continue the emer-

gency assistance only if the commissioner determines, based upon the monthly review, that the extreme hardship continues to exist. If the extreme hardship continues to exist at the end of the six-month period, the commissioner may provide an additional six months of emergency assistance to no more than 10% of those assistance units with dependent children which are receiving temporary rental assistance under the emergency assistance component of the program, based upon the most current data available; and

(2) the commissioner may provide for an extension of emergency assistance for up to six additional months to no more than 10% of single adults and couples without dependent children who are receiving temporary rental assistance under the emergency assistance component of the program, if the commissioner determines that a case of extreme hardship exists. The commissioner shall review each such case on a monthly basis during the six-month period and shall continue the emergency assistance only if the commissioner determines, based upon the monthly review, that the extreme hardship continues to exist.

Any form of emergency assistance provided pursuant to this section shall count toward the maximum period of emergency assistance allowed.

b. A person receiving emergency assistance shall contribute from the person's income toward the payment of all emergency shelter arrangements, including temporary housing and temporary rental assistance, in accordance with regulations adopted by the commissioner. As a condition of receipt of emergency assistance, a person shall be required to take all reasonable steps to end the person's dependency on emergency assistance and take all other actions required by the commissioner.

c. The commissioner shall adopt regulations to establish classifications for hotel or motel per diem rates in accordance with the level of enhanced services provided at a participating hotel or motel.

d. The provisions of this section shall apply to a person who receives general public assistance pursuant to P.L.1947, c.156 (C.44:8-107 et seq.) after the effective date of this act and is subsequently transferred directly into the Work First New Jersey program.

C.44:10-52 Opportunity for hearing.

9. The commissioner shall assure that an applicant or recipient shall be afforded the opportunity for a hearing if the applicant's or recipient's claim for benefits is denied, reduced, suspended, terminated or not acted upon within a reasonable time, in accordance with regulations adopted by the commissioner. A recipient shall continue to receive the recipient's current benefits pending the outcome of the hearing. The hearing shall be conducted by the Office of Administrative Law in accordance with the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.).

C.44:10-53 Waiving compliance with Work First New Jersey program for certain projects.

10. In the case of an experimental, pilot or demonstration project which in the judgment of the commissioner is likely to assist in promoting the objectives of the Work First New Jersey program, or to promote the objectives of the Title IV-D child support enforcement program in the State, the commissioner may waive compliance with the requirements of the Work First New Jersey program to the extent the commissioner deems necessary to carry out the project and for a period of time not to exceed three years, during which time the commissioner shall report to the Legislature on the progress of the project at least every six months; except that the commissioner shall not waive compliance with the provisions of subsection h. of section 8 of P.L.1997, c.38 (C.44:10-62) or implement a pilot or demonstration project that circumvents or obstructs a collective bargaining agreement. The commissioner shall provide an opportunity for public comment prior to the implementation of the project. The commissioner shall establish any fiscal or evaluative terms and conditions for the project that he deems appropriate.

11. Section 1 of P.L.1994, c.147 (C.44:8-111.1) is amended to read as follows:

C.44:8-111.1 Centralized registry established; updating of information.

1. The Commissioner of Human Services shall establish a centralized registry in the Division of Family Development of the Department of Human Services to contain the names and Social Security numbers, and such additional identifying information as the commissioner deems appropriate, of recipients of benefits under P.L.1997, c.38 (C.44:10-55 et seq.). Each of the entities administering public assistance designated by the commissioner shall provide such information and assistance as the commissioner may request to carry out the provisions of P.L.1994, c.147 (C.44:8-111.1 et seq.). The commissioner shall provide for the periodic updating of the information contained in the registry.

12. Section 2 of P.L.1994, c.147 (C.44:8-111.2) is amended to read as follows:

C.44:8-111.2 Registry information made available; provision for comparison checks.

2. a. The commissioner shall make the information in the centralized registry established pursuant to section 1 of P.L.1994, c.147 (C.44:8-111.1) available to those states which are contiguous to New Jersey and shall seek to establish an arrangement for the reciprocal provision of similar information from these states to the Division of Family Development.

b. The commissioner shall also provide for the use of the registry to conduct comparison checks of public assistance recipient records between entities administering public assistance within the State.

C.44:10-54 Rules, regulations.

13. 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 effectuate the purposes of this act and to comply with the requirements of Pub.L.104-193.

14. This act shall take effect immediately.

Approved January 29, 1997.

CHAPTER 15

AN ACT concerning criminal trespass and amending N.J.S.2C:18-3.

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

1. N.J.S.2C:18-3 is amended to read as follows:

Unlicensed entry of structures; defiant trespasser; peering into dwelling places; defenses.

2C:18-3. a. Unlicensed entry of structures. A person commits an offense if, knowing that he is not licensed or privileged to do so, he enters or surreptitiously remains in any research facility structure, or separately secured or occupied portion thereof. An offense under this subsection is a crime of the fourth degree if it is committed in a school or on school property. The offense is a crime of the fourth degree if it is committed in a dwelling. An offense under this section is a crime of the fourth degree if it is committed in a research facility. Otherwise it is a disorderly persons offense.

b. Defiant trespasser. A person commits a petty disorderly persons offense if, knowing that he is not licensed or privileged to do so, he enters or remains in any place as to which notice against trespass is given by:

(1) Actual communication to the actor; or

(2) Posting in a manner prescribed by law or reasonably likely to come to the attention of intruders; or

(3) Fencing or other enclosure manifestly designed to exclude intruders.

c. Peering into windows or other openings of dwelling places. A person commits a crime of the fourth degree if, knowing that he is not licensed or privileged to do so, he peers into a window or other opening of

a dwelling or other structure adapted for overnight accommodation for the purpose of invading the privacy of another person and under circumstances in which a reasonable person in the dwelling or other structure would not expect to be observed.

d. Defenses. It is an affirmative defense to prosecution under this section that:

(1) A structure involved in an offense under subsection a. was abandoned;

(2) The structure was at the time open to members of the public and the actor complied with all lawful conditions imposed on access to or remaining in the structure; or

(3) The actor reasonably believed that the owner of the structure, or other person empowered to license access thereto, would have licensed him to enter or remain, or, in the case of subsection c. of this section, to peer.

2. This act shall take effect immediately.

Approved January 31, 1997.

CHAPTER 16

AN ACT appropriating $8,644,000 from the "Green Acres, Clean Water, Farmland and Historic Preservation Bond Act of 1992," P.L.1992, c.88, to provide loans for dam restoration and inland waters projects.

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

1. a. There is appropriated to the Department of Environmental Protection from the "1992 Dam Restoration and Clean Water Trust Fund," established pursuant to section 26 of the "Green Acres, Clean Water, Farmland and Historic Preservation Bond Act of 1992," P.L.1992, c.88, the sum of $8,644,000 for the purpose of providing loans to assist local government units, and private lake associations or similar organizations or owners of private dams, as co-applicants with local government units, to meet the costs of dam restoration projects or inland waters projects. This sum shall include administrative costs and shall be allocated as follows:

Project	**Loan Recipient**	**Amount**
Kakeout Dam and Dike	Butler Borough	$2,162,500
Haledon Reservoir Dam	Haledon Borough	$1,150,000

Highland Lake Dam	Highland Lakes Country Club and Community Association	$588,060
Lake Mohawk Dam	Lake Mohawk Country Club	$250,000
Lake Swannanoa Dams 1 & 2	Swannanoa Sentinal Society	$575,000
Sunset Lake Dam	Cumberland County	$915,773
Robinsons Branch Dam	Clark Township	$864,340
Pinecliff Lake Dam	Pinecliff Lake Community Club	$1,727,000
Administrative		$411,327

b. Any unexpended funds from the projects listed in subsection a. of this section shall be returned to the "1992 Dam Restoration and Clean Water Trust Fund" for reappropriation to fund additional projects authorized by law.

c. Any transfer of any funds or project sponsor, 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.

2. The expenditures of sums appropriated by this act are subject to the provisions and conditions of P.L.1992, c.88.

3. This act shall take effect immediately.

Approved January 31, 1997.

CHAPTER 17

AN ACT concerning the Division of Developmental Disabilities' community residential and day program waiting list.

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

1. The Legislature finds and declares that:

a. Between June 30, 1988 and April 30, 1996, the number of persons on the Division of Developmental Disabilities' Alternate Living Waiting List increased from more than 1,500 to over 4,455;

b. As of April 30, 1996, nearly 900 persons had no day program available;

c. The $80 million in bond funds available to the Division of Developmental Disabilities from the Developmental Disabilities' Waiting List Reduction and Human Services Facilities Construction Fund will only deal with the capital requirements of the approximately 2,000 persons who are in Categories 1 and 2 of the waiting list;

d. The March 28, 1996 initiative announced by Governor Whitman to develop community residential programs for approximately 600 developmentally disabled persons between FY 1997 and FY 1999 at an annual cost of $32 million will only maintain the waiting list at current levels, even though the waiting list increases by one client per day;

e. Statistics from the New Jersey Department of Education, Office of Special Education Program indicate that there will be a significant increase in the number of multiply handicapped classified pupils who will graduate from educational programs and that such pupils are likely to require community services from the Division of Developmental Disabilities; and

f. The Division of Developmental Disabilities does not have a long-term plan to eliminate the current and future waiting list and to provide for the associated capital and operational costs needed to address the current and future waiting list.

C.30:6D-42 Preparation, submission of plan to eliminate waiting list.

2. a. The Commissioner of Human Services shall prepare and submit a plan to the Governor and the Legislature within 180 days after the effective date of this act to eliminate the current and future Division of Developmental Disabilities' waiting list by the year 2008.

b. The plan shall include:

1. Statistical information on the current and projected increase in the waiting list;

2. Financial information on the capital funds necessary to eliminate the current and future waiting list by the year 2008; and

3. Financial information on the amount of additional State, federal and other funds that may be required annually for operating costs associated with eliminating the waiting list by the year 2008.

c. In developing the plan, the commissioner shall conduct public hearings and obtain public input from persons with developmental disabilities or their families or guardians and providers of services to the developmental disabilities community.

d. The commissioner shall update the statistical and financial data in the plan annually and submit the updated plan to the Governor and the Legislature by December 31 of each year.

3. This act shall take effect immediately.

Approved January 31, 1997.

CHAPTER 18

AN ACT to validate certain proceedings of fire districts and any bonds or other obligations issued or to be issued pursuant to such proceedings.

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

1. All proceedings heretofore had or taken by any board of fire commissioners or at any fire district meeting or election for the authorization or issuance of bonds or other obligations of the fire district, and any bonds or other obligations of the fire district issued or to be issued pursuant to a proposal adopted by the legal voters at such meeting or election, are hereby ratified, validated and confirmed, notwithstanding that notices to military service voters and to their friends and relatives and to persons desiring civilian absentee ballots were not published in accordance with the provisions of section 7 of the "Absentee Voting Law (1953)", P.L.1953, c.211 (C.19:57-1 et seq.), and notwithstanding that notices relating to such election were not properly prepared and were not posted and published as required by law; provided, however, that notices to the effect that an election would be held were published stating the date, time and place of the election; and provided, further, that any applications received by the clerk of the board of commissioners of the fire district for military service ballots or civilian absentee ballots for such election were forwarded to the clerk of the county in which such fire district is located; and provided, further, that no action, suit or other proceedings of any nature to contest the validity of such election have heretofore been instituted prior to the date on which this act takes effect and within the time fixed therefor by or pursuant to law or rule of court, or when such time has not heretofore expired, are instituted within 30 days after the effective date of this act.

2. This act shall take effect immediately.

Approved February 12, 1997.

CHAPTER 19

AN ACT concerning the Division of State Police, amending R.S.53:2-1 and P.L.1965, c.89, and supplementing Title 53 of the Revised Statutes.

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

C.53:1-8.2 Persons eligible to become members of Division of State Police.

1. a. The following persons may become members of the Division of State Police and, except as provided in this act, P.L.1997, c.19 (C.53:1-8.2 et al.), shall be subject to the provisions of Title 53 applicable to members of the division: all persons employed on the effective date of this act as inspectors by the Alcoholic Beverage Control Enforcement Bureau, as members of the State Capitol Police Force, or as marine law enforcement officers by the Bureau of Marine Law Enforcement:

(1) who are between the ages of 18 and 55;

(2) who satisfy the standards of health and physical fitness established by the superintendent for members of the Division of State Police; and

(3) whose performance as an inspector, member, or officer demonstrates to the satisfaction of the superintendent the character and ability to perform the duties of a member of the Division of State Police.

b. The appointment of an inspector, member, or officer as a member of the Division of State Police shall be in accordance with R.S.53:1-8, except that notwithstanding the requirements of R.S.53:1-8.1, upon satisfactory completion of the two-year appointment period specified in R.S.53:1-8, the person shall serve continuously as a member of the division during good behavior.

c. In determining seniority for purposes of internal management, a person who becomes a member of the Division of State Police pursuant to this section shall be deemed to have been hired on the effective date of this act. Determination of seniority for internal management purposes shall not reduce the period of creditable service to which the member may be entitled pursuant to section 6 of P.L.1965, c.89 (C.53:5A-6).

d. The salary of a person who becomes a member of the Division of State Police pursuant to this section shall be fixed by the superintendent at an amount approximately equivalent to that person's final salary as an inspector, member, or officer, less that amount of additional compensation customarily referred to in collective bargaining agreements as a "maintenance allowance," which that person will receive upon becoming a member of the division.

e. The rank of a person who becomes a member of the Division of State Police pursuant to this section shall be assigned by the superintendent based on the salary fixed pursuant to subsection d. of this section and on the person's qualifications and the duties to which the person will be assigned.

f. No person who becomes a member of the Division of State Police pursuant to this section shall be entitled to collect a lump sum payment as supplemental compensation for sick leave accumulated prior to becoming a member of the division under the provisions of N.J.S.11A:6-16.

C.53:1-8.3 Transfer of employees not becoming members of Division of State Police.

2. Each inspector of the Alcoholic Beverage Control Enforcement Bureau, each member of the State Capitol Police Force, and each marine law enforcement officer who does not become a member of the Division of State Police pursuant to section 1 of this act and elects to continue employment with the Department of Law and Public Safety or to accept employment with any other principal department, consistent with the operational needs of the Division of State Police and the appropriate department, shall be transferred without loss of salary or pension to the position of investigator or any other position deemed appropriate by the Attorney General or the head of such other principal department, in consultation with the Commissioner of Personnel, that permits membership in the Police and Firemen's Retirement System of New Jersey established pursuant to P.L.1944, c.255 (C.43:16A-1 et seq.).

3. R.S.53:2-1 is amended to read as follows:

Powers, duties; cooperation with other authorities.

53:2-1. The members of the State Police shall be subject to the call of the Governor. They shall be peace officers of the State, shall primarily be employed in furnishing adequate police protection to the inhabitants of rural sections, shall give first aid to the injured and succor the helpless, and shall have in general the same powers and authority as are conferred by law upon police officers and constables.

They shall have power to prevent crime, to pursue and apprehend offenders and to obtain legal evidence necessary to insure the conviction of such offenders in the courts. They shall have power to execute any lawful warrant or order of arrest issued against any person, and to make arrests without warrant for violations of the law committed in their presence, and for felonies committed the same as are or may be authorized by law for other peace officers.

They may co-operate with any other State department, or any State or local authority in detecting crime, apprehending criminals and preserving law and order; but the State Police shall not be used as a posse in any

municipality except upon order of the Governor when requested by the governing body of such municipality; provided, however, that the Superintendent of State Police, or the person in charge thereof, shall, upon request made to him by the superintendent of elections of any county of this State, assign for use on any election day officers and troopers, not to exceed fifteen in number in any one county, to aid such superintendents of elections in the enforcement of the election laws of this State.

They may act as inspectors of motor vehicles and as wardens in the protection of the forests, and the fish and game of the State. With respect to enforcement of the provisions of the "New Jersey Alcoholic Beverage Control Act," Title 33 of the Revised Statutes, they shall have all the powers conferred upon "officers" pursuant to that title. They shall have the authority to investigate any offenses or violations occurring on the waters of this State, as defined in section 1 of P.L.1986, c.150 (C.53:1-11.10), and to stop and board a vessel in the waters of the State to determine whether the vessel complies with State and federal boating safety laws and shall have the power to order a vessel that does not comply with these laws to return immediately to shore. They shall have the authority to perform all of the duties of members of the State Capitol Police Force as defined in section 2 of P.L.1977, c.135 (C.52:17B-9.2).

C.53:5A-5.1 Transfer to State Police Retirement System of New Jersey.

4. The membership in the Police and Firemen's Retirement System of New Jersey, established pursuant to P.L.1944, c.255 (C.43:16A-1 et seq.), or the Public Employees' Retirement System of New Jersey, established pursuant to P.L.1954, c.84 (C.43:15A-1 et seq.), of inspectors in the Alcoholic Beverage Control Enforcement Bureau, members of the State Capitol Police Force, or marine law enforcement officers in the Bureau of Marine Law Enforcement who, pursuant to section 1 of P.L.1997, c.19 (C.53:1-8.2), become members of the State Police, shall be transferred to the State Police Retirement System of New Jersey, established pursuant to P.L.1965, c.89 (C.53:5A-1 et seq.). Deductions from such persons' salaries and contributions on their behalf shall thereafter be made as required by that retirement system. The rate of contribution of the transferred inspectors, members, and officers shall be determined by the rates payable by other members of that system.

C.53:5A-5.2 Accumulated deductions remitted to State Police Retirement System.

5. Within 120 days of the effective date of P.L.1997, c.19 (C.53:1-8.2 et al.), the Police and Firemen's Retirement System and the Public Employees' Retirement System shall remit to the State Police Retirement System accumulated deductions standing to the credit of a transferred alcoholic beverage control inspector, member of the State Capitol Police

Force, and marine law enforcement officer, and within 180 days following the effective date, remit the pro-rata part of the reserve fund constituting the employer's obligations under the former system applicable to that inspector's, member's, or officer's account. The State Police Retirement System shall then enter the respective sums so remitted to it to the credit of that inspector, member, or officer in the Annuity Savings Fund or the Contingent Reserve Fund of the State Police Retirement System, as appropriate.

C.53:5A-5.3 Calculation of liability of employer.

6. The actuary of the State Police Retirement System shall calculate the liability of the employer of the inspectors, members of the State Capitol Police Force, and marine law enforcement officers becoming members of that retirement system under the provisions of P.L.1997, c.19 (C.53:1-8.2 et al.) in the same manner as is specified in the case of other members of the State Police Retirement System, taking into account the value of moneys remitted by the pension funds. In the event that the value of such money so remitted is less than the total which is required by the State Police Retirement System to provide the transferred inspector, member of the State Capitol Police Force, or marine law enforcement officer with credit for his public service, the liability of the employer shall include an amount equal to the difference between the two values. Upon certification by the actuary of the State Police Retirement System, the employer shall make such contributions as are required in order to meet his financial obligations.

7. Section 5 of P.L.1965, c.89 (C.53:5A-5) is amended to read as follows:

C.53:5A-5 Membership.

5. The membership of the retirement system shall include:

a. The members of the former "State Police Retirement and Benevolent Fund."

b. Any person becoming a full-time commissioned officer, noncommissioned officer or trooper of the Division of State Police of the Department of Law and Public Safety of the State of New Jersey; provided that the Division of State Police certified that he has satisfied the age and health requirements prescribed for members of the State Police force.

c. A person appointed to the Division of State Police under section 3 of P.L.1983, c.403 (C.39:2-9.3).

d. A person appointed to the Division of State Police under section 1 of P.L.1997, c.19 (C.53:1-8.2).

Membership in the retirement system is a condition of employment for such officers, non-commissioned officers and troopers.

8. Section 6 of P.L.1965, c.89 (C.53:5A-6) is amended to read as follows:

C.53:5A-6 Creditable service; purchase of service credit.

6. a. Service as a full-time commissioned officer, noncommissioned officer or trooper rendered as a member, and service credit which was transferred from the former "State Police Retirement and Benevolent Fund," shall, if the required contributions are made by the State and the member, be considered as creditable service. In addition, service as a chief inspector, deputy chief inspector, inspector and special inspector in the Division of Motor Vehicles or equivalent Civil Service classifications, including Chief, Highway Patrol Bureau; Assistant Chief (Major), Highway Patrol Bureau; Captain, Highway Patrol Bureau; Lieutenant, Highway Patrol Bureau; Sergeant, Highway Patrol Bureau; and Officer, Highway Patrol Bureau, and service credit may be transferred from the Police and Firemen's Retirement System and the Public Employees' Retirement System and shall, if the required contributions are made by the State and the member, be considered as creditable service. In addition, service as a member of the State Capitol Police Force, or as a Supervising Inspector, Principal Inspector, Senior Inspector, or Inspector Recruit in the Alcoholic Beverage Control Enforcement Bureau or as a Principal Marine Law Enforcement Officer, Senior Marine Law Enforcement Officer, or Marine Law Enforcement Officer in the Bureau of Marine Law Enforcement and service credit transferred from the Police and Firemen's Retirement System or the Public Employees' Retirement System shall, if the required contributions are made by the State and the member, be considered as creditable service.

A member on suspension shall be considered in service for the period of the suspension, but the period of suspension shall not be considered as creditable service unless the member receives salary therefor.

If an employee's membership has been terminated and he is re-enrolled as a member of the retirement system, he may purchase credit for all of his previous membership service by paying into the annuity savings fund the amount required by applying the factor, supplied by the actuary, as being applicable to his age at the time of the purchase, to his salary at that time. Such purchase may be made in regular installments equal to at least 1/2 the normal contribution to the retirement system, over a maximum period of 10 years. In order to give to such person the same credit for such service as he had at the time of termination, his pension credit shall be restored as it was at the time of his termination, upon the completion of one year of membership after his election to make the purchase and the payment of at least 1/2 the total amount due, except that in the case of retirement pursuant to sections 8, 27 and 28 of chapter 89 of the laws of 1965, the credit granted

for the service being purchased shall be in direct proportion as the amount paid bears to the total amount of the arrearage obligation.

b. Any member of the retirement system, who, prior to becoming a member, had established service credits in another retirement system supported in whole or in part by the State, or who had rendered service to the State prior to becoming a member, or had purchased service credits while in the Police and Firemen's Retirement System or the Public Employees' Retirement System, while serving as chief inspector, deputy chief inspector, inspector or special inspector in the Enforcement Bureau, Division of Motor Vehicles, or as a member of the State Capitol Police Force, or as a Supervising Inspector, Principal Inspector, Senior Inspector, Inspector, or Inspector Recruit in the Alcoholic Beverage Control Enforcement Bureau, or as a Principal Marine Law Enforcement Officer, Senior Marine Law Enforcement Officer, or Marine Law Enforcement Officer in the Bureau of Marine Law Enforcement, for which he desires to establish credit in this retirement system, shall be permitted to purchase such credit or to transfer such previously purchased credit. If such credit is established and except as provided in subsection f., it shall be included in the computation of a retirement allowance on the basis of 1% of final compensation for each year of such service credit.

c. Not more than one year shall be credited for all service in a calendar year.

d. In computing service, time during which a member was absent on an official leave without pay shall be credited if such leave was for a period of: (1) less than three months; or (2) up to a maximum of two years, if the leave was due to the member's personal illness and the period of leave is allowed for retirement purposes within one year following his return to service after the termination of such leave.

e. The method of computation and the terms of the purchase of service permitted by subsections b. and d. of this section shall be identical to those stipulated for the purchase of previous membership service by members of the system, as provided by subsection a. of this section.

f. For any person who becomes a member of the retirement system pursuant to P.L.1997, c.19 (C.53:1-8.2 et al.) and is required to retire pursuant to section 8 of P.L.1965, c.89 (C.53:5A-8) with less than 20 years of creditable service in the retirement system, an amount of service credit transferred or purchased pursuant to subsection b. which when added to the amount of creditable service in the retirement system equals 20 years shall be considered creditable service in the retirement system. Transferred or purchased service credit in excess of the amount necessary to provide 20 years of creditable service in the retirement system shall be included in the computation of a retirement allowance on the basis provided in subsection b.

9. Section 8 of P.L.1965, c.89 (C.53:5A-8) is amended to read as follows:

C.53:5A-8 Retirement for age and service; benefits.

8. a. The Legislature finds and declares that the public health, safety and welfare require the ongoing health and fitness of all members of the New Jersey State Police so that they may safely and efficiently protect the public. The Legislature further finds and declares that such continued health and fitness cannot be determined except with reference to age, and therefore finds and concludes that retirement of all members of the State Police at age 55, except as provided for in subsection c. of this section, shall constitute a bona fide occupational qualification which is reasonably necessary to the normal operation of the State Police, which qualification the Legislature hereby promulgates and establishes.

b. Any member of the retirement system may retire on a service retirement allowance upon the completion of at least 20 years of creditable service as a State policeman, which includes the creditable service of those members appointed to the Division of State Police under section 3 of P.L.1983, c.403 (C.39:2-9.3) and the creditable service of those members appointed to the Division of State Police under section 1 of P.L.1997, c.19 (C.53:1-8.2). Upon the filing of a written and duly executed application with the retirement system, setting forth at what time, not less than one month subsequent to the filing thereof, he desires to be retired, any such member retiring for service shall receive a service retirement allowance which shall consist of:

(1) An annuity which shall be the actuarial equivalent of his aggregate contributions; and

(2) A pension in the amount which, when added to the member's annuity, will provide a total retirement allowance of 50% of his final compensation.

c. Except for the Superintendent of State Police, any member of the retirement system, including a member appointed to the State Police under section 3 of P.L.1983, c.403 (C.39:2-9.3) and a member appointed to the State Police under section 1 of P.L.1997, c.19 (C.53:1-8.2), who has attained the age of 55 years, shall be retired forthwith on the first day of the next calendar month following the effective date of this 1985 amendatory act. Any member of the retirement system so retired shall receive a service retirement allowance pursuant to this section or section 27 of P.L.1965, c.89 (C.53:5A-27), as appropriate.

d. Any member of the retirement system as of the effective date of this act who is required to retire pursuant to subsection c. of this section shall be entitled to continued health benefits coverage during retirement as provided

in the "New Jersey State Health Benefits Program Act," P.L.1961, c.49 (C.52:14-17.25 et seq.). Notwithstanding the provisions of section 8 of P.L.1961, c.49 (C.52:14-17.32), the State shall pay the premium or periodic charge for the benefits provided to a member retiring under subsection c. of this section with fewer than 25 years of service credited in the retirement system, and his dependents covered under the program, but not including survivors.

e. Any member of the retirement system as of the effective date of this act who is required to retire pursuant to subsection c. of this section shall be entitled to the retirement allowance provided for by subsection b. of this section, notwithstanding that the member shall have fewer than 20 years' creditable service.

f. Any member of the retirement system as of the effective date of P.L.1985, c.175 who is required to retire pursuant to subsection c. of this section and who has more than 20 but less than 25 years of creditable service at the time of retirement shall be entitled to the retirement allowance provided for by subsection b. of this section plus 3% of his final compensation multiplied by the number of years of creditable service over 20 but not over 25.

g. Upon the receipt of proper proofs of the death of a member who has retired on a service retirement allowance, there shall be paid to the member's beneficiary an amount equal to one-half of the final compensation received by the member.

10. Section 9 of P.L.1965, c.89 (C.53:5A-9) is amended to read as follows:

C.53:5A-9 Retirement on ordinary disability retirement allowance; payments upon death.

9. a. Upon the written application by a member in service, by one acting in his behalf or by the State, any member, under 55 years of age, who has had four or more years of creditable service as a State policeman, or four or more years of creditable service as a person formerly employed by the Division of Motor Vehicles or the Division of State Police prior to appointment as provided in section 3 of P.L.1983, c.403 (C.39:2-9.3), or four or more years of creditable service as a person formerly employed by the Alcoholic Beverage Control Enforcement Bureau, the State Capitol Police Force, or the Bureau of Marine Law Enforcement prior to appointment as provided in section 1 of P.L.1997, c.19 (C.53:1-8.2), may be retired, not less than one month next following the date of filing such application with the retirement system, on an ordinary disability retirement allowance; provided, that the medical board, after a medical examination of such member, shall certify that such member is mentally or physically

incapacitated for the performance of his usual duty and of any other available duty in the Division of State Police which the Superintendent of State Police is willing to assign to him and that such incapacity is likely to be permanent and of such an extent that he should be retired.

b. Upon retirement for ordinary disability, a member shall receive an ordinary disability retirement allowance which shall consist of:

(1) An annuity which shall be the actuarial equivalent of his aggregate contributions; and

(2) A pension in the amount which, when added to the member's annuity, will provide a total retirement allowance of 1 1/2% of final compensation multiplied by his number of years of creditable service, but in no event shall the total allowance be less than 40% of final compensation.

c. Notwithstanding the provisions of subsection b. of this section, a member of the retirement system who has more than 20 but less than 25 years of creditable service and who is required to retire pursuant to subsection a. of this section upon application by the State made on or after October 1, 1988, shall receive an ordinary disability retirement allowance which shall consist of:

(1) An annuity which shall be the actuarial equivalent of the member's aggregate contributions; and

(2) A pension in the amount which, when added to the member's annuity, will provide a total retirement allowance of 50% of final compensation plus 3% of final compensation multiplied by the number of years of creditable service over 20 but not over 25.

Any increase in the disability retirement allowance of a member who was required to retire on or after October 1, 1988 and prior to the effective date of this amendatory and supplementary act, P.L.1989, c.308, shall be retroactive to the date of retirement.

d. Upon the receipt of proper proofs of the death of a member who has retired on an ordinary disability retirement allowance, there shall be paid to the member's beneficiary an amount equal to three and one-half times the final compensation received by the member in the last year of creditable service; provided, however, that if such death shall occur after the member shall have attained 55 years of age, the amount payable shall equal one-half of such compensation instead of three and one-half times such compensation.

11. Section 27 of P.L.1965, c.89 (C.53:5A-27) is amended to read as follows:

C.53:5A-27 "Special" retirement.

27. a. Should a member resign after having established 25 years of creditable service as a full-time commissioned officer, noncommissioned officer or trooper of the Division of State Police or a member appointed to the State Police under section 3 of P.L.1983, c.403 (C.39:2-9.3) or a member appointed to the State Police under section 1 of P.L.1997, c.19 (C.53:1-8.2), he may elect "special" retirement; provided that such election is communicated by such member to the retirement system by filing a written application, duly attested, stating at what time subsequent to the execution and filing thereof he desires to be retired. He shall receive, in lieu of the payment provided in section 26, a retirement allowance which shall consist of:

(1) An annuity which shall be the actuarial equivalent of his aggregate contributions; and

(2) A pension in the amount which, when added to the member's annuity, will provide a total retirement allowance of 65% of his final compensation, plus 1% of his final compensation multiplied by the number of years of creditable service over 25, but not over 30.

The board of trustees shall retire him at the time specified or at such other time within one month after the date so specified, as the board finds advisable.

b. Upon the receipt of proper proofs of the death of such a retired member, there shall be paid to the member's beneficiary an amount equal to one-half of the final compensation received by the member.

C.53:1-11.16 Marine police stations unaffected by act.

Notwithstanding any other provision of law to the contrary, no marine police station in operation as of the effective date of P.L.1997, c.19 (C.53:1-8.2 et al.) shall be closed permanently as a direct or indirect result or consequence of the implementation of any provision of P.L.1997, c.19 (C.53:1-8.2 et al.).

13. This act shall take effect immediately, except that, pending completion of all actions and determinations necessary to effectuate the transfers required to implement the provisions of this act, inspectors of the Alcoholic Beverage Control Enforcement Bureau, members of the State Capitol Police Force, and officers of the Bureau of Marine Law Enforcement shall continue to serve in the manner and under the statutory provisions in effect on the day preceding the effective date of this act.

Approved February 13, 1997.

CHAPTER 20

AN ACT concerning probate of wills of certain decedents and amending N.J.S.3B:3-28.

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

1. N.J.S.3B:3-28 is amended to read as follows:

Probate of will of nonresident decedent where property situated in New Jersey.

3B:3-28. Probate of will of nonresident decedent where property situated in New Jersey. Where the will of any person not resident in this State at his death has not been admitted to probate in the state, jurisdiction or country in which he then resided and no proceeding is there pending for the probate of the will, and he died owning real estate situate in any county of this State or personal property, or evidence of the ownership thereof, situate therein at the time of probate, the Superior Court or the surrogate's court may admit the will to probate and grant letters thereon.

2. This act shall take effect immediately.

Approved February 24, 1997.

CHAPTER 21

AN ACT concerning the self-administration of medicine by certain pupils and amending P.L.1993, c.308.

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

1. Section 1 of P.L.1993, c.308 (C.18A:40-12.3) is amended to read as follows:

C.18A:40-12.3 Self-administration of medication by pupil permitted.

1. A board of education or the governing board or chief school administrator of a nonpublic school may permit the self-administration of medication by a pupil for asthma or other potentially life-threatening illnesses provided that:

a. the parents or guardians of the pupil provide to the board of education or the governing board or chief school administrator of a

nonpublic school written authorization for the self-administration of medication;

b. the parents or guardians of the pupil provide to the board of education or the governing board or chief school administrator of a nonpublic school written certification from the physician of the pupil that the pupil has asthma or another potentially life-threatening illness and is capable of, and has been instructed in, the proper method of self-administration of medication;

c. the board of education or the governing board or chief school administrator of a nonpublic school informs the parents or guardians of the pupil in writing that the district and its employees or agents or the nonpublic school and its employees or agents shall incur no liability as a result of any injury arising from the self-administration of medication by the pupil;

d. the parents or guardians of the pupil sign a statement acknowledging that the district or the nonpublic school shall incur no liability as a result of any injury arising from the self-administration of medication by the pupil and that the parents or guardians shall indemnify and hold harmless the district and its employees or agents or the nonpublic school and its employees or agents against any claims arising out of the self-administration of medication by the pupil; and

e. the permission is effective for the school year for which it is granted and is renewed for each subsequent school year upon fulfillment of the requirements in subsections a. through d. of this section.

2. This act shall take effect immediately.

Approved February 27, 1997.

CHAPTER 22

AN ACT concerning certain motor vehicles and amending and supplementing P.L.1995, c.373.

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

1. Section 1 of P.L.1995, c.373 (C.56:8-67) is amended to read as follows:

C.56:8-67 Definitions relative to sale and warranty of certain used vehicles.

1. As used in this act:

"As is" means a used motor vehicle sold by a dealer to a consumer without any warranty, either express or implied, and with the consumer being solely responsible for the cost of any repairs to that motor vehicle.

"Consumer" means the purchaser or prospective purchaser, other than for the purpose of resale, of a used motor vehicle normally used for personal, family or household purposes.

"Covered item" means and includes the following components of a used motor vehicle: Engine - all internal lubricated parts, timing chains, gears and cover, timing belt, pulleys and cover, oil pump and gears, water pump, valve covers, oil pan, manifolds, flywheel, harmonic balancer, engine mounts, seals and gaskets, and turbo-charger housing; however, housing, engine block and cylinder heads are covered items only if damaged by the failure of an internal lubricated part. Transmission Automatic/Transfer Case - all internal lubricated parts, torque converter, vacuum modulator, transmission mounts, seals and gaskets. Transmission Manual/Transfer Case - all internal lubricated parts, transmission mounts, seals and gaskets, but excluding a manual clutch, pressure plate, throw-out bearings, clutch master or slave cylinders. Front-Wheel Drive - all internal lubricated parts, axle shafts, constant velocity joints, front hub bearings, seals and gaskets, Rear-Wheel Drive - all internal lubricated parts, propeller shafts, supports and U-joints, axle shafts and bearings, seals and gaskets.

"Dealer" means any person or business which sells or offers for sale a used motor vehicle after selling or offering for sale three or more used motor vehicles in the previous 12-month period.

"Deduction for personal use" means the mileage allowance set by the federal Internal Revenue Service for business usage of a motor vehicle in effect on the date a used motor vehicle is repurchased by a dealer in accordance with section 5 of this act, multiplied by the total number of miles a used motor vehicle is driven by a consumer from the date of purchase of that vehicle until the time of its repurchase.

"Director" means the Director of the Division of Consumer Affairs in the Department of Law and Public Safety.

"Excessive wear and tear" means wear or damage to a used motor vehicle beyond that expected to be incurred in normal circumstances.

"Material defect" means a malfunction of a used motor vehicle, subject to a warranty, which substantially impairs its use, value or safety.

"Repair insurance" means a contract in writing to refund, repair, replace, maintain or take other action with respect to a used motor vehicle for any period of time or any specified mileage and provided at an extra charge beyond the price of the used motor vehicle.

"Service contract" means a contract in writing to refund, repair, replace, maintain or take other action with respect to a used motor vehicle for any

period of time or any specific mileage or provided at an extra charge beyond the price of the used motor vehicle.

"Used motor vehicle" means a passenger motor vehicle, excluding motorcycles, motor homes and off-road vehicles, title to, or possession of which has been transferred from the person who first acquired it from the manufacturer or dealer, and so used as to become what is commonly known as "secondhand," within the ordinary meaning thereof but does not mean a passenger motor vehicle, subject to a motor vehicle lease agreement which was in effect for more than 90 days, which is sold by the lessor to the lessee, or to a family member or employee of the lessee upon the termination of the lease agreement.

"Warranty" means any undertaking, in writing and in connection with the sale by a dealer of a used motor vehicle, to refund, repair, replace, maintain or take other action with respect to the used motor vehicle, and which is provided at no extra charge beyond the price of the used motor vehicle.

C.56:8-67.1 Sale of used passenger motor vehicle, upon termination of lease agreement.

2. A lessor who is a dealer and who sells or offers for sale a used passenger motor vehicle, subject to a motor vehicle lease agreement which was in effect for more than 90 days, to a consumer who is not the lessee, or a family member or employee of the lessee upon the termination of the lease agreement, shall be subject to the provisions of P.L.1995, c.373 (C.56:8-67 et seq.) including the bonding requirement of section 11 of that act (C.56:8-77).

3. This act shall take effect immediately.

Approved February 27, 1997.

CHAPTER 23

AN ACT concerning certain retired members of the Public Employees' Retirement System of New Jersey and amending P.L.1954, c.84 and P.L.1966, c.217.

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

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

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

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

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

b. Any person becoming an employee of the State or other employer after January 2, 1955 and every veteran, other than a retired member who returns to service pursuant to subsection b. of section 27 of P.L.1966, c.217 (C.43:15A-57.2) and other than those whose appointments are seasonal, becoming an employee of the State or other employer after such date, including a temporary employee with at least one year's continuous service; and

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

d. Membership in the retirement system shall be optional for elected officials other than veterans, and for school crossing guards, who having become eligible for benefits under other pension systems are so employed on a part-time basis. Any such part-time school crossing guard who is eligible for benefits under any other pension system and who was hired as a part-time school crossing guard prior to March 4, 1976, may at any time terminate his membership in the retirement system by making an application in writing to the board of trustees of the retirement system. Upon receiving such application, the board of trustees shall terminate his enrollment in the system and direct the employer to cease accepting contributions from the member or deducting from the compensation paid to the member. State employees who become members of any other retirement system supported wholly or partly by the State as a condition of employment shall not be eligible for membership in this retirement system. Notwithstanding any other law to the contrary, all other persons accepting employment in the service of the State shall be required to enroll in the retirement system as a condition of their employment, regardless of age. No person in employment, office or position, for which the annual salary or remuneration is fixed at less than $1,500.00, shall be eligible to become a member of the retirement system.

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

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

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

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

i. Membership in the retirement system shall be optional for a special service employee who is employed under the federal Older American Community Service Employment Act, Pub.L.94-135 (42 U.S.C.s.3056). Any special service employee employed under the federal Older American Community Service Employment Act, Pub.L.94-135 (42 U.S.C.s.3056), who is in the retirement system on the effective date of this act, P.L.1996, c.139, may terminate membership in the retirement system by making an application in writing to the board of trustees of the retirement system. Upon receiving the application, the board shall terminate enrollment in the system and the member shall receive a refund of accumulated deductions as of the date of commencement of employment in a federal Older American Community Service Employment Act program. This refund of contribu-

tions shall serve as a waiver of all benefits payable to the employee, to any dependent or dependents, or to any beneficiary under the retirement system.

2. Section 27 of P.L.1966, 217 (C.43:15A-57.2) is amended to read as follows:

C.43:15A-57.2 Reemployment of retired former member.

27. a. Except as provided in subsection b. of this section, if a former member of the State Employees' Retirement System or the retirement system, who has been granted a retirement allowance for any cause other than disability, becomes employed again in a position which makes him eligible to be a member of the retirement system, his retirement allowance and the right to any death benefit as a result of his former membership, shall be canceled until he again retires.

Such person shall be re-enrolled in the retirement system and shall contribute thereto at a rate based on his age at the time of re-enrollment. Such person shall be treated as an active member for determining disability or death benefits while in service and no benefits pursuant to an optional selection with respect to his former membership shall be paid if his death shall occur during the period of such re-enrollment.

Upon subsequent retirement of such member, his former retirement allowance shall be reinstated together with any optional selection, based on his former membership. In addition, he shall receive an additional retirement allowance based on his subsequent service as a member computed in accordance with applicable provisions of chapter 84 of the laws of 1954; provided, however, that his total retirement allowance upon such subsequent retirement shall not be a greater proportion of his final compensation than the proportion to which he would have been entitled had he remained in service during the period of his prior retirement. Any death benefit to which such member shall be eligible shall be based on his latest retirement, but shall not be less than the death benefit that was applicable to his former retirement.

b. The cancellation, re-enrollment, and additional retirement allowance provisions of subsection a. of this section shall not apply to a former member of the retirement system who, after having been granted a retirement allowance, becomes employed again by an employer in a position for which the compensation does not exceed $10,000 per year. The Director of the Division of Pensions and Benefits may from time to time adjust this amount. This adjustment shall be 3/5 of the percentage of change in the index, as defined in section 1 of P.L.1958, c.143 (C.43:3B-1), over a period of time as determined by the director.

3. This act shall take effect immediately.

Approved February 27, 1997.

CHAPTER 24

AN ACT concerning recreation and conservation, farmland preservation, and historic preservation, amending R.S.40:12-14 and P.L.1992, c.157, supplementing Title 40 of the Revised Statutes, and repealing parts of the statutory law.

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

C.40:12-15.1 Definitions relative to recreation, conservation, farmland and historic preservation.

1. As used in this act:

"Acquisition" means the securing of a fee simple or a lesser interest in land, including but not limited to an easement restricting development, by gift, purchase, installment purchase agreement, devise, or condemnation;

"Charitable conservancy" means a corporation or trust exempt from federal income taxation under paragraph (3) of subsection (c) of section 501 of the federal Internal Revenue Code of 1986 (26 U.S.C. s.501(c)(3)), whose purposes include (1) acquisition and preservation of lands in a natural, scenic, or open condition, or (2) historic preservation of historic properties, structures, facilities, sites, areas, or objects, or the acquisition of such properties, structures, facilities, sites, areas, or objects for historic preservation purposes;

"County trust fund" means a "County Open Space, Recreation, and Farmland and Historic Preservation Trust Fund" created pursuant to subsection c. of section 2 of this act;

"Development" means any improvement to land acquired for recreation and conservation purposes designed to expand and enhance its utilization for those purposes;

"Farmland" means land actively devoted to agricultural or horticultural use that is valued, assessed, and taxed pursuant to the "Farmland Assessment Act of 1964," P.L.1964, c.48 (C.54:4-23.1 et seq.);

"Farmland preservation purposes" means the long-term preservation of farmland for agricultural or horticultural use;

"Historic preservation" means the performance of any work relating to the stabilization, repair, rehabilitation, renovation, restoration, improvement, protection, or preservation of an historic property, structure, facility, site, area, or object;

"Historic property, structure, facility, site, area, or object" means any property, structure, facility, site, area, or object approved for inclusion, or which meets the criteria for inclusion, in the New Jersey Register of Historic Places pursuant to P.L.1970, c.268 (C.13:1B-15.128 et seq.);

"Land" or "lands" means real property, including improvements thereof or thereon, rights-of-way, water, lakes, riparian and other rights, easements, privileges and all other rights or interests of any kind or description in, relating to or connected with real property;

"Municipal trust fund" means a "Municipal Open Space, Recreation, and Farmland and Historic Preservation Trust Fund" created pursuant to subsection c. of section 7 of this act;

"Public indoor recreation" means public recreation in enclosed structures or facilities, and includes but is not limited to swimming pools, basketball courts, and ice skating rinks open for public use; and

"Recreation and conservation purposes" means the use of lands for parks, open space, natural areas, ecological and biological study, forests, water reserves, wildlife preserves, fishing, hunting, camping, boating, winter sports, or similar uses for either public outdoor recreation or conservation of natural resources, or both, or the use of lands for public indoor recreation.

C.40:12-15.2 Submission by county of proposition authorizing annual levy.

2. a. (1) The governing body of any county may submit to the voters of the county in a general or special election a proposition authorizing imposition of an annual levy for an amount or at a rate deemed appropriate for any or all of the following purposes, or any combination thereof, as determined by the governing body:

(a) acquisition of lands for recreation and conservation purposes;

(b) development of lands acquired for recreation and conservation purposes;

(c) maintenance of lands acquired for recreation and conservation purposes;

(d) acquisition of farmland for farmland preservation purposes;

(e) historic preservation of historic properties, structures, facilities, sites, areas, or objects, and the acquisition of such properties, structures, facilities, sites, areas, or objects for historic preservation purposes; or

(f) payment of debt service on indebtedness issued or incurred by a county for any of the purposes set forth in subparagraph (a), (b), (d) or (e) of this paragraph.

(2) The amount or rate of the annual levy may be subdivided in the proposition to reflect the relative portions thereof to be allocated to any of the respective purposes specified in paragraph (1) of this subsection or may

be depicted as a total amount or rate, to be subdivided in a manner determined previously, or to be determined at a later date, by the governing body of the county after conducting at least one public hearing thereon.

b. Upon approval of the proposition by a majority of the votes cast by the voters of the county, the governing body of the county may annually raise by taxation a sum not to exceed the amount or rate set forth in the proposition approved by the voters for the purposes specified therein. If the amount or rate set forth in the proposition was not subdivided among the various purposes, the governing body of the county may determine the appropriate amount or rate to be allocated to each purpose after conducting at least one public hearing thereon.

c. Amounts raised by the levy imposed pursuant to this section shall be deposited into a "County Open Space, Recreation, and Farmland and Historic Preservation Trust Fund" to be created by the county, and shall be used exclusively for the purposes authorized by the voters of the county. Any interest or other income earned on monies deposited into the county trust fund shall be credited to the fund to be used for the same purposes as the principal. Separate accounts may be created within the county trust fund for the deposit of revenue to be expended for each of the purposes specified in the proposition approved by the voters of the county.

d. (1) (a) Selection of lands for acquisition for recreation and conservation purposes shall be in accordance with an open space and recreation plan prepared and adopted by the county.

(b) Selection of projects to develop or maintain lands acquired for recreation and conservation purposes shall be in accordance with a open space and recreation development and maintenance plan prepared and adopted by the county.

(c) Selection of farmland for acquisition for farmland preservation purposes shall be in accordance with a farmland preservation plan prepared and adopted by the county or pursuant to the provisions of the "Agriculture Retention and Development Act," P.L.1983, c.32 (C.4:1C-11 et al.) or any other law enacted for the purpose of preserving farmland, or any rules or regulations adopted pursuant thereto.

(d) Selection of historic preservation projects shall be in accordance with a historic preservation plan prepared and adopted by the county.

(2) Monies in the county trust fund may be used to pay the cost of preparing and adopting the plans required by this subsection.

e. The governing body of a county may submit to the voters of the county in a general or special election a proposition amending or supplementing a proposition previously submitted, approved, and implemented as provided pursuant to this section either (1) changing the amount or rate of the annual levy, or (2) adding or removing purposes authorized pursuant to this

section for which the levy may be expended. Upon approval of the amendatory or supplementary proposition by a majority of the votes cast by the voters of the county, the governing body of the county shall implement it in the same manner as set forth in this act for implementation of the original proposition.

f. Upon petition to the governing body of a county signed by the voters of the county equal in number to at least 15% of the votes cast therein at the last preceding general election, filed with the governing body at least 90 days before a general or special election, the governing body of the county shall submit to the voters of the county in the general or special election the proposition otherwise authorized pursuant to subsection a. or subsection e. of this section, as the case may be.

C.40:12-15.3 Propositions deemed approved by voters of county.

3. a. Any county whose voters, prior to the effective date of this act, approved pursuant to P.L.1989, c.30 (C.40:12-16 et seq.) a proposition authorizing the acquisition of lands for conservation as open space or as farmland shall be deemed to have approved a proposition for the purposes specified in paragraph (1) of subsection a. of section 2 of this act, but excluding the purpose specified in subparagraph (c) of that paragraph if the proposition was approved prior to the 24 months immediately preceding the effective date of P.L.1997, c.24 (C.40:12-15.1 et al.), at the amount or rate specified in the original proposition, which purposes shall be determined by adoption of a resolution or ordinance, as appropriate, by the governing body of the county after conducting at least one public hearing thereon and subject to the requirements of subsections b., c. and d. of this section. The county open space and farmland preservation trust fund created for the purposes of P.L.1989, c.30 (C.40:12-16 et seq.) shall be dissolved and any monies remaining therein shall be deposited into the "County Open Space, Recreation, and Farmland and Historic Preservation Trust Fund" created pursuant to subsection c. of section 2 of this act to be utilized for the purposes determined by the governing body of the county as authorized pursuant to this subsection.

b. A county shall not expend more than $100,000 for any proposed project or use to be undertaken pursuant to a resolution or ordinance adopted pursuant to subsection a. of this section authorizing a purpose specified in subparagraph (b), (c), or (f) of paragraph (1) of subsection a. of section 2 of this act, unless the governing body of the county first conducts a public hearing on the proposed project or use and adopts a resolution or ordinance, as appropriate, authorizing the expenditure. Any public hearing required pursuant to this subsection shall be held at least 45 days before the governing body of the county takes action to adopt the resolution or ordinance authorizing the expenditure.

c. In addition to any other applicable requirements of law, rule or regulation, the governing body of the county shall provide notice of the public hearing required pursuant to subsection b. of this section at least 30 days before the date of the hearing as follows:

(1) By mailing or otherwise providing a copy of the notice to: (a) the county clerk and to the municipal clerk of every municipality in which the land or lands affected by the proposed project or use are located; and (b) any person who requests in writing of the governing body to receive in advance such notices; and

(2) By publishing the notice in a daily or weekly newspaper of general circulation in the county and each municipality in which the land or lands to be affected by the proposed project or use are located.

d. The governing body of the county shall include the following information in all notices required pursuant to subsection c. of this section: (1) a general description of the proposed project or use and the location of the land or lands to be affected; (2) the aggregate amount of monies to be utilized for the proposed project or use; (3) a schedule setting forth the anticipated commencement and completion date for the proposed project or use; (4) the date, time, and place of the public hearing; (5) a statement that the public may submit written comments to the governing body of the county on or before the date of the public hearing; and (6) the name and address of the person designated by the governing body of the county to receive the written comments and to contact for additional information.

e. Any county whose voters, prior to the effective date of this act, approved pursuant to R.S.40:12-10 et seq. a proposition authorizing the establishment, maintenance, and improvement of a system of public recreation shall be deemed to have approved a proposition for any or all of the purposes specified in paragraph (1) of subsection a. of section 2 of this act at the amount or rate specified in the original proposition, which purposes shall be determined by adoption of a resolution or ordinance, as appropriate, by the governing body of the county after conducting at least one public hearing thereon. Any fund created for the purposes of R.S.40:12-10 et seq. shall be dissolved and any monies remaining therein shall be deposited into the "County Open Space, Recreation, and Farmland and Historic Preservation Trust Fund" created pursuant to subsection c. of section 2 of this act to be utilized for the purposes determined by the governing body of the county as authorized pursuant to this subsection.

C.40:12-15.4 Lands acquired by county held in trust.

4. Lands acquired by a county using revenue raised pursuant to this act shall be held in trust and shall be used exclusively for the purposes authorized under this act.

After conducting at least one public hearing thereon and upon a finding that the purposes of this act might otherwise be better served or that any land acquired by a county pursuant thereto is required for another public use, which finding shall be set forth in a resolution or ordinance, as appropriate, adopted by the governing body of the county, the governing body may convey, through sale, exchange, transfer, or other disposition, title to, or a lesser interest in, that land, provided that the governing body shall replace any land conveyed under this section by land of at least equal fair market value and of reasonably equivalent usefulness, size, quality, and location to the land conveyed, and any monies derived from the conveyance shall be deposited into the "County Open Space, Recreation, and Farmland and Historic Preservation Trust Fund" created pursuant to subsection c. of section 2 of this act for use for the purposes authorized by this act for monies in the county trust fund. Any such conveyance shall be made in accordance with the "Local Lands and Buildings Law," P.L.1971, c.199 (C.40A:12-1 et seq.). In the event of conveyance by exchange, the land or improvements thereon to be transferred to the trust shall be at least equal in fair market value and of reasonably equivalent usefulness, size, quality, and location to the land or improvements transferred from the trust.

C.40:12-15.5 Apportionment by county of amounts raised by taxation.

5. Amounts raised by taxation for the purposes of this act shall be apportioned by the county board of taxation among the municipalities within the county in accordance with R.S.54:4-49. The amounts so apportioned shall be assessed, levied and collected in the same manner and at the same time as other county taxes. The tax collected pursuant to this act shall be referred to as the "County Open Space, Recreation, and Farmland and Historic Preservation Tax."

C.40:12-15.6 Adoption by county of resolution authorizing distribution of monies.

6. a. The governing body of any county in which the voters of the county have approved a proposition in accordance with this act may adopt a resolution authorizing the distribution of monies deposited into the "County Open Space, Recreation, and Farmland and Historic Preservation Trust Fund" created pursuant to subsection c. of section 2 of this act, in such portions as deemed appropriate, to municipalities within the county or to charitable conservancies, to be used in the county by those municipalities or charitable conservancies for the purposes of this act in accordance with the provisions, conditions, and requirements thereof, provided that any municipality or charitable conservancy receiving such monies has presented a plan to the county documenting the proposed use of the monies.

b. Lands acquired by a municipality pursuant to this section shall be held in trust and shall be used exclusively for the purposes authorized by this act.

c. The governing body of a municipality acquiring lands using monies received pursuant to this section shall have full control of the lands and may adopt an ordinance providing for (1) suitable rules, regulations, and bylaws for use of the lands, (2) the enforcement of those rules, regulations and bylaws, and (3) when appropriate, the charging and collection of reasonable fees for use of the lands or for activities conducted thereon.

d. In order to qualify to receive monies from a county trust fund pursuant to this section, the board of directors, board of trustees, or other governing body, as appropriate, of an applying charitable conservancy shall:

(1) demonstrate to the governing body of the county that it qualifies as a charitable conservancy;

(2) agree to use the monies only in connection with lands located in the county and for the purposes authorized by this act;

(3) agree to make and keep the lands accessible to the public, unless the governing body of the county determines that public accessibility would be detrimental to the lands or to any natural or historic resources associated therewith;

(4) agree not to sell, lease, exchange, transfer, or donate the lands for which the monies received were allocated for use pursuant to this section, except upon approval of the governing body of the county under such conditions as the governing body may establish; and

(5) agree to execute and donate to the county at no charge (a) a conservation restriction or historic preservation restriction, as the case may be, pursuant to P.L.1979, c.378 (C.13:8B-1 et seq.), or (b) a development easement, as defined pursuant to section 3 of P.L.1983, c.32 (C.4:1C-13), as appropriate, on the lands for which the monies received were allocated for use pursuant to this section.

C.40:12-15.7 Submission by municipality of proposition authorizing annual levy.

7. a. (1) The governing body of any municipality may submit to the voters of the municipality in a general or special election a proposition authorizing imposition of an annual levy for an amount or at a rate deemed appropriate for any or all of the following purposes, or any combination thereof, as determined by the governing body:

(a) acquisition of lands for recreation and conservation purposes;

(b) development of lands acquired for recreation and conservation purposes;

(c) maintenance of lands acquired for recreation and conservation purposes;

(d) acquisition of farmland for farmland preservation purposes;

(e) historic preservation of historic properties, structures, facilities, sites, areas, or objects, and the acquisition of such properties, structures, facilities, sites, areas, or objects for historic preservation purposes; or

(f) payment of debt service on indebtedness issued or incurred by a municipality for any of the purposes set forth in subparagraph (a), (b), (d) or (e) of this paragraph.

(2) The amount or rate of the annual levy may be subdivided in the proposition to reflect the relative portions thereof to be allocated to any of the respective purposes specified in paragraph (1) of this subsection or may be depicted as a total amount or rate, to be subdivided in a manner determined previously, or to be determined at a later date, by the governing body of the municipality after conducting at least one public hearing thereon.

b. Upon approval of the proposition by a majority of the votes cast by the voters of the municipality, the governing body of the municipality may annually raise by taxation a sum not to exceed the amount or rate set forth in the proposition approved by the voters for the purposes specified therein. If the amount or rate set forth in the proposition was not subdivided among the various purposes, the governing body of the municipality may determine the appropriate amount or rate to be allocated to each purpose after conducting at least one public hearing thereon.

c. Amounts raised by the levy imposed pursuant to this section shall be deposited into a "Municipal Open Space, Recreation, and Farmland and Historic Preservation Trust Fund" to be created by the municipality, and shall be used exclusively for the purposes authorized by the voters of the municipality. Any interest or other income earned on monies deposited into the municipal trust fund shall be credited to the fund to be used for the same purposes as the principal. Separate accounts may be created within the municipal trust fund for the deposit of revenue to be expended for each of the purposes specified in the proposition approved by the voters of the municipality.

d. The governing body of a municipality may submit to the voters of the municipality in a general or special election a proposition amending or supplementing a proposition previously submitted, approved, and implemented as provided pursuant to this section either (1) changing the amount or rate of the annual levy, or (2) adding or removing purposes authorized pursuant to this section for which the levy may be expended. Upon approval of the amendatory or supplementary proposition by a majority of the votes cast by the voters of the municipality, the governing body of the municipality shall implement it in the same manner as set forth in this act for implementation of the original proposition.

e. Upon petition to the governing body of a municipality signed by the voters of the municipality equal in number to at least 15% of the votes cast

therein at the last preceding general election, filed with the governing body at least 90 days before a general or special election, the governing body of the municipality shall submit to the voters of the municipality in the general or special election the proposition otherwise authorized pursuant to subsection a. or subsection d. of this section, as the case may be.

C.40:12-15.8 Propositions deemed approved by voters of municipality.

8. Any municipality whose voters, prior to the effective date of this act, approved pursuant to R.S.40:12-10 et seq. a proposition authorizing the establishment, maintenance, and improvement of a system of public recreation shall be deemed to have approved a proposition for any or all of the purposes specified in paragraph (1) of subsection a. of section 7 of this act at the amount or rate specified in the original proposition, which purposes shall be determined by adoption of an ordinance by the governing body of the municipality after conducting at least one public hearing thereon. Any fund created for the purposes of R.S.40:12-10 et seq. shall be dissolved and any monies remaining therein shall be deposited into the "Municipal Open Space, Recreation, and Farmland and Historic Preservation Trust Fund" created pursuant to subsection c. of section 7 of this act to be utilized for the purposes determined by the governing body of the municipality as authorized pursuant to this section.

C.40:12-15.9 Lands acquired by municipality held in trust.

9. Lands acquired by a municipality using revenue raised pursuant to this act shall be held in trust and shall be used exclusively for the purposes authorized under this act.

After conducting at least one public hearing thereon and upon a finding that the purposes of this act might otherwise be better served or that any land acquired by a municipality pursuant thereto is required for another public use, which finding shall be set forth in an ordinance adopted by the governing body of the municipality, the governing body may convey, through sale, exchange, transfer, or other disposition, title to, or a lesser interest in, that land, provided that the governing body shall replace any land conveyed under this section by land of at least equal fair market value and of reasonably equivalent usefulness, size, quality, and location to the land conveyed, and any monies derived from the conveyance shall be deposited into the "Municipal Open Space, Recreation, and Farmland and Historic Preservation Trust Fund" created pursuant to subsection c. of section 7 of this act for use for the purposes authorized by this act for monies in the municipal trust fund. Any such conveyance shall be made in accordance with the "Local Lands and Buildings Law," P.L.1971, c.199 (C.40A:12-1 et seq.). In the event of conveyance by exchange, the land or improvements thereon to be transferred to the trust shall be at least equal in fair market

value and of reasonably equivalent usefulness, size, quality, and location to the land or improvements transferred from the trust.

10. R.S.40:12-14 is amended to read as follows:

Joint municipal action.

40:12-14. Any two or more municipalities may jointly establish, maintain, and improve, or maintain and improve if already established, a public recreation system including parks, open space, and playgrounds.

11. Section 7 of P.L.1992, c.157 (C.40:12-16.1) is amended to read as follows:

C.40:12-16.1 Adoption of prioritized list of eligible farmland.

7. The county agriculture development board of a county in which the voters of the county have approved, in a general or special election, a proposition authorizing the acquisition of lands for farmland preservation purposes pursuant to P.L.1989, c.30 (C.40:12-16 et seq.) or P.L.1997, c.24 (C.40:12-15.1 et al.) shall, pursuant to the provisions of section 24 of P.L.1983, c.32 (C.4:1C-31), adopt a prioritized list of farmland eligible for acquisition of development easements thereon by installment purchase agreements pursuant to the provisions of P.L.1992, c.157 (C.40:12-16.1 et al.) if the county intends to acquire development easements on farmland in that manner. The governing body of the county shall annually appropriate from the "County Open Space, Recreation, and Farmland and Historic Preservation Trust Fund" created pursuant to subsection c. of section 2 of P.L.1997, c.24 (C.40:12-15.2) such amounts as it may deem necessary to finance the acquisition of development easements on farmland within that county by installment purchase agreement.

Repealer.

12. R.S.40:12-10 through R.S.40:12-13, P.L.1989, c.30 (C.40:12-16 et seq.), and section 1 of P.L.1994, c.125 (C.40:12-19.1) are repealed; however, any proposition proposed thereunder and scheduled prior to the effective date of this act for placement on the ballot may nevertheless be placed on the ballot for consideration by the voters of the county or municipality, as the case may be, but shall be implemented as provided pursuant to this act.

13. This act shall take effect immediately and shall retroactively apply to any proposition identical or similar to that described in this act that is approved by the voters of any county or municipality, as the case may be, prior to the effective date of this act.

Approved February 28, 1997.

CHAPTER 25

AN ACT permitting pension loans in the Judicial Retirement System and supplementing P.L.1973, c.140 (C.43:6A-1 et seq.).

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

C.43:6A-34.3 Borrowing by members from retirement system.

1. Notwithstanding any provision to the contrary, any member who has at least three years of service to the member's credit for which the member has contributed as a member may borrow from the retirement system, an amount equal to not more than 50% of the amount of the member's accumulated deductions, but not less than $50.00; provided, that the amount so borrowed, together with interest thereon, can be repaid by additional deductions from compensation, not in excess of 25% of the member's compensation, made at the same time compensation is paid to the member. The amount so borrowed, together with interest at the rate of 4% per annum on any unpaid balance thereof, shall be repaid to the retirement system in equal installments by deduction from the compensation of the member at the time the compensation is paid or in such lump sum amount to repay the balance of the loan but such installments shall be at least equal to the member's rate of contribution to the retirement system and at least sufficient to repay the amount borrowed with interest thereon. Not more than two loans may be granted to any member in any calendar year. Notwithstanding any other law affecting the salary or compensation of any person or persons to whom this act applies or shall apply, the additional deductions required to repay the loan shall be made.

Loans shall be made to a member from the member's accumulated deductions. The interest earned on such loans shall be treated in the same manner as interest earned from investments of the retirement system.

C.43:6A-34.4 Repayment of loans.

2. In the case of any member who retires, other than on a disability pension or where it is shown to the satisfaction of the Supreme Court and the Governor that the retirement is necessitated by medical illness or disability of the member, without repaying the full amount so borrowed, the Division of Pensions and Benefits shall retain the retirement benefit payments, excluding authorized deductions of such member, as repayment of the loan until the aggregate amount of such retirement benefit payments is equal to the outstanding balance of the loan, together with the interest at the rate of 4% per annum on the amount so borrowed, at which time the retired member shall receive the member's retirement benefit payments. In

the case of a member who retires on a disability pension or because of medical illness or disability without paying the full amount borrowed, the division shall deduct from the retirement benefit payments the same monthly amount which was deducted from the compensation of the member immediately preceding retirement until the balance of the amount borrowed together with the interest at the rate of 4% per annum is repaid. In the case of a pensioner who dies before the outstanding balance of the loan and interest thereon has been recovered, the remaining balance shall be repaid from the proceeds of any other benefits payable on the account of the pensioner either in the form of monthly payments due to the pensioner's beneficiaries or in the form of lump sum payments payable for pension or group life insurance.

3. This act shall take effect immediately.

Approved March 7, 1997.

CHAPTER 26

AN ACT concerning the standards for prudent investing by fiduciaries of certain trust estates and of certain funds by the Director of the Division of Investment and revising parts of the statutory law.

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

C.3B:2-11.1 Short title.

1. Sections 1 through 12 of this 1997 amendatory and supplementary act shall be known and may be cited as the "Prudent Investor Act."

C.3B:20-11.2 Compliance by fiduciary with prudent investor rule.

2. a. Except as provided in subsection b. of this section, a fiduciary who invests and manages trust assets owes a duty to the beneficiaries of the trust to comply with the prudent investor rule, as set forth in this act.

b. The prudent investor rule is a default rule that may be expanded, restricted, eliminated, or otherwise altered by express provisions of the trust instrument. A fiduciary is not liable to a beneficiary to the extent that the fiduciary acted in reasonable reliance on those express provisions. Nothing herein shall affect the jurisdiction of the Superior Court to order or authorize a fiduciary to deviate from the express terms or provisions of a trust instrument for the causes, in the manner, and to the extent otherwise provided by law.

C.3B:20-11.3 Investments, management of trust assets by fiduciary.

3. a. A fiduciary shall invest and manage trust assets as a prudent investor would, by considering the purposes, terms, distribution requirements, and other circumstances of the trust. In satisfying this standard, the fiduciary shall exercise reasonable care, skill, and caution.

b. A fiduciary's investment and management decisions respecting individual assets shall not be evaluated in isolation, but in the context of the trust portfolio as a whole and as a part of an overall investment strategy having risk and return objectives reasonably suited to the trust.

c. Subject to the standards established in this act, a fiduciary may invest in any kind of property or type of investment. No specific investment or course of action is inherently imprudent.

d. Among the circumstances that the fiduciary shall consider in investing and managing trust assets are those of the following as are relevant to the trust and its beneficiaries:

(1) general economic conditions;

(2) the possible effect of inflation or deflation;

(3) the expected tax consequences of investment decisions or strategies;

(4) the role that each investment or course of action plays within the overall trust portfolio;

(5) the expected total return from income and the appreciation of capital;

(6) other resources of the beneficiaries;

(7) the need for liquidity, for regularity of income, and for preservation or appreciation of capital; and

(8) an asset's special relationship or special value, if any, to the purposes of the trust or to one or more of the beneficiaries as, for example, an interest in a closely-held enterprise, tangible and intangible personalty, or real estate.

e. The fiduciary shall take reasonable steps to verify facts relevant to the investment and management of trust assets and may rely and be fully protected in relying upon statistical, financial, corporate or other information as to a particular investment, and upon ratings or other opinion as to the financial or other status thereof, contained in or offered by any financial, statistical, investment, rating or other publication or service published for the use of and accepted as reliable by investors in like investments or upon a copy of the prospectus prepared and filed with the Securities and Exchange Commission in connection with a new issue.

f. A fiduciary who has special skills or expertise, or is named fiduciary in reliance upon representations of special skills or expertise, has a duty to use those special skills or expertise.

C.3B:20-11.4 Diversification of investments.

4. A fiduciary shall diversify the investments of the trust unless the fiduciary reasonably determines that, because of special circumstances, the purposes of the trust are better served without diversifying.

C.3B:20-11.5 Assets to be managed in interest of beneficiaries.

5. A fiduciary shall invest and manage the trust assets solely in the interest of the beneficiaries.

C.3B:20-11.6 Impartiality of fiduciary.

6. If a trust has two or more beneficiaries, the fiduciary shall act impartially in investing and managing the trust assets, taking into account any differing interests of the beneficiaries.

C.3B:20-11.7 Review of trust assets.

7. Within six months after accepting trust assets, the fiduciary shall review the trust assets and shall make and implement decisions concerning the retention and disposition of assets received at the inception of the trust, in order to bring the trust portfolio into compliance with the provisions of the trust instrument or with the requirements of this act.

C.3B:20-11.8 Incurrence of costs by fiduciary.

8. In investing and managing trust assets, a fiduciary may only incur costs that are appropriate and reasonable in relation to the assets, the purposes of the trust, and the skills of the fiduciary. A fiduciary who delegates investment and management functions pursuant to section 10 of P.L.1997, c.26 (C.3B:20-11.10) shall control the overall costs of the delegation, including making a reduction in the amount of corpus commissions otherwise allowable to the fiduciary with respect to the trust assets for which investment responsibility has been delegated, which reduction shall take account of the duties and responsibilities retained by the fiduciary with respect to such assets.

C.3B:20-11.9 Rule expresses standard of conduct.

9. The prudent investor rule expresses a standard of conduct, not outcome. Compliance with the rule is determined in light of the facts and circumstances existing at the time of the fiduciary's decision or action.

C.3B:20-11.10 Delegation of investment, management functions by fiduciary.

10. a. A fiduciary may delegate investment and management functions that a prudent fiduciary of comparable skills could properly delegate under the circumstances. The fiduciary shall exercise reasonable care, skill, and caution in:

(1) selecting an agent with special investment skills and expertise and of sound financial standing;

(2) establishing the scope and terms of the delegation consistent with the purpose and terms of the trust instrument; and

(3) periodically reviewing the agent's actions in order to monitor the agent's performance and compliance with the scope and terms of the delegation.

b. In performing a delegated function, the agent shall owe to the trustee and the beneficiaries the same duties as the fiduciary and shall be held to the same standards as the fiduciary.

c. The fiduciary who complies with the requirements of subsection a. of this section shall not be liable to the beneficiaries or to the trust for the decisions or actions of the agent to whom the function was delegated.

d. By accepting the delegation of a trust function from the fiduciary of a trust that is subject to the law of New Jersey, the agent submits to the jurisdiction of the courts of New Jersey, even if the delegation agreement provides otherwise.

e. If there are two or more fiduciaries serving, only one of whom has special investment and management skills or expertise or has been named in reliance upon representations of such special skills or expertise, then the fiduciary or fiduciaries not possessed of such special skills or expertise may, pursuant to this section, delegate investment and management functions to the other fiduciary as if such other fiduciary were an agent selected in accordance with this section and subject to the provisions of this section.

f. A fiduciary shall provide reasonable advance written notice on each occasion upon which the fiduciary intends to delegate investment and management functions pursuant to this section, including the identity of the agent, to the beneficiary or beneficiaries eligible to receive income from the trust on the date of the intended delegation. Upon providing such notice, the fiduciary shall be authorized to delegate investment and management functions pursuant to this section.

C.3B:20-11.11 Construction of terms.

11. The following terms or comparable language in a trust instrument, unless otherwise limited or modified by that instrument, shall be construed as authorizing any investment or strategy permitted under this act: "investments permissible by law for investment of trust funds," "legal investment," "authorized investments," "using the judgment and care under the circumstances then prevailing that persons of prudence, discretion, and intelligence exercise in the management of their own affairs, not in regard to speculation but in regard to the permanent disposition of their funds, considering the probable income as well as the probable safety of their capital," "prudent

man rule," "prudent trustee rule," "prudent person rule," and "prudent investor rule."

C.3B:20-11.12 Applicability of act.

12. This act shall apply to and govern trusts existing on and created after its effective date. As applied to trusts existing on its effective date, this act governs only actions or omissions occurring after that date.

13. N.J.S.3B:20-1 is amended to read as follows:

Definitions.

3B:20-1. Definitions. As used in this chapter:

a. "Trust instrument" means and includes a will, deed, agreement, court order or other instrument pursuant to which money or other property is entrusted to a fiduciary;

b. "Fiduciary" means an individual or corporation that is authorized to act as or acts as a trustee, personal representative, conservator, guardian, and every other individual or corporation charged with the duty of administering a trust estate;

c. "Trust estate" or "trust assets" means money or other property entrusted to a fiduciary;

d. (Deleted by amendment, P.L.1997, c.26.)

e. "Beneficiary" means an individual or corporation for whose benefit a fiduciary acts or is authorized to act.

14. N.J.S.3B:20-7 is amended to read as follows:

Directions of court concerning the sale, conversion or retention of investments.

3B:20-7. Directions of court concerning the sale, conversion or retention of investments. When securities or other property come into possession of a fiduciary as part of the assets of the trust estate the fiduciary is to administer or manage, the fiduciary may apply to the court for direction as to the sale, conversion or retention of the securities or property.

The court shall make an order as it shall deem most advantageous to the trust estate and the interests of persons entitled to share therein.

15. N.J.S.3B:20-8 is amended to read as follows:

Protection afforded fiduciary continuing investments under court order.

3B:20-8. Protection afforded fiduciary continuing investments under court order. A fiduciary shall not be held accountable for any loss by reason of continuing to hold the trust assets in accordance with an order pursuant to N.J.S.3B:20-7.

16. N.J.S.3B:20-9 is amended to read as follows:

Application to court upon change in conditions.

3B:20-9. Application to court upon change in conditions. If, as a result of a change in conditions which occurs or which may be reasonably foreseen, the objects of the trust estate may be defeated in whole or in part by the investment or retention of investments of the trust estate in property to which the fiduciary is limited by the trust instrument, the fiduciary or any beneficiary of the trust may apply to the court to secure authority permitting or directing the fiduciary to invest all or any part of the trust estate in accordance with the provisions of N.J.S.3B:20-1 et seq.

17. N.J.S.3B:20-10 is amended to read as follows:

Investments by court order upon change in conditions.

3B:20-10. Investments by court order upon change in conditions. If the court finds that by reason of a change in conditions which has occurred since the creation of the trust or which may be reasonably foreseen, the objects of the trust estate may be defeated in whole or in part by the investment or retention of the trust estate in property to which the fiduciary is limited by the trust instrument and that the objects of the trust estate and those interested in it would be promoted by the investment of all or part of the trust estate otherwise, the court shall authorize or direct the fiduciary to invest the whole of the trust estate or that part of it as shall be designated, in accordance with the provisions of N.J.S.3B:20-1 et seq.

18. N.J.S.3B:20-18 is amended to read as follows:

Authority to exchange or convert securities.

3B:20-18. Authority to exchange or convert securities. Except as otherwise provided in the trust instrument, a fiduciary who holds securities in a trust estate issued by a corporation which has been recapitalized or reorganized, or which has been a party to a merger or consolidation, may exchange or convert the securities so held for or into other securities issued by the corporation as an incident of its recapitalization, reorganization, merger or consolidation, or issued by the corporation's successor corporation as an incident of the merger or consolidation.

19. N.J.S.3B:20-19 is amended to read as follows:

Fiduciary as issuing corporation.

3B:20-19. Fiduciary as issuing corporation. An exchange or conversion of securities may be made pursuant to this article notwithstanding that

the fiduciary which holds the securities in a trust estate is the same corporation which issued the securities.

20. N.J.S.3B:20-23 is amended to read as follows:

Banking institution acting as fiduciary.

3B:20-23. Banking institution acting as fiduciary. An exchange or conversion of shares may be made pursuant to this article notwithstanding that the fiduciary which holds the shares in the trust estate is the banking institution which issued them.

21. N.J.S.3B:20-25 is amended to read as follows:

Application of article.

3B:20-25. Application of article. This article shall not apply where a trust instrument contains provisions inconsistent with or contrary to the provisions of this article.

22. N.J.S.3B:20-27 is amended to read as follows:

Definitions.

3B:20-27. Definitions. As used in this article:

a. (Deleted by amendment, P.L.1997, c.26).

b. "Securities" means instruments which are commonly dealt with on securities exchanges or markets or commonly recognized in any area in which they are issued or dealt with as a medium for investment, and which are subject to the provisions of chapter 8, "Uniform Commercial Code-Investment Securities" (chapter 8, Title 12A of the New Jersey Statutes);

c. "Clearing corporation" means a corporation as defined in N.J.S.12A:8-102.

23. N.J.S.3B:20-34 is amended to read as follows:

Application of article.

3B:20-34. Application of article. This article shall apply to any fiduciary holding securities in its fiduciary capacity, and to any banking institution holding securities as a custodian, managing agent or custodian for a fiduciary, acting on January 2, 1974, or who thereafter may act regardless of the date of the trust instrument by which the fiduciary is appointed and regardless of whether or not the fiduciary or the banking institution acting as custodian, managing agent or custodian for a fiduciary owns capital stock of the clearing corporation.

24. Section 38 of P.L.1948, c.67 (C.17:9A-38) is amended to read as follows:

C.17:9A-38 Effect of trust instruments.

38. Effect of trust instruments.

A. Except as otherwise provided by subsection B of this section, where the trust instrument defines, limits, or specifies the investments which may be made of a trust estate, any common trust fund in which all or any part of such trust estate is invested shall consist only of the investments defined, limited, or specified in such trust instrument.

B. Where the trust instrument makes no provision governing the investments which may be made of a trust estate, or where the trust instrument directs that an estate be invested in "legal investments" or in "investments in which a fiduciary may by law invest" or in "legal investments for trustees," or uses words of similar import, investment of such trust estate may be made, in whole or in part, in a common trust fund, consisting of property in which fiduciaries of trust estates in this State may invest pursuant to chapter 20 of Title 3B of the New Jersey Statutes.

C. (Deleted by amendment.)

D. In making investments as provided in this section a bank shall exercise the standard of care required of a fiduciary of trust assets in New Jersey pursuant to chapter 20 of Title 3B of the New Jersey Statutes.

25. Section 1 of P.L.1959, c.17 (C.52:18A-88.1) is amended to read as follows:

C.52:18A-88.1 Investment, reinvestment of moneys on behalf of specified agencies.

1. The Director of the Division of Investment, in addition to other investments, presently or from time to time hereafter authorized by law, shall have authority to invest and reinvest the moneys in, and to acquire for or on behalf of the funds of the following enumerated agencies:

The Consolidated Police and Firemen's Pension Fund Commission;

The Police and Firemen's Retirement System of New Jersey;

The Prison Officers' Pension Commission;

The Public Employees' Retirement System of New Jersey;

The State Police Retirement System;

The Teachers' Pension and Annuity Fund;

The Judicial Retirement System of New Jersey;

The Trustees for the Support of Public Schools; and

all other funds in the custody of the State Treasurer, unless otherwise provided by law;

such investments which shall be authorized or approved for investment by regulation of the State Investment Council.

26. Section 11 of P.L.1950, c.20 (C.52:18A-89) is amended to read as follows:

C.52:18A-89 Limitations, conditions, restrictions continued; authorization of investments.

11. a. Limitations, conditions and restrictions contained in any law concerning the kind or nature of investment of any of the moneys of any of the funds or accounts referred to herein shall continue in full force and effect; provided, however, that subject to any acceptance required, or limitation or restriction contained herein: the Director of the Division of Investment shall at all times have authority to invest and reinvest any such moneys in investments as defined in subsection c. of this section and, for or on behalf of any such fund or account, to sell or exchange any such investments.

b. In investing and reinvesting any and all money and property committed to the director's investment discretion from any source whatsoever, and in acquiring, retaining, selling, exchanging and managing investments, the Director of the Division of Investment shall exercise the care, skill, prudence and diligence under the circumstances then prevailing that a prudent person acting in a like capacity and familiar with such matters would use in the conduct of an enterprise of a like character and with like aims. In making each investment, the director may, depending on the nature and objectives of the portfolio, consider the whole portfolio, provided that, in making each investment, the director shall act with the reasonable expectation that the return on each investment shall be commensurate with the risk associated with each investment. The director shall be under a duty to manage and invest the portfolio solely in the interests of the beneficiaries of the portfolio and for the exclusive purpose of providing financial benefits to the beneficiaries of the portfolio.

c. For the purposes of this section, "investments" means and includes property of every nature, real, personal and mixed, tangible and intangible, and specifically includes, solely by way of description and not by way of limitation, bonds, debentures and other corporate obligations, direct and indirect investments in equity real estate, mortgages and other direct or indirect interests in real estate or investments secured by real estate, capital stocks, common stocks, preferred stocks, diversified pools of venture capital which otherwise could be made consistent with the standard of care required by subsection b. of this section, common trust funds as defined in and regulated by sections 36 through 46 of P.L.1948, c.67 (C.17:9A-36 through 17:9A-46), repurchase agreements, securities loan transactions secured by cash, securities issued by the United States government or its agencies, or irrevocable bank letters of credit, whether directly or through a bank or

similar financial institution acting as agent or trustee, mutual funds, and any other security issued by an investment company or investment trust, whether managed or not by third parties, registered under the "Investment Company Act of 1940," 15 U.S.C.s.80a-1 et seq. No investment that is otherwise permissible under this subsection shall be considered to be unlawful solely because the investment is made indirectly or through a partnership, trust, or other legal entity.

Repealer.

27. The following are repealed:
N.J.S.3B:20-2;
N.J.S.3B:20-6;
N.J.S.3B:20-11 through N.J.S.3B:20-17 inclusive;
N.J.S.3B:20-20; and
N.J.S.3B:20-24.

28. This act shall take effect 90 days after enactment.

Approved March 7, 1997.

CHAPTER 27

AN ACT concerning study courses required of local housing authority and municipal redevelopment agency members, amending P.L.1992, c.79.

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

1. Section 46 of P.L.1992, c.79 (C.40A:12A-46) is amended to read as follows:

C.40A:12A-46 Completion of course of study by incumbent members, executive directors.

46. a. Any person serving as a member of a housing authority or a redevelopment agency on or after the effective date of the rules adopted pursuant to section 45 of P.L.1992, c.79 (C.40A:12A-45) shall satisfactorily complete the course of study prescribed by the commissioner within eighteen months following the date of appointment or July 1, 1997, whichever is later, or shall be deemed to have resigned his position effective at the end of that period of time.

Notwithstanding the provisions of this section, a person serving as a member of a housing authority or redevelopment agency on the effective date of the rules adopted pursuant to section 45 of P.L.1992, c.79 may

continue to serve to the end of his appointed term even if the remaining period in that term exceeds eighteen months and the member does not satisfactorily complete the prescribed course of study within that time. However, such a member shall not be eligible for reappointment to membership on the housing authority or redevelopment agency until a period of five years has elapsed following the completion of the member's term.

b. Any person serving as the executive director of a housing authority or redevelopment agency on or after the effective date of the rules adopted pursuant to section 45 of P.L.1992, c.79 (C.40A:12A-45) shall satisfactorily complete the course of study prescribed by the commissioner within two years after the effective date of the rules or the effective date of his appointment, whichever is later, or shall be deemed to have resigned his position effective at the end of that period of time.

c. Notwithstanding any provision of law, rule, regulation, or this section to the contrary, any person deemed to have resigned his position pursuant to subsection a. or b. of this section and who has been replaced by another appointee shall have no claim to the appointment.

2. Section 48 of P.L.1992, c.79 (C.40A:12A-48) is amended to read as follows:

C.40A:12A-48 Waiving of course requirements.

48. The commissioner may waive the course requirements set forth in sections 46 and 47 of P.L.1992, c.79 (C.40A:12A-46 and 40A:12A-47) for any person whom the commissioner determines to be qualified to serve as a member or executive director of a housing authority or redevelopment agency by reason of adequate and equivalent training or professional experience, or a combination thereof. The commissioner may extend credit toward completion of the course requirements for equivalent or nearly equivalent courses completed by an individual under the sponsorship of a professional organization.

The commissioner may accept as fulfilling the course requirements set forth in sections 46 and 47 of P.L.1992, c.79 (C.40A:12A-46 and 40A:12A-47) any course prescribed therein and taken by an individual at that individual's own expense at a time when the individual was not serving as a member or executive director of a housing authority or redevelopment agency.

3. This act shall take effect immediately and shall be retroactive to June 5, 1995.

Approved March 7, 1997.

CHAPTER 28

AN ACT concerning the municipal 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 1% 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. 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. This act shall take effect immediately.

Approved March 7, 1997.

CHAPTER 29

AN ACT concerning the New Jersey Racing Commission, amending P.L.1940, c.17, P.L.1984, c.236, and P.L.1971, c.137 and supplementing Title 5 of the Revised Statutes, and making an appropriation.

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

1. Section 44 of P.L.1940, c.17 (C.5:5-64) is amended to read as follows:

C.5:5-64 Distribution of parimutuel pools.

44. Each holder of a permit shall distribute all sums deposited in any pool where the patron is required to select one horse to the winners thereof, less an amount which in harness races shall not exceed 17% of the total deposits plus the breaks and which in other races shall not exceed 17% of the total deposits plus the breaks. In every pool where the patron is required to select two horses, the holder of each permit for either harness or running track shall distribute all sums deposited in each pool to the winners thereof, less an amount which shall not exceed 19% of the total deposits plus the breaks. In every pool where the patron is required to select three or more horses, every holder of a permit shall distribute all sums deposited in each pool to the winners thereof, less an amount which shall not exceed 25% of the total deposits plus the breaks. Every permitholder shall distribute to the persons holding winning tickets in any of the aforementioned pools, as a minimum, a sum not exceeding $0.10, calculated on the basis of each dollar deposited in any pool after the deduction of the said 17%, 19% or 25%, as the case may be. Should the amount remaining in the pool be insufficient to pay the winners the minimum, the breakage accruing in that race, or any necessary portion thereof, shall be applied toward making up any such deficiency. The breaks are hereby defined as the odd cents over any multiple of $0.10, calculated on the basis of $1.00 otherwise payable to a patron. Every permitholder engaged in the business of conducting running

race meetings under this act, except the New Jersey Sports and Exposition Authority established pursuant to P.L.1971, c.137 (C.5:10-1 et seq.) and the Garden State Racetrack as provided in section 5 of P.L.1982, c.201 (C.5:5-98), shall distribute as purse money the breaks as herein defined, except as the same shall have been applied toward making up a deficiency in a pool as herein provided. Every permitholder engaged in the business of conducting harness race meetings under this act, except the New Jersey Sports and Exposition Authority and the Garden State Racetrack as provided in section 5 of P.L.1982, c.201 (C.5:5-98), shall retain for his own uses and purposes 50% of the breaks as herein defined, except as the same shall have been applied toward making up a deficiency in the pool as herein provided, and shall distribute as purse money the remaining 50%. The New Jersey Sports and Exposition Authority shall retain all breaks commencing on May 10, 1971 as revenue to the authority, except as the same shall have been applied toward making up a deficiency in a pool as herein provided.

Every permitholder shall submit to the commission every seventh day of any and every race meeting a report under oath showing the daily and total amount of such breaks, together with such other information as the commission may require. All sums held by any permitholder for payment of outstanding parimutuel tickets not claimed by the person or persons entitled thereto within six months from the time such tickets are issued shall be paid upon the expiration of such six-month holding period as follows:

a. In the case of running and harness races, beginning July 1, 1997 50% of those sums shall be paid to the racing commission for deposit in the general fund of the State and disposition in accordance with section 4 of P.L.1997, c.29 (C.5:5-68.1);

b. In the case of running races, 50% of those sums shall be paid to the commission and set aside in the special trust account established pursuant to section 46 b.(1)(e) and section 46 b.(2)(e) of P.L.1940, c.17 (C.5:5-66); and

c. In the case of harness races, 25% of those sums shall be retained by the permitholder to supplement purses for sire stakes races on which there is parimutuel wagering, and 25% shall be retained by the permitholder to supplement overnight purses.

Where it is shown to the satisfaction of the commission that the reason for the parimutuel tickets being outstanding and unclaimed is the loss, misplacement or theft of said tickets within the confines and control of the parimutuel department of any permitholder, and it is further shown to the satisfaction of the commission that said parimutuel tickets have been cashed by such parimutuel department, the commission may adjust and credit the permitholder's account accordingly and the permitholder shall reimburse

any employee who has been held personally accountable and paid for such lost, stolen or misplaced tickets.

All outstanding parimutuel ticket money shall be deposited in an account separate and apart from the track's mutuel or general treasury account. The outstanding parimutuel ticket account shall be subject to the rules and regulations prescribed by the Division of New Jersey Racing Commission.

2. Section 1 of P.L.1984, c.236 (C.5:5-64.1) is amended to read as follows:

C.5:5-64.1 Harness race pools.

1. Notwithstanding the provisions of section 44 of P.L.1940, c.17 (C.5:5-64) or any other law to the contrary, a holder of a permit to conduct harness race meetings, who operates a racetrack at which harness race meetings were conducted during calendar year 1984, but which were suspended for 30 days or more during that calendar year because of fire, and a holder of a permit to conduct harness race meetings, who conducted harness race meetings at the aforementioned racetrack during 1984 and who continues to conduct harness race meetings at that racetrack, shall distribute all sums deposited in any pool where the patron is required to select one horse to the winners thereof, less an amount which shall not exceed 17% of the total deposits plus the breaks. In every pool where the patron is required to select two horses, the holder of the permit shall distribute all sums deposited in each pool to the winners thereof, less an amount which shall not exceed 19% of the total deposits plus the breaks. In every pool where the patron is required to select three or more horses, the holder of the permit shall distribute all sums deposited in each pool to the winners thereof, less an amount which shall not exceed 25% of the total deposits plus the breaks. The permitholder shall distribute to the persons holding winning tickets in any of the aforementioned pools, as a minimum, a sum not exceeding $0.10, calculated on the basis of each dollar deposited in any pool after the deduction of the 17%, 19% or 25%, as the case may be. Should the amount remaining in the pool be insufficient to pay the winners the minimum, the breakage accruing in that race, or any necessary portion thereof, shall be applied toward making up any such deficiency. The breaks are hereby defined as the odd cents over any multiple of $0.10, calculated on the basis of $1.00 otherwise payable to a patron. The permitholder shall retain for his own uses and purposes 50% of the breaks as herein defined, except as the same shall have been applied toward making up a deficiency in a pool as herein provided, and shall distribute as purse money the remaining 50%. The permitholder shall submit to the commission every seventh day of any

and every race meeting a report under oath showing the daily and total amount of the breaks, together with such other information as the commission may require. All sums held by the permitholder for payment of outstanding parimutuel tickets, not claimed by the persons entitled thereto within six months from the time such tickets are issued, shall be paid upon the expiration of such six-month holding period as follows: a. beginning July 1, 1997 50% shall be paid to the racing commission for deposit in the general fund of the State and disposition in accordance with section 4 of P.L.1997, c.29 (C.5:5-68.1); b. 25% shall be retained by the permitholder to supplement purses for sire stakes races on which there is parimutuel wagering; and c. 25% shall be retained by the permitholder to supplement overnight purses.

Where it is shown to the satisfaction of the commission that the reason for the parimutuel tickets being outstanding and unclaimed is the loss, misplacement or theft of the tickets within the confines and control of the parimutuel department of the permitholder, and it is further shown to the satisfaction of the commission that the parimutuel tickets have been cashed by the parimutuel department, the commission may adjust and credit the permitholder's account accordingly and the permitholder shall reimburse any employee who has been held personally accountable and paid for such lost, stolen or misplaced tickets.

All outstanding parimutuel ticket money shall be deposited in an account separate and apart from the track's mutuel or general treasury account. The outstanding parimutuel ticket account shall be subject to the rules and regulations prescribed by the Division of New Jersey Racing Commission.

3. Section 7 of P.L.1971, c.137 (C.5:10-7) is amended to read as follows:

C.5:10-7 Authority race permit.

7. a. The authority is hereby authorized, licensed and empowered to apply to the Racing Commission for a permit or permits to hold and conduct, at any of the projects set forth in paragraphs (1) and (5) of subsection a. of section 6 of P.L.1971, c.137 (C.5:10-6), horse race meetings for stake, purse or reward, and to provide a place or places on the race meeting grounds or enclosure for wagering by patrons on the results of such horse races by the parimutuel system, and to receive charges and collect all revenues, receipts and other sums from the ownership and operation thereof; provided that only the authority through its employees shall conduct such horse race meetings and wagering and the authority is

expressly prohibited from placing in the control of any other person, firm or corporation the conduct of such horse race meetings, or wagering.

b. Except as otherwise provided in this section, such horse race meetings and parimutuel wagering shall be conducted by the authority in the manner and subject to compliance with the standards set forth in P.L.1940, c.17 (C.5:5-22 et seq.) and the rules, regulations and conditions prescribed by the Racing Commission thereunder for the conduct of horse race meetings and for parimutuel betting at such meetings.

c. Application for said permit or permits shall be on such forms and shall include such accompanying data as the Racing Commission shall prescribe for other applicants. The Racing Commission shall proceed to review and act on any such application within 30 days after its filing and the Racing Commission is authorized in its sole discretion to determine whether a permit shall be granted to the authority. If, after such review, the Racing Commission acts favorably on such application, a permit shall be granted to the authority without any further approval and shall remain in force and effect so long as any bonds or notes of the authority remain outstanding, the provisions of any other law to the contrary notwithstanding. In granting a permit to the authority to conduct a horse race meeting, the Racing Commission shall not be subject to any limitation as to the number of tracks authorized for the conduct of horse race meetings pursuant to any provision of P.L.1940, c.17 (C.5:5-22 et seq.). Said permit shall set forth the dates to be allotted to the authority for its initial horse race meetings. Thereafter application for dates for horse race meetings by the authority and the allotment thereof by the Racing Commission, including the renewal of the same dates theretofore allotted, shall be governed by the applicable provisions of P.L.1940, c.17 (C.5:5-22 et seq.). Notwithstanding the provisions of any other law to the contrary, the Racing Commission shall allot annually to the authority (1) for the Meadowlands Complex, in the case of harness racing, not less than 100 racing days, and in the case of running racing, not less than 56 racing days, if and to the extent that application is made therefor, and (2) for any other project which is set forth in paragraph (5) of subsection a. of section 6 of P.L.1971, c.137 (C.5:10-6), and which was previously operated by a permitholder other than the authority, racing days shall be limited, in type of racing and amount of days, to those allotted by the Racing Commission to the prior permitholder for the year 1985, as of December 13, 1984; except that the authority may apply to the Racing Commission for an extension of the number and type of racing days pursuant to section 2 of P.L.1984, c.247 (C.5:5-43.1).

d. No hearing, referendum or other election or proceeding, and no payment, surety or cash bond or other deposit, shall be required for the

authority to hold or conduct the horse race meetings with parimutuel wagering herein authorized.

e. The authority shall determine the amount of the admission fee for the races and all matters relating to the collection thereof.

f. Distribution of sums deposited in parimutuel pools to winners thereof shall be in accordance with the provisions of section 44 of P.L.1940, c.17 (C.5:5-64) pertaining thereto. The authority shall make disposition of the deposits remaining undistributed as follows:

(1) In the case of harness races:

(a) Hold and set aside in an account designated as a special trust account 1% of such total contributions in all pools, to be used and distributed as hereinafter provided and as provided in section 5 of P.L.1967, c.40, for the following purposes and no other:

(i) 42 1/2% thereof to increase purses and grant awards for starting horses, as provided or as may be provided by rules of the New Jersey Racing Commission, with payment to be made in the same manner as payment of other purses and awards;

(ii) 49% thereof for the establishment of a Sire Stakes Program for standardbred horses, with payment to be made to the Department of Agriculture for administration as hereinbefore provided;

(iii) 5 1/2% thereof for contributions and awards designed to improve and promote the standardbred breeding industry in New Jersey through payment of awards to owners and breeders of New Jersey bred horses, which are registered with the Standardbred Breeders' and Owners' Association of New Jersey and which earn portions of purses in open events on New Jersey tracks, and to owners of stallions posted on the official stallion roster of the Standardbred Breeders' and Owners' Association of New Jersey, which sire such registered New Jersey bred money earners;

(iv) 3% thereof for other New Jersey horse breeding and promotion conducted by the New Jersey Department of Agriculture.

Payment of the sums held and set aside pursuant to subparagraphs (iii) and (iv) shall be made to the commission every seventh day of any and every race meeting in the amount then due, as determined in the manner provided above, and shall be accompanied by a report under oath showing the total of all such contributions, together with such other information as the commission may require.

(b) Distribute as purse money and for programs designed to aid the horsemen and the Standardbred Breeders' and Owners' Association of New Jersey 5.1175%, or in the case of races on a charity racing day 5%, of such total contributions. Expenditures for programs designed to aid the horsemen and the Standardbred Breeders' and Owners' Association of New Jersey shall not exceed 3.5% of the sum available for distribution as purse

money. The formula for distribution of the purse money as either overnight purses or special stakes shall be determined by an agreement between the Standardbred Breeders' and Owners' Association of New Jersey and the authority. Notwithstanding the foregoing, for pools where the patron is required to select two or more horses, the authority shall distribute as purse money 5.6175%, or in the case of races on a charity racing day 5.5%, of the total contributions and for pools where the patron is required to select three or more horses, the authority shall distribute as purse money 7.1175%, or in the case of races on a charity racing day 7%, of the total contributions. Notwithstanding the foregoing, for pools where a patron is required to select three or more horses, the authority shall retain out of the 7.1175% or 7% to be distributed as purse money a sum deemed necessary by the racing commission, for use by the commission to finance a prerace blood testing program, and such other testing programs which the commission shall deem proper and necessary and which shall be subject to the regulation and control of said commission.

(c) In the case of races on a racing day other than a charity racing day, distribute to the Standardbred Breeders' and Owners' Association of New Jersey for the administration of a health benefits program for horsemen .1175% of such total contributions.

(d) In the case of races on a racing day other than a charity racing day, distribute to the Sire Stakes Program for standardbred horses .02% of such total contributions.

(e) In the case of races on a racing day other than a charity racing day, distribute to the Backstretch Benevolency Programs Fund created pursuant to P.L.1993, c.15 (C.5:5-44.8) .01% of such total contributions.

(2) In the case of running races:

(a) Hold and set aside in an account designated as a special trust account 5% of 1% of such total contributions, to be used and distributed for State horse breeding and development programs, research, fairs, horse shows, youth activities, promotion and administration, as provided in section 5 of P.L.1967, c.40 (C.5:5-88).

(b) Distribute as purse money and for programs designed to aid the horsemen and the New Jersey Thoroughbred Horseman's Benevolent Association 4.475%, or in the case of races on a charity racing day 4.24%, of such total contributions. Expenditures for programs designed to aid the horsemen and the New Jersey Thoroughbred Horseman's Benevolent Association shall not exceed 2.9% of the sum available for distribution as purse money. The formula for distribution of the purse money as either overnight purses or special stakes shall be determined by an agreement between the New Jersey Thoroughbred Horseman's Benevolent Association and the authority. Notwithstanding the foregoing, for pools where the patron

is required to select three or more horses, the authority shall distribute as purse money 7.475%, or in the case of races on a charity racing day 7.24%, of the total contributions.

(c) 10% of 1% of all pools shall be deducted and set aside in the special trust account established pursuant to section 46b.(1)(e) and 46b.(2)(e) of P.L.1940, c.17 (C.5:5-66).

(d) In the case of races on a racing day other than a charity racing day, distribute to the Thoroughbred Breeders' Association of New Jersey .02% of such total contributions.

(e) In the case of races on a racing day other than a charity racing day, distribute to the Backstretch Benevolency Programs Fund created pursuant to P.L.1993, c.15 (C.5:5-44.8) .01% of such total contributions.

For pools where a patron is required to select three or more horses, 50% of 1% of the total contributions shall be held and set aside in that special trust account.

Payment of the sums held and set aside pursuant to subparagraphs (a) and (c) of this subsection shall be made to the commission every seventh day of any and every race meeting in the amount then due, as determined in the manner provided above, and shall be accompanied by a report under oath showing the total of all such contributions, together with such other information as the commission may require.

In addition to the amounts above, in the case of races on a racing day designated or allotted as a charity racing day pursuant to P.L.1977, c.200 (C.5:5-44.2 et seq.), P.L.1992, c.113 (C.5:5-44.7), or P.L.1993, c.15 (C.5:5-44.8), an amount equal to 1/2 of 1% of all parimutuel pools shall be paid to the commission at the time and in the manner prescribed by the commission.

All amounts remaining in parimutuel pools, including the breaks, after such distribution and payments shall constitute revenues of the authority. Except as otherwise expressly provided in this section 7, the authority shall not be required to make any payments to the Racing Commission or others in connection with contributions to parimutuel pools.

In the event that a written agreement between the authority and the respective horsemen's associations shall require the distribution of additional sums of money to increase purses or contributions to the special trust accounts hereinabove provided, or both, any such distribution to be made in the year 1981 shall be made by the authority only from, and to the extent of, available moneys from the preceding year set aside for such purpose, after application of the authority's revenues, moneys or other funds as provided in subsection c.(1), (2), (3), (4), (5), (6) and (7) of section 6 of P.L.1971, c.137 (C.5:10-6).

g. All sums held by the authority for payment of outstanding parimutuel tickets not claimed by the person or persons entitled thereto within the time provided by law shall be paid upon the expiration of such time, without further obligation to such ticketholder, as follows:

(1) In the case of running and harness races, beginning July 1, 1997 50% of those sums shall be paid to the Racing Commission for deposit in the general fund of the State and disposition in accordance with section 4 of P.L.1997, c.29 (C.5:5-68.1);

(2) In the case of running races, 50% of those sums shall be paid to the commission and set aside in the special trust account established pursuant to section 46b.(1)(e) and section 46b.(2)(e) of P.L.1940, c.17 (C.5:5-66); and

(3) In the case of harness races, 25% of those sums shall be retained by the permitholder to supplement purses for sire stakes races on which there is parimutuel wagering, and 25% shall be retained by the permitholder to supplement overnight purses.

h. No admission or amusement tax, excise tax, license or horse racing fee of any kind shall be assessed or collected from the authority by the State of New Jersey, or by any county or municipality, or by any other body having power to assess or collect license fees or taxes.

i. Any horse race meeting and the parimutuel system of wagering upon the results of horse races held at such race meeting shall not under any circumstances, if conducted as provided in the act and in conformity thereto, be held or construed to be unlawful, other statutes of the State to the contrary notwithstanding.

j. Each employee of the authority engaged in the conducting of horse race meetings shall obtain the appropriate license from the Racing Commission, subject to the same terms and conditions as is required of similar employees of other permitholders. The Racing Commission may suspend any member of the authority upon approval of the Governor and the license of any employee of the authority in connection with the conducting of horse race meetings, pending a hearing by the Racing Commission, for any violation of the New Jersey laws regulating horse racing or any rule or regulation of the commission. Such hearing shall be held and conducted in the manner provided in said laws.

C.5:5-68.1 Appropriation to Racing Commission.

4. Beginning July 1, 1997, amounts resulting from parimutuel tickets remaining unclaimed after six months which are paid to the Racing Commission for deposit in the general fund pursuant to subsection a. of section 44 of P.L.1940, c.17 (C.5:5-64), subsection a. of section 1 of P.L.1984, c.236 (C.5:5-64.1) and paragraph (1) of subsection g. of section

7 of P.L.1971, c.137 (C.5:10-7) shall be appropriated each fiscal year to the Racing Commission to be used for the expenses of the commission.

5. Notwithstanding the provisions of section 15 of P.L.1992, c.19 (C.5:12-205) or any other law to the contrary, up to one-half of the total amount of funds available from calendar year 1996 under subsection d. of that section are appropriated for fiscal year 1996-97 to the Department of Law and Public Safety for the New Jersey Racing Commission as needed for the expenses of the commission, subject to the approval of the Director of the Division of Budget and Accounting.

6. This act shall take effect immediately.

Approved March 7, 1997.

CHAPTER 30

AN ACT concerning senior citizens' and disabled and veterans' property tax deductions and amending various parts of the statutory law and supplementing P.L.1963, c.171 (C.54:4-8.10 et seq.).

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

1. Section 3 of P.L.1963, c.171 (C.54:4-8.12) is amended to read as follows:

C.54:4-8.12 Application for tax deduction.

3. No veteran's deduction from taxes assessed against real and personal property, as provided herein, shall be allowed except upon written application therefor, which 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 hereunder by the governing body of the municipality constituting the taxing district in which such claim is to be filed and the application has been approved as provided in this act. An assessor shall not require the filing of an application for a veteran's deduction under this act of any person who has filed, or shall file, a claim for an exemption from taxation under chapter 184 of the laws of 1951, on or before December 31, 1963, but shall approve a veteran's deduction for such person, if it appears from such claim for exemption that such person meets all the other prerequisites required by law for the approval of a claim for a

veteran's deduction. Each assessor may at any time inquire into the right of a claimant to the continuance of a veteran's deduction hereunder and for that purpose he may require the filing of a new application or the submission of such proof as he shall deem necessary to determine the right of the claimant to continuance of such deduction. No application for a veteran's deduction based upon service in the Armed Forces shall be allowed unless there is annexed thereto a copy, which may be photostatic, of claimant's certificate of honorable discharge or of his certificate of release under honorable circumstances from active service in time of war in a branch of the Armed Forces of the United States. In the case of an application by a surviving spouse said application shall not be allowed unless it clearly establishes that:

(a) Claimant's spouse died while on active duty in a branch of the Armed Forces of the United States, having had active service in time of war, as herein defined, in a branch of the Armed Forces of the United States, or in the case of a surviving spouse of a veteran, claimant shall establish that the veteran was 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, (b) claimant's spouse was a citizen and resident of this State at the time of death, (c) claimant was the spouse of the veteran at the time of the veteran's death, and (d) claimant is a resident of this State and has not remarried.

2. Section 3 of P.L.1963, c.172 (C.54:4-8.42) is amended to read as follows:

C.54:4-8.42 Written application for deduction; inquiry into right.

3. No deduction, as provided herein, shall be allowed except upon written application therefor, which 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 hereunder by the governing body of the municipality constituting the taxing district in which such claim is to be filed and the application has been approved as provided in this act. As to claims for exemption from taxation filed with an assessor on or before November 1, 1963 on forms prescribed by the director, the assessor shall not require of any person who has filed such a claim the filing of an application for a tax deduction but shall approve such person for a tax deduction if it appears from the claim for exemption from taxation that such person meets all the other prerequisites required by this act for the approval of the tax deduction. Each assessor may at any time inquire into the right of a claimant to the continuance of a deduction hereunder and for that purpose he may require the filing of a new application or the submission of such

proof as he shall deem necessary to determine the right of the claimant to continuance of such deduction.

3. Section 5 of P.L.1964, c.255 (C.54:4-8.44a) is amended to read as follows:

C.54:4-8.44a Filing for tax deduction.

5. Every person who is allowed a deduction shall, except as hereinafter provided, be required to file with the collector of the taxing district on or before March 1 of the post-tax year a statement under oath of his income for the tax year and his anticipated income for the ensuing tax year as well as any other information deemed necessary to establish his right to a tax deduction for such ensuing tax year. The collector may grant a reasonable extension of time for filing the statement required by this section, which extension shall terminate no later than May 1 of the post-tax year, in any event where it shall appear to the satisfaction of the collector, verified by a physician's certificate, that the failure to file by March 1 was due to illness or a medical problem which prevented timely filing of the statement. In any case where such an extension is granted by the collector, the required statement shall be filed on or before May 1 of the post-tax year.

Such statement 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 persons required to make such statement by the governing body of the municipality constituting the taxing district in which such statement is required to be filed and shall be mailed by the collector on or before February 1 of the post-tax year to each person within the taxing district who was allowed a deduction in the preceding year. Each collector may require the submission of such proof as he shall deem necessary to verify any such statement. Upon the failure of any such person to file the statement within time herein provided or to submit such proof as the collector deems necessary to verify a statement that has been filed, or if it is determined that the income of any such person exceeded the applicable income limitation for said tax year, his tax deduction for said tax year shall be disallowed. A notice of disallowance, on a form prescribed by the director, shall be mailed to that person by the collector on or before April 1 of the post-tax year or, where an extension of time for filing has been granted, no later than June 1, and his taxes to the extent represented by the amount of said deduction shall be payable on or before June 1 of the post-tax year or, where an extension of time for filing has been granted no later than 30 calendar days after the notice of disallowance was mailed, after which date if unpaid, said taxes shall be delinquent, constitute a lien on the property, and, in addition, the amount of said taxes shall be a personal debt of said person.

The amount of any lien and tax liability shall be prorated by the tax collector upon the transfer of title based on the number of days during the tax year that entitlement to the tax deduction is established. The lien shall be considered satisfied by the tax collector upon payment of the prorated amount for that portion of the tax year for which entitlement to the tax deduction is not established.

4. Section 5 of P.L.1981, c.85 (C.54:4-8.53a) is amended to read as follows:

C.54:4-8.53a Reimbursement to taxing district relative to deductions.

5. The State shall annually reimburse each taxing district in an amount equal to 102 percent of the amount of any deductions permitted by that taxing district in the current tax year pursuant to the act of which this act is amendatory and supplementary.

C.54:4-8.24 Reimbursement to taxing district relative to veterans' property tax deductions.

5. The State shall annually reimburse each taxing district in an amount equal to 102 percent of the amount of any veterans' property tax deductions granted in that taxing district.

6. This act shall take effect immediately and shall be applicable in tax year 1997 and thereafter.

Approved March 7, 1997.

CHAPTER 31

AN ACT concerning life safety improvements in boarding houses and amending P.L.1983, c.530.

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

1. Section 3 of P.L.1983, c.530 (C.55:14K-3) is amended to read as follows:

C.55:14K-3 Definitions.

3. As used in this act:

a. "Agency" means the New Jersey Housing and Mortgage Finance Agency as consolidated by section 4 of P.L.1983, c.530 (C.55:14K-4), or, if that agency shall be abolished by law, the person, board, body or

commission succeeding to the powers and duties thereof or to whom its powers and duties shall be given by law.

b. "Boarding house" means any building, together with any related structure, accessory building, any land appurtenant thereto, and any part thereof, which contains two or more units of dwelling space arranged or intended for single room occupancy, exclusive of any such unit occupied by an owner or operator, including:

(1) any residential hotel or congregate living arrangement, but excluding any hotel, motel or established guesthouse wherein a minimum of 85% of the units of dwelling space are offered for limited tenure only; (2) a residential health care facility as defined in section 1 of P.L.1953, c.212 (C.30:11A-1) or licensed pursuant to P.L.1971, c.136 (C.26:2H-1 et seq.); (3) any foster home as defined in section 1 of P.L.1962, c.137 (C.30:4C-26.1); (4) any community residence for the developmentally disabled as defined in section 2 of P.L.1977, c.448 (C.30:11B-2); (5) any dormitory owned or operated on behalf of any nonprofit institution of primary, secondary or higher education for the use of its students; (6) any building arranged for single room occupancy wherein the units of dwelling space are occupied exclusively by students enrolled in a full-time course of study at an institution of higher education approved by the Department of Higher Education; and (7) any facility or living arrangement operated by, or under contract with, any State department or agency.

c. "Bonds" mean any bonds, notes, bond anticipation notes, debentures or other evidences of financial indebtedness issued by the agency pursuant to this act.

d. "Continuing-care retirement community" means any work or undertaking, whether new construction, improvement or rehabilitation, which may be financed in part or in whole by the agency and which is designed to complement fully independent residential units with social and health care services (usually including nursing and medical services) for retirement families and which is intended to provide continuing care for the term of a contract in return for an entrance fee or periodic payments, or both, and which may include such appurtenances and facilities as the agency deems to be necessary, convenient or desirable.

e. "Eligible loan" means a loan, secured or unsecured, made for the purpose of financing the operation, maintenance, construction, acquisition, rehabilitation or improvement of property, or the acquisition of a direct or indirect interest in property, located in the State, which is or shall be: (1) primarily residential in character or (2) used or to be used to provide services to the residents of an area or project which is primarily residential in character. The agency shall adopt regulations defining the term "primarily residential in character," which may include single-family,

multi-family and congregate or other single room occupancy housing, continuing-care retirement communities, mobile homes and nonhousing properties and facilities which enhance the livability of the residential property or area; and specifying the types of residential services and facilities for which eligible loans may be made, which may include, but shall not be limited to, parking facilities, streets, sewers, utilities, and administrative, community, educational, welfare and recreational facilities, food, laundry, health and other services and commercial establishments and professional offices providing supplies and services enhancing the area. The term "loan" includes an obligation the return on which may vary with any appreciation in value of the property or interest in property financed with the proceeds of the loan, or a co-ventured instrument by which an institutional lender or the agency assumes an equity position in the property. Any undivided interest in an eligible loan shall qualify as an eligible loan.

f. "Family" means two or more persons who live or expect to live together as a single household in the same dwelling unit; but any individual who (1) has attained retirement age as defined in section 216a of the federal Social Security Act, or (2) is under a disability as defined in section 223 of that act, or (3) such other individuals as the agency by rule or regulation shall include, shall be considered as a family for the purpose of this act; and the surviving member of a family whose other members died during occupancy of a housing project shall be considered as a family for the purposes of permitting continued occupancy of the dwelling unit occupied by such family.

g. "Gross aggregate family income" means the total annual income of all members of a family, from whatever source derived, including but not limited to, pension, annuity, retirement and social security benefits; except that there may be excluded from income (1) such reasonable allowances for dependents, (2) such reasonable allowances for medical expenses, (3) all or any proportionate part of the earnings of gainfully employed minors, or (4) such income as is not received regularly, as the agency by rule or regulation may determine.

h. "Housing project" or "project" means any work or undertaking, other than a continuing-care community, whether new construction, improvement, rehabilitation, or acquisition of existing buildings or units which is designed for the primary purpose of providing multi-family rental housing or acquisition of sites for future multi-family rental housing.

i. "Housing sponsor" means any person, partnership, corporation or association, whether organized as for profit or not for profit, to which the agency has made or proposes to make a loan, either directly or through an institutional lender, for a housing project.

j. "Institutional lender" means any bank or trust company, savings bank, national banking association, savings and loan association, or building and loan association maintaining an office in the State, or any insurance company or any mortgage banking firm or mortgage banking corporation authorized to transact business in the State.

k. "Life safety improvement" means any addition, modification or repair to a boarding house which is necessary to improve the life safety of the residents of the boarding house, as certified by the Department of Community Affairs, including, but not limited to, the correction of a violation of the" State Uniform Construction Code Act," P.L.1975, c.217 (C.52:27D-119 et seq.), the "Rooming and Boarding House Act of 1979," P.L.1979, c.496 (C.55:13B-1 et seq.), or the "Uniform Fire Safety Act," P.L.1983, c.383 (C.52:27D-192 et seq.) and the administrative regulations promulgated in accordance with these acts.

l. "Life safety improvement loan" means an eligible loan the proceeds of which are to be used to finance, in whole or in part, the construction, acquisition or rendering of life safety improvements at or to boarding houses.

m. "Loan originator" means any bank or trust company, savings bank, national banking association, savings and loan association, or building and loan association maintaining an office in the State, or any insurance company or any mortgage banking firm or mortgage banking corporation authorized to transact business in the State, or any agency or instrumentality of the United States or the State or a political subdivision of the State, which is authorized to make eligible loans.

n. "Municipality" means any city of any class or any town, township, village or borough.

o. "Mutual housing" means a housing project operated or to be operated upon completion of construction, improvement or rehabilitation exclusively for the benefit of the families who are entitled to occupancy by reason of ownership of stock in the housing sponsor, or by reason of co-ownership of premises in a horizontal property regime pursuant to P.L.1963, c.168; but the agency may adopt rules and regulations permitting a reasonable percentage of space in such project to be rented for residential or for commercial use.

p. "Persons and families of low and moderate income" mean persons and families, irrespective of race, creed, national origin or sex, determined by the agency to require assistance on account of personal or family income being not sufficient to afford adequate housing. In making such determination the agency shall take into account the following:

(1) the amount of the total income of such persons and families available for housing needs, (2) the size of the family, (3) the cost and

condition of housing facilities available and (4) the eligibility of such persons and families to compete successfully in the normal housing market and to pay the amounts at which private enterprise is providing sanitary, decent and safe housing. In the case of projects with respect to which income limits have been established by any agency of the federal government having jurisdiction thereover for the purpose of defining eligibility of low and moderate income families, the agency may determine that the limits so established shall govern. In all other cases income limits for the purpose of defining low or moderate income persons shall be established by the agency in its rules and regulations.

q. "Project cost" means the sum total of all costs incurred in the acquisition, development, construction, improvement or rehabilitation of a housing project, which are approved by the agency as reasonable or necessary, which costs shall include, but are not necessarily limited to, (1) cost of land acquisition and any buildings thereon, (2) cost of site preparation, demolition and development, (3) architect, engineer, legal, agency and other fees paid or payable in connection with the planning, execution and financing of the project, (4) cost of necessary studies, surveys, plans and permits, (5) insurance, interest, financing, tax and assessment costs and other operating and carrying costs during construction, (6) cost of construction, reconstruction, fixtures, and equipment related to the real property, (7) cost of land improvements, (8) necessary expenses in connection with initial occupancy of the project, (9) a reasonable profit or fee to the builder and developer, (10) an allowance established by the agency for working capital and contingency reserves, and reserves for any operating deficits, (11) costs of guarantees, insurance or other additional financial security for the project and (12) the cost of such other items, including tenant relocation, as the agency shall determine to be reasonable and necessary for the development of the project, less any and all net rents and other net revenues received from the operation of the real and personal property on the project site during construction, improvement or rehabilitation.

All costs shall be subject to approval and audit by the agency. The agency may adopt rules and regulations specifying in detail the types and categories of cost which shall be allowable if actually incurred in the development, acquisition, construction, improvement or rehabilitation of a housing project.

r. "Retirement family" means one or more persons related by blood, marriage or adoption who live or expect to live together as a single household in the same dwelling unit, provided that at least one of the persons is an individual who (1) has attained retirement age as defined in section 216a of the Federal Social Security Act, or (2) is under a disability as defined in section 223 of that act, or (3) such individuals as the agency by

rule or regulation shall include; and provided further, that the surviving member of a retirement family whose other members died during occupancy of a continuing-care retirement community shall be considered as a retirement family for purposes of permitting continued occupancy of the dwelling unit occupied by such retirement family.

2. This act shall take effect immediately.

Approved March 7, 1997.

CHAPTER 32

AN ACT concerning the New Capital Sources Board and amending P.L.1995, c.293.

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

1. Section 4 of P.L.1995, c.293 (C.34:1B-110) is amended to read as follows:

C.34:1B-110 New Capital Sources Board established, powers.

4. a. There is established a New Capital Sources Board in, but not of, the Department of Commerce and Economic Development. The board shall be made up of fifteen members: one shall be the Commissioner of Commerce and Economic Development, or his designee; one shall be the Chairman of the New Jersey Economic Development Authority, or his designee; three public members shall be appointed by the Governor; five public members shall be appointed by the President of the Senate; and five public members shall be appointed by the Speaker of the General Assembly, one of whom shall be designated as chair of the board. The appointment of the members shall take place as soon as is practicable after the effective date of this amendatory act. The appointee of the Speaker of the General Assembly designated as chair of the board shall convene the board as soon as is practicable following the appointment of all of the public members to the board. The members appointed to this board shall consist of individuals with extensive experience in banking and venture capital financing.

b. The members of the board shall serve without compensation.

c. The board is authorized, empowered and directed to:

(1) Develop a form of organization and a plan of operation for the New Capital Sources Partnership consistent with the purposes of that partnership

as set forth pursuant to section 5 of this act. In so doing the board shall consider, but not be limited to, the form of organization, plan of operation and experiences of the Massachusetts Business Development Corporation and the experience of the Michigan Strategic Fund in the formation of private financial institutions in the Commonwealth of Massachusetts and the State of Michigan, respectively, for business development purposes.

(2) Seek out and gain commitments from persons, natural and otherwise, to be initial investors in and incorporators of the New Capital Sources Partnership.

(3) Cooperate and coordinate its efforts at gaining a private source of equity capital for small business development in this State with the Department of Commerce and Economic Development, and any private sector nonprofit entity designated by the department, which may include a nonprofit corporation organized to implement the recommendations of the New Jersey Economic Master Plan Commission established pursuant to Executive Order No. 1 issued by the Governor on January 18, 1994.

d. The Department of Commerce and Economic Development, the New Jersey Economic Development Authority and all other departments and agencies of the State which are engaged in economic development shall cooperate with the board to assist it in the accomplishment of its mission.

e. Within one year of the date the board first convenes, the board shall provide the Governor and the Legislature with the results of its accomplishments under subsection c. of this section, including information on the incorporation of the New Capital Sources Partnership.

f. Nothing in this act shall prohibit public members of the board from being among those investors who form the New Capital Sources Partnership.

g. The board shall expire at the end of 13 months from the date the board first convenes pursuant to subsection a. of this section.

2. Section 5 of P.L.1995, c.293 (C.34:1B-111) is amended to read as follows:

C.34:1B-111 New Capital Sources Partnership, purposes.

5. a. Within one year following the date the board first convenes, the board shall incorporate or cause to be incorporated, as the case may be, a New Capital Sources Partnership.

b. The purpose of this partnership shall be to encourage and promote the development of small capital businesses in this State by forming a partnership with: individual investors and corporate investors, including financial institutions, to increase the amount of capital available for equity capital investments; small capital businesses in this State by the investment

of equity capital in those businesses; Small Business Investment Companies to leverage federal dollars; educational institutions in this State to provide increased awareness of and opportunities for persons seeking to form or expand a small capital business, including training in all aspects of small business formation and management; and the State by providing expertise for and cooperation with the State in its efforts to encourage and support small capital business development.

3. This act shall take effect immediately.

Approved March 7, 1997.

CHAPTER 33

AN ACT concerning banking and revising parts of the statutory law.

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

1. The Legislature finds and declares that banks and certain other financial institutions are subject to certain laws and regulations which duplicate or conflict with applicable federal laws and regulations, or which are otherwise currently unnecessary and overburdensome, all of which increase the cost of banking services to New Jersey depositors and borrowers and which deter banking institutions from locating in this State.

2. Section 5 of P.L.1985, c.81 (C.17:3B-8) is amended to read as follows:

C.17:3B-8 Periodic percentage rates.

5. Periodic percentage rates. If the agreement governing the revolving credit plan provides that the periodic percentage rates of interest under the plan may increase or decrease, the increase or decrease shall take place only in correspondence with the movement of the market interest rate index specified in the revolving credit plan agreement, which index shall be readily verifiable by the borrower and beyond the control of the lender. Periodic percentage rate increases, based on a rise in the interest rate index, may be made at the option of the lender. Periodic percentage rate decreases shall be made whenever there is a decrease in the interest rate index which results in an interest rate which is less than the interest rate then applicable to the note or loan, except that the revolving credit plan agreement may

stipulate a percentage decrease in the interest rate index below which a corresponding decrease in the periodic percentage rate need not be made by the lender, provided that the index decrement shall be the same as the index increment used for interest rate increases. Interest rate increases may, and interest rate decreases shall, apply to all outstanding unpaid indebtedness under the plan on or after the effective date of the rate variation, as provided in the plan agreement.

3. Section 9 of P.L.1985, c.81 (C.17:3B-12) is amended to read as follows:

C.17:3B-12 Loans under a revolving credit plan.

9. Loans under a revolving credit plan. If the agreement governing the revolving credit plan so provides, a lender may:

a. Take personal or real property, or both, as security on a loan made under a revolving credit plan;

b. Require that any property securing the loan be insured for the benefit of the lender against loss or damage of the security, and retain out of the proceeds of the loan the premium for the insurance;

c. Require that all taxes, assessments and other governmental charges against property securing the loan be paid when due and that the security be maintained free of all executions, levies, encumbrances, and other charges which may adversely affect the value of the lender's interest in the security;

d. Charge and collect fees and charges, in addition to interest and fees and charges specifically permitted by P.L.1985, c.81 (C.17:3B-4 et seq.), in amounts as provided in the agreement or as established in the manner the agreement provides, such as, but not limited to, minimum charges, annual fees, check charges, maintenance charges, and late charges, except as may be specifically limited by P.L.1985, c.81 (C.17:3B-4 et seq.);

e. On a secured loan, charge and collect the actual costs of filing or recording the instrument of security, or notice or abstract thereof, if the filing or recording is authorized by law.

4. Section 10 of P.L.1985, c.81 (C.17:3B-13) is amended to read as follows:

C.17:3B-13 Revolving credit plan prohibitions.

10. Revolving credit plan prohibitions. No revolving credit plan agreement shall contain:

a. An acceleration clause under which any part or all of the balance, not yet matured, may be declared immediately due and payable because the lender deems himself to be insecure, which provision shall be void and unenforceable;

b. A provision whereby the borrower waives any right of action or defense against the lender or other person acting on his behalf for any illegal act committed in the collection of the payments under the revolving credit plan, which provision shall be void and unenforceable; and

c. A power of attorney to confess judgment or any other power of attorney, which provision shall be void and unenforceable.

d. (Deleted by amendment, P.L.1997, c.12.)

5. Section 12 of P.L.1985, c.81 (C.17:3B-15) is amended to read as follows:

C.17:3B-15 Changes in terms.

12. Changes in terms. a. A lender may, if the agreement governing a revolving credit plan so provides, at any time amend the terms of the agreement with respect to the periodic percentage rates used to calculate interest, the method of computing the outstanding unpaid indebtedness to which those rates are applied, and the terms of the installment repayment schedule, subject to the limitations of subsection b. of this section.

b. The lender shall notify each affected borrower of any amendment pursuant to subsection a. by mailing or delivering to the borrower, at least 30 days before the effective date of the amendment, a clear and conspicuous written notice which shall describe the amendment and the existing terms of the agreement affected by the amendment and shall also set forth the effective date of the amendment and the pertinent information contemplated by the following provisions of this section. If the amendment has the effect of increasing the interest or other charges to be paid by the borrower by changing the method of calculating interest or the index used to calculate the interest, the amendment shall become effective only if the borrower uses the plan after a date specified in the notice which is at least 30 days after the giving of the notice, but which need not be the date the amendment becomes effective, by making a purchase or obtaining a loan, or if the borrower indicates to the lender in writing the borrower's express agreement to the amendment, and the amendment may become effective as to a particular borrower as of the first day of the billing period during which the borrower so used the borrower's account or so indicated agreement to the amendment. Any borrower who fails to use the borrower's account or so to indicate agreement to an amendment shall be permitted to pay the outstanding unpaid indebtedness in the borrower's account under the plan in accordance with the terms of the agreement governing the plan without giving effect to the amendment.

For purposes of this section a variation in periodic percentage rates of interest in accordance with the terms of the index established in the

revolving credit plan agreement shall not be considered to be an amendment.

6. Section 15 of P.L.1985, c.81 (C.17:3B-18) is amended to read as follows:

C.17:3B-18 Periodic percentage rates.

15. Periodic percentage rates. The periodic percentage rates of interest charged and collected with respect to a loan under a closed end credit agreement may, subject to any limitations set forth in the loan agreement, vary in accordance with the market interest rate index specified in the loan agreement, which index shall be readily verifiable by the borrower and beyond the control of the lender. Periodic percentage rate increases, based on a rise in the interest rate index, may be made at the option of the lender. Periodic percentage rate decreases shall be made whenever there is a decrease in the interest rate index which results in an interest rate which is less than the interest rate then applicable to the note or loan, except that the loan agreement may stipulate a percentage decrease below which a corresponding decrease in the periodic percentage rate need not be made by the lender, provided the index decrement shall be the same as the index increment used for interest rate increases. Interest rate increases may, and interest rate decreases shall, apply to any outstanding and unpaid loan balances on or after the effective date of the rate variation. Upon an increase in the rate of interest, the term of the note shall be extended as necessary to provide for payment of the balance due without any increase in the amount of each of the borrower's periodic payments, except that the periodic payments may be increased, if either a. the agreement so provides or the parties agree to the increase in writing, or b. if the periodic payment amounts would not be sufficient to reduce the principal amount due, the lender, no sooner than 30 days after notifying the borrower of that fact, may require that the periodic payments be increased, or that there be a combination of an extended term and increased periodic payments.

7. Section 16 of P.L.1985, c.81 (C.17:3B-19) is amended to read as follows:

C.17:3B-19 Additional charges.

16. Additional charges. If the closed end loan agreement on a secured loan so provides, a lender may:

a. Charge and collect the actual costs of filing or recording the instrument of security, or notice or abstract thereof, if the filing or recording is authorized by law.

b. Charge and collect fees and charges, in addition to interest and fees and charges specifically permitted by P.L.1985, c.81 (C.17:3B-4 et seq.), in amounts as provided in the agreement or as established in the manner the agreement provides, such as, but not limited to, minimum charges, check charges and maintenance charges, and late charges except as may be specifically limited by P.L.1985, c.81 (C.17:3B-4 et seq.).

8. Section 18 of P.L.1985, c.81 (C.17:3B-21) is amended to read as follows:

C.17:3B-21 Insurance.

18. Insurance. A lender under a closed or open end credit agreement may:

a. Subject to the terms of the loan agreement, require any property securing the loan to be insured for the benefit of the lender against loss or damage of the security;

b. Offer credit life insurance or credit accident and health insurance, or both, on the borrower in accordance with the provisions of chapter 29 of Title 17B of the New Jersey Statutes.

A lender may deduct and retain from the proceeds of the loan the amount of the premium for any insurance provided by the lender to the borrower pursuant to this section.

9. Section 1 of P.L.1966, c.79 (C.17:9A-18.1) is amended to read as follows:

C.17:9A-18.1 Persons ineligible to serve as officer, director, employee.

1. Except with the written consent of the commissioner, no person shall serve as an officer, director or employee of a bank, savings bank or bank holding company if (a) that person is convicted of any crime involving dishonesty or breach of trust, or (b) that person is prohibited from serving or continuing to serve in such capacity pursuant to 12 U.S.C. §1829.

10. Section 60 of P.L.1948, c.67 (C.17:9A-60) is amended to read as follows:

C.17:9A-60 Definitions.

60. Definitions.

For the purposes of this article,

(1) "Person" means an individual, partnership, corporation, association or body politic, or any similar entity or organization;

(2) "Investment securities" means those marketable corporate obligations in the form of bonds, debentures or similar instruments as are

commonly known as investment securities, under such further definition of investment securities as may by regulation be prescribed by the commissioner;

(3) (Deleted by amendment, P.L.1997, c.33.)

(4) (Deleted by amendment, P.L.1997, c.33.)

(5) (Deleted by amendment, P.L.1997, c.33.)

(6) (Deleted by amendment, P.L.1997, c.33.)

(7) (Deleted by amendment, P.L.1997, c.33.)

(8) (Deleted by amendment, P.L.1997, c.33.)

(9) "Capital funds" of a bank or savings bank means the aggregate of the unimpaired capital stock, surplus and undivided profits of the bank or savings bank plus all other funds which are authorized by law to be included in capital funds for the purposes of this article. The commissioner may, by regulation, provide that contingent reserves of a bank or savings bank, as defined in such regulation, may be included in the capital funds of a bank or savings bank for the purposes of this article;

(10) "Loans and extension of credit" means a bank's or savings bank's direct or indirect advance of funds to or on behalf of a borrower based on an obligation of the borrower to repay the funds or repayable from specific property pledged by or on behalf of the borrower;

(11) "Borrower" means a person who is named as a borrower or debtor in a loan or extension of credit. Loans or extensions of credit to one borrower shall be attributed to another person and each person shall be deemed a borrower: (a) when proceeds of a loan or extension of credit are to be used for the direct benefit of the other person, to the extent of the proceeds so used; or (b) when a common enterprise is deemed to exist between the persons.

11. Section 62 of P.L.1948, c.67 (C.17:9A-62) is amended to read as follows:

C.17:9A-62 Limitations on liability.

62. Limitations on Liability.

A. The total loans and extensions of credit by a bank or savings bank outstanding to one borrower at one time and not fully secured by collateral having a market value at least equal to the amount of the loans and extensions of credit shall not exceed 15 percent of the capital funds of the bank or savings bank.

B. The total loans and extensions of credit by a bank or savings bank outstanding to one borrower at one time and fully secured by readily available marketable collateral having a market value, as determined by reliable and continuously available price quotations, at least equal to the

amount of the funds outstanding shall not exceed 10 percent of the capital funds of the bank or savings bank. This limitation shall be separate from and in addition to the limitation contained in subsection A of this section. If a bank's or savings bank's lending limit calculated under this subsection and under subsection A of this section is less than $500,000, the bank or savings bank may nevertheless have total loans and extensions of credit outstanding to one borrower at one time not to exceed $500,000.

C. Except as the commissioner may otherwise prescribe from time to time by regulation promulgated pursuant to subsection H of this section, the total loans and extensions of credit to a person by a bank or savings bank shall not be subject to any limitations imposed by this article, to the extent that loans and extensions of credit are secured by direct or indirect obligations of the United States which have a face or par value at least equal to the amount of such loans and extensions of credit, and which are fully guaranteed as to principal and interest by the United States.

D. Except as the commissioner may otherwise prescribe from time to time by regulation promulgated pursuant to subsection H of this section, loans and extensions of credit to, and investments in the obligations of any municipality or school district of this State may equal but not exceed 100% of the capital funds of a bank.

E. The commissioner may, from time to time, approve the obligations of any other state of the United States, or of any political or municipal or county subdivision or instrumentality thereof, or of any political subdivision or instrumentality of a municipality or county of this State, other than a school district, or of the Port Authority of New York and New Jersey or other instrumentality of two or more states or of the United States, or loans to any such other state, or to such subdivision, or instrumentality, and, unless the commissioner, acting pursuant to subsection H of this section prescribed otherwise by regulation, loans and extensions of credit may be made to, and investments may be made in the obligations of any such other State, or of any such subdivision or instrumentality in excess of 15 % but not in excess of 25% of the capital funds of a bank or savings bank.

F. Except as the commissioner may otherwise prescribe from time to time by regulation promulgated pursuant to subsection H of this section, the total amount of investment securities of any one person held by a bank or savings bank for its own account, other than investments specified in paragraphs (1) and (2) of section 61 and subsections D and E of this section, shall not exceed 15 % of the capital funds of the bank or savings bank.

G. In determining whether the total loans and extensions of credit made to any person are within the limitations imposed by this article, a bank or savings bank and its directors, officers and employees may rely upon, and be protected in relying upon, the written statements or representations of

such person, made to induce such bank or savings bank to permit such loans and extensions of credit to be made.

H. The commissioner may, from time to time, make, amend and repeal regulations (1) imposing a limitation, expressed in terms of a percentage of capital funds, upon loans and extensions of credit secured as specified in subsection C of this section, and (2) decreasing, increasing, or removing entirely the limitations on loans and extensions of credit imposed by this article upon the loans and extensions of credit, obligations and investments specified in subsections A, B, D, E and F of this section. Regulations made pursuant to this section shall be directed toward creating and maintaining substantial equality between State banks and savings banks and national banks, to the end that no class or group of banks or savings banks shall have any substantial competitive advantage over another. When not defined in this article or in regulations promulgated by the commissioner, terms used in this article shall be construed in a manner consistent with their definition by the Comptroller of the Currency, or any other appropriate federal regulatory agency.

12. Section 63 of P.L.1948, c.67 (C.17:9A-63) is amended to read as follows:

C.17:9A-63 Exempt transactions.

63. Exempt transactions.

A. A bank or savings bank shall not be in violation of this article if the loans and extensions of credit to a person incurred under any prior law repealed or superseded by this act exceed the limitations imposed by this article.

B. A bank or savings bank shall not be in violation of this article if, at any time when a bank or savings bank makes a loan or extension of credit to a person, the total loans and extensions of credit to such person, including the loan or extension of credit then made, do not or did not exceed the limitations imposed by this article, notwithstanding that, subsequent to the making of any such loan or extension of credit, circumstances other than the making of an additional loan or extension of credit, cause the total loans and extensions of credit to such person to exceed the limitations imposed by this article.

C. Notwithstanding any provision of this article, a bank or savings bank may, with the prior approval of the commissioner, do any act necessary to preserve or protect any loan or extension of credit, obligation or investment held by it, or any security for such loan or extension of credit or obligation, even though such act causes the total loans and extensions of credit to any person to exceed the limitations imposed by this article; provided, that in no

case shall the commissioner approve any act pursuant to this subsection which would cause the total loans and extensions of credit to any person to exceed the limitations imposed by this article by more than fifty percent of such limitations.

13. Section 110 of P.L.1948, c.67 (C.17:9A-110) is amended to read as follows:

C.17:9A-110 Directors; other committees.

110. Directors; other committees. The bylaws of a bank may provide for other committees of the board of directors in addition to the committees elsewhere in this act authorized. Not less than a majority of the members of any such other committee shall be directors. Any or all of the remaining members of any such other committee may be directors or may be officers of the bank who are not directors. Each committee shall have the authority to take any action on behalf of the board that may be delegated to the committee in the bylaws or by resolution of the board. The minutes of each committee authorized to take action on behalf of the board of directors pursuant to this section shall be presented to the board at its next meeting following the meeting of the committee at which such action was taken.

14. Section 3 of P.L.1990, c.69 (C.17:16F-17) is amended to read as follows:

C.17:16F-17 Transfer of mortgage loan to purchasing servicing organization.

3. If the servicing of a mortgage loan for which a mortgage escrow account has been established is sold, assigned or transferred to a purchasing servicing organization:

a. (Deleted by amendment, P.L.1997, c.33.)

b. The selling servicing organization shall notify the tax collector of the taxing district in which the mortgaged property is located of the sale, assignment or transfer not more than 45 days after the actual date of the sale, assignment or transfer or not less than 10 days before the date the next payment of property taxes is due, whichever is earlier. The notification provided to the tax collector shall be on a form approved by the commissioner. The selling servicing organization shall also forward to the purchasing servicing organization the tax bill and stubs for the property securing the mortgage loan.

c. The purchasing servicing organization shall issue corrected coupon or payment books, if such are used, not later than 20 days after the first mortgage escrow payment to the purchasing servicing organization is due.

d. The purchasing servicing organization shall notify the tax collector of the taxing district in which the mortgaged property is located of the sale,

assignment or transfer of the servicing of the mortgage loan not later than 45 days after the actual date of the sale, assignment or transfer or not less than 10 days prior to the date the next payment of property taxes is due, whichever is earlier. This notice shall include the purchasing servicing organization's procedure for responding to questions regarding a mortgage escrow account it manages.

e. A mortgagee or servicing organization which has been authorized to receive the original tax bill from the tax collector of the taxing district in which the mortgagor's property is located pursuant to R.S.54:4-64, may request the tax collector to send the original tax bill to its property tax processing organization. This request shall be made in writing on a form approved by the commissioner.

For the purposes of this section, "the date the next payment of property taxes is due" means either the first day of February, May, August or November, as applicable, and shall not include any grace period.

For the purposes of this section, the terms, "purchasing servicing organization" and "selling servicing organization" shall not include the Government National Mortgage Association, the Federal National Mortgage Association, the Federal Home Loan Mortgage Corporation, the Resolution Trust Corporation, or the Federal Deposit Insurance Corporation, if the assignment, sale, or transfer of the servicing of the mortgage loan is preceded by:

(1) Termination of the contract for servicing the loan for cause;

(2) Commencement of proceedings for bankruptcy of the servicer; or

(3) Commencement of proceedings by the Federal Deposit Insurance Corporation or the Resolution Trust Corporation for conservatorship or receivership of the servicer, or an entity by which the servicer is owned or controlled.

15. Section 1 of P.L.1985, c.370 (C.17:16L-1) is amended to read as follows:

C.17:16L-1 Definitions.

1. As used in this act:

a. "Banking institution" means any state or federally chartered bank, savings bank, or savings and loan association, including a federally chartered savings bank;

b. "Commissioner" means the Commissioner of Banking and Insurance;

c. "Deposit account" means an account in a banking institution used by the account holder for personal or family purposes, but does not include an account as defined in the federal "Expedited Funds Availability Act," 12

U.S.C.s.4001 et seq., which account is subject to the disclosure of funds availability policy requirements as set forth in 12 U.S.C. s.4004.

16. Section 3 of P.L.1991, c.210 (C.17:16N-3) is amended to read as follows:

C.17:16N-3 New Jersey Consumer Checking Accounts.

3. a. Every depository institution that maintains regular checking accounts in this State shall make available to consumers a New Jersey Consumer Checking Account at all offices of that depository institution where regular checking accounts are offered or available. A New Jersey Consumer Checking Account shall be used primarily for personal, family, or household purposes. No depository institution shall be required to offer a New Jersey Consumer Checking Account at a cost which is below its actual cost to provide such an account. The calculation made by a depository institution of the actual cost of providing a New Jersey Consumer Checking Account shall be determinative in the absence of mathematical error or a request from the commissioner for other data and information deemed relevant or appropriate for evaluating the actual cost of providing a New Jersey Consumer Checking Account. New Jersey Consumer Checking Accounts shall contain the features specified in subsection c. of this section or be an account the features and terms of which have been approved by the commissioner pursuant to subsection d. of this section.

b. An applicant for a New Jersey Consumer Checking Account shall provide the depository institution with the same information an applicant for a regular checking account is required to provide at that depository institution.

c. The commissioner shall establish by regulation pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), all of the following features of a New Jersey Consumer Checking Account which may be stated in terms of a range of options rather than a specific number:

(1) the initial deposit amount, if any, necessary to open a New Jersey Consumer Checking Account;

(2) the maximum amount, if any, permitted to be required by a depository institution as a minimum balance necessary to maintain the account;

(3) the number of checks, if any, that may be used within a periodic cycle without charge to withdraw funds from the account;

(4) the number of other withdrawals, if any, that may be made by a method other than check within a periodic cycle without charge;

(5) a maximum amount, if any, that may be charged per periodic cycle for maintaining the account;

(6) the maximum number of deposits, if any, that may be made in a periodic cycle without charge; and

(7) a maximum amount that may be charged per transaction in excess of the number permitted under paragraphs (3), (4) and (6) of this subsection.

d. (1) Notwithstanding the provisions of subsection c. of this section, a depository institution may establish a New Jersey Consumer Checking Account by submitting an account to the commissioner for approval as a New Jersey Consumer Checking Account by providing the commissioner information which details the features and terms of the account.

(2) The commissioner shall approve or reject the account as a New Jersey Consumer Checking Account within 30 business days of receipt of the information from a depository institution.

(3) If the commissioner does not approve an account as a New Jersey Consumer Checking Account, the commissioner shall provide to the depository institution, in writing, the reasons for the commissioner's decision.

e. The commissioner shall, prior to promulgating regulations pursuant to subsection c. of this section or accepting any account for approval pursuant to subsection d. of this section, review the terms and conditions of the low cost personal checking accounts currently available to consumers in this State and shall consider those terms and conditions in complying with the provisions of subsections c. and d. of this section.

f. The holder of a New Jersey Consumer Checking Account shall:

(1) have no less access to mail or electronic banking services, including direct deposits to the account by payors, than that offered to holders of regular checking accounts at that depository institution;

(2) not be assessed any fee in excess of the usual fee or charge made by the depository institution to its regular checking account holders.

g. A depository institution shall provide a periodic account statement to every holder of a New Jersey Consumer Checking Account.

h. A depository institution may close a New Jersey Consumer Checking Account under the same standards for fraudulent activity and overdrafts as it applies to holders of regular checking accounts at the depository institution or close or refuse to open a New Jersey Consumer Checking Account if the consumer:

(1) has a regular checking account or another New Jersey Consumer Checking Account in that depository institution or in any other depository institution; or

(2) makes an intentional material misrepresentation in the information provided to the depository institution to open the account.

i. A depository institution shall not require any holder of a New Jersey Consumer Checking Account to have any other account at that or any other depository institution or have a credit card issued by it or any other depository institution as a condition to opening or maintaining a New Jersey Consumer Checking Account.

17. R.S.46:30B-95 is amended to read as follows:

Maintaining records; generally.

46:30B-95. Maintaining records; generally. Every holder required to file a report under Article 17 of this chapter, as to any property for which it has obtained the last known address of the owner, shall maintain a record of the name and last known address of the owner for five years after the property becomes reportable, except to the extent that a shorter time is provided in R.S.46:30B-96 or by rule of the administrator.

18. Section 3 of P.L.1963, c.177 (C.46:38-15) is amended to read as follows:

C.46:38-15 Gifts to minors.

3. An adult may, during his lifetime, make a gift of a security, a life insurance or endowment policy, annuity contract, tangible personal property, interest in a partnership or limited partnership or money to a minor under this act:

(a) If the subject of the gift is a security in registered form, by registering it in the name of a person eligible to be custodian, or a trust company, followed by substantially the following language: "as custodian for ..... (name of minor) under the New Jersey Uniform Gifts to Minors Act";

(b) If the subject of the gift is a security not in registered form, by delivering it to a person eligible to be custodian, other than the donor, or a trust company, accompanied by a statement of gift in substantially the following language, signed by the donor and the custodian:

"GIFT UNDER THE NEW JERSEY UNIFORM GIFTS TO MINORS ACT

I, ... (name of donor) hereby deliver to ....., (name of custodian) as custodian under the New Jersey Uniform Gifts to Minors Act, for....., (name of minor) the following security: ..... (description of security)

Dated: ....

(signature of donor)

....., (name of custodian) as custodian for said ..... .(name of minor) hereby acknowledges receipt of the above described security under the New Jersey Uniform Gifts to Minors Act.

Dated:..... .....

(signature of custodian)"

(c) If the subject of the gift is money, by paying or delivering it to a broker or a bank for credit to an account in the name of a person eligible to be custodian, followed by substantially the following language: "as custodian for .....(name of minor) under the New Jersey Uniform Gifts to Minors Act."

(d) If the subject of the gift is a life insurance or endowment policy or an annuity contract, by causing the ownership of the policy or contract to be registered with the issuing insurance company in the name of the custodian or in the name of an adult member of the minor's family or in the name of a guardian of the minor or any bank or trust company, followed by the words "custodian for ..... (name of minor) under the New Jersey Uniform Gifts to Minors Act," and such policy of life insurance or endowment policy or annuity contract shall be delivered to the person in whose name it is thus registered as custodian. If the policy or contract is registered in the name of the donor, as custodian, such registration shall of itself constitute the delivery required by this act.

(e) If the subject of the gift is an interest in tangible personal property, by causing the ownership of the property to be transferred by any appropriate written document to the custodian in his own name, followed by substantially the following language: "as custodian for ..... (name of minor) under the New Jersey Uniform Gifts to Minors Act."

(f) If the subject of the gift is an interest in a partnership or a limited partnership, by delivering an assignment of the interest to the custodian in his own name, followed by substantially the following language: "as custodian for .....(name of minor) under the New Jersey Uniform Gifts to Minors Act," and by notifying in writing the other partner or partners in the case of a partnership or the other general partner or partners in the case of a limited partnership and the donee of the gift. In the case in which the assignment is made to the donor in his own name, notification to the other partner or partners in the case of a partnership or to the other general partner or partners in the case of a limited partnership shall constitute the delivery required by this subsection.

19. Section 15 of P.L.1963, c.177 (C.46:38-27) is amended to read as follows:

C.46:38-27 Custodian; powers, duties.

15. (a) The custodian shall collect, hold, manage, invest and reinvest the custodial property.

(b) The custodian shall pay over to the minor for expenditure by him, or expend on behalf of the minor, so much of or all the custodial property as the custodian deems advisable for the support, maintenance, education, general use and benefit of the minor in the manner, at the time or times, and to the extent that the custodian in his absolute discretion deems suitable and proper, with or without court order, with or without regard to the duty or ability of himself or of any other person to support the minor, and with or without regard to any other funds, income or property of the minor which may be available for any such purpose.

(c) The court, on the application of a parent or guardian of the minor, or on the application of the minor if he has attained the age of 14 years, may order the custodian to pay over to the minor for expenditure by him, or to expend on behalf of the minor, so much of or all the custodial property as is necessary for the minor's support, maintenance, education, general use and benefit.

(d) To the extent that the custodial property is not so expended, the custodian shall deliver or pay it over to the minor when he attains 21 years of age or, if the minor dies before attaining 21 years of age, the custodian shall thereupon deliver or pay it over to the estate of the minor. The donor at the time the gift is made may expressly direct that the custodianship be terminated and the custodial property be paid over and transferred to the minor at any time after the minor attains the age of 18 years.

(e) The custodian, in investing and reinvesting the custodial property, shall act as would a prudent man of discretion and intelligence who is seeking a reasonable income and the preservation of his capital, except that he may, in his discretion and without liability to the minor or his estate, retain a security given to the minor in a manner prescribed in this act or hold money so given in an account in the bank to which it was paid or delivered by the donor.

(f) (Deleted by amendment.)

(g) The custodian may sell, exchange, convert or otherwise dispose of custodial property in the manner, at the time or times, for the price or prices and upon the terms he deems advisable. He may vote a security which is custodial property in person or by general or limited proxy. He may consent, directly or through a committee or other agent, to the reorganization, consolidation, merger, dissolution or liquidation of an issuer of a security which is custodial property, and to the sale, lease, pledge or mortgage of any property by or to such an issuer, and to any other action by

such an issuer. He may execute and deliver written instruments which he deems advisable to carry out any of his powers as custodian.

(h) The custodian shall keep all custodial property separate and distinct from his own property in such a manner as to identify it clearly as custodial property. He shall register each security which is custodial property and in registered form in his name, or in the name of a trust company, followed by substantially the following language: "as custodian for ..... (name of minor) under the New Jersey Uniform Gifts to Minors Act." He shall hold all money which is custodial property in an account with a broker or in a bank in his name followed by substantially the following language: "as custodian for ..... (name of minor) under the New Jersey Uniform Gifts to Minors Act."

(i) The custodian shall keep records of all transactions with respect to the custodial property and make them available for inspection at reasonable intervals by a parent, guardian or legal representative of the minor, or by the minor if he is 14 years of age or more.

(j) In addition to the powers given in this act, a custodian has all the powers with respect to the custodial property which a guardian of the estate would have with respect to property not held as custodial property.

(k) If the subject of the gift is a life insurance or endowment policy or annuity contract, the custodian:

(1) in his capacity as custodian, has all the incidents of ownership in the policy or contract to the same extent as if he were the owner, except that the designated beneficiary of any policy or contract on the life of the minor shall be the minor's estate and the designated beneficiary of any policy or contract on the life of a person other than the minor shall be the custodian as custodian for the minor for whom he is acting; and

(2) may pay premiums on the policy or contract out of the custodial property.

(l) The custodian may, in his discretion, terminate the custodianship at any time after the minor has attained the age of 18 years, but the power shall not be exercised by the custodian prior to a termination age fixed by the donor as provided in subsection (c) of this section.

20. Section 20 of P.L.1963, c.177 (C.46:38-32) is amended to read as follows:

C.46:38-32 Death, renunciation of custodian.

20. Upon the death of a custodian or renunciation of a custodian designee for whom a successor custodian has been designated or provided by law, the certificate of death, a written renunciation or a written recital of the renunciation, as the case may be, shall be full warrant to all persons for

immediate transfer of the custodial property to the successor if the minor is then under 21 years of age. The successor shall cause each security which is custodial property and in registered form to be registered, and each account with a broker or in a bank to be carried, in the name of the successor custodian, or a trust company, followed by substantially the following language: "as custodian for ..... (name of minor) under the New Jersey Uniform Gifts to Minors Act"; and shall cause each such security and all other custodial property to be delivered to him together with any additional instruments required for the transfer thereof.

C.17:16S-1 Definitions relative to complying with discovery or production of documents; costs; reimbursement.

21. a. For the purposes of this section:

"Financial institution" means an entity chartered or licensed by the United States of America or by any state to accept deposits of funds or make loans.

"Governmental unit" means the United States of America, the State of New Jersey and all its counties, municipalities and school districts, and any authority or other entity established by any of those governmental units to fulfill a governmental function.

b. A person, other than a governmental unit, who is a party to an action and is seeking discovery or production of evidence as permitted by and pursuant to the Rules Governing the Courts of the State of New Jersey or other State authority or the Federal Rules of Civil Procedure requiring or requesting access to financial records pertaining to a customer of the financial institution shall pay to the financial institution that assembles or provides the financial records a fee for reimbursement of reasonably necessary costs, directly incurred, as follows:

(1) Reimbursement of search and processing costs, including the total amount of personnel direct time incurred in locating and retrieving, reproducing, packaging and preparing financial records for shipment, costs for analysis of material or for managerial or legal advise, expertise, research, or time spent for any of these activities. Search and processing costs may include the actual cost of extracting information stored by computer in the format in which it is normally produced, based on computer time and necessary supplies.

(2) Reimbursement for reproduction costs incurred in making copies of documents required or requested. The rate for reproduction costs for making copies of required or requested documents shall be the institution's usual rate charged to its customers for reproducing copies, including copies produced by reader-printer reproduction processes. Photographs, films, and other materials shall be reimbursed at actual cost.

(3) Reimbursement of transportation costs, including transport of personnel to locate and retrieve the information or material required or requested and including all other reasonably necessary costs to convey the information or material to the place of examination.

c. Payment for reasonably necessary, directly incurred costs to financial institutions shall be limited to material required or requested.

d. Payment shall be made only for costs that are both directly incurred and reasonably necessary, and search and processing, reproduction, and transportation costs shall be considered separately.

e. A financial institution may require an advance payment, based on the institution's good faith estimate or the charges permitted by this act. Any payment in excess of the actual charge shall be promptly refunded by the financial institution.

f. If a party to a lawsuit making the request for materials or information withdraws the legal process or formal written request, or if the customer revokes the authorization for release of materials or information, or if the legal process or request has been successfully challenged by the customer, the party shall promptly notify the financial institution of these facts. The party shall be responsible only for the costs directly incurred prior to the time that the financial institution receives this notice.

g. A financial institution is not entitled to reimbursement under this section for costs incurred in assembling or providing financial records provided as an incident to perfecting a security interest, proving a claim in bankruptcy, or otherwise collecting on a debt owing to the financial institution itself or to the institution in its role as a fiduciary.

C.17:16S-2 Bank service fee on orders of execution; definitions.

22. A depository institution which is presented with an execution on an account pursuant to N.J.S.2A:17-57 et seq., may deduct from the amount levied and retain for itself as compensation for its expenses and services, a service fee, provided that the deposit agreement between the depository institution and the depositor provides for such a fee. The portion of any service fee which has priority over an execution pursuant to this section shall not exceed $60 or such greater or lesser amount as the Commissioner of Banking and Insurance may establish from time to time by regulation.

Nothing herein shall affect the validity or priority of any lien or other right of set-off that the depository institution may have with respect to the account which is levied upon.

For purposes of this section:

"Account" means a checking account, savings account or other deposit account of a type which is insured by the Federal Deposit Insurance Corporation.

"Depository institution" means any state or federally chartered bank, savings bank, savings and loan association or credit union which accepts deposits of funds.

C.17:9A-64.1 Origination, acquisition of mortgage loans by bank, savings bank.

23. A bank or savings bank may originate or acquire mortgage loans secured by a mortgage constituting a lien upon real property or upon a lease of the fee of real property, so long as the bank observes prudent banking practices, including amortization of the loans. The value of any mortgage loan shall not exceed 90 per cent of the appraised value of the mortgaged property, except for a mortgage loan that is less than $100,000 or as permitted by the Commissioner of Banking and Insurance by regulation. A bank or savings bank shall obtain an appropriate evaluation of the real property collateral that is consistent with safe and sound banking practices.

C.17:9A-71.1 Compliance of bank, savings bank with liability of directors, officers.

24. Any bank or savings bank that is in compliance with Regulation O of the Board of Governors of the Federal Reserve System, 12 C.F.R. s.215 et seq., is deemed to be in compliance with the provisions of sections 71 through 75 of P.L.1948, c.47 (C.17:9A-71 through 17:9A-75).

C.17:16E-1.1 Compliance of bank, savings bank with prohibition on interlocking relationships.

25. Any bank or savings bank that is in compliance with the federal "Depository Institution Management Interlocks Act," 12 U.S.C. s.3201 et seq. and the federal regulations effectuating that act, 12 C.F.R. s.348, is deemed to be in compliance with the provisions of sections 1 through 6 of P.L.1975, c.265 (C.17:16E-1 et seq.).

C.17:12B-145.1 Origination, acquisition of mortgage loans by association.

26. An association may originate or acquire mortgage loans secured by a mortgage constituting a lien upon real property or upon a lease of the fee of real property, so long as the association observes prudent lending practices, including amortization of the loans. The value of any mortgage loan shall not exceed 90 per cent of the appraised value of the mortgaged property, except for a mortgage loan that is less than $100,000 or as permitted by the Commissioner of Banking and Insurance by regulation. An association shall obtain an appropriate evaluation of the real property collateral that is consistent with safe and sound banking practices.

C.17:12B-62.1 Association deemed in compliance with prohibition on interlocking relationships.

27. Any association that is in compliance with the federal "Depository Institution Management Interlocks Act," 12 U.S.C. s.3201 et seq. and the federal regulations effectuating that act, 12 C.F.R. s.348, is deemed to be in

compliance with the provisions of sections 1 through 6 of P.L.1975, c.265 (C.17:16E-1 et seq.).

28. Section 155 of P.L.1963, c.144 (C.17:12B-155) is amended to read as follows:

C.17:12B-155 Procedure for making other loans.

155. Other loans may be made as follows:

A. Account loans. Loans secured by a pledge of a member's savings account. No such loan shall exceed the withdrawal value of the pledged account. Interest on such loans shall not be charged at a rate in excess of the maximum permitted under the provisions of R.S.31:1-1 unless a higher rate is required by any applicable federal regulation that establishes minimum rates that must be charged on loans secured by savings accounts; in which event, the interest charged shall not be greater than that specified by such federal regulation.

B. Purchase of loans. An association may purchase any mortgage loan, property repair, alteration, improvement or rehabilitation loan, or any other loan which an association is authorized to make.

C. (Deleted by amendment, P.L.1997, c.33.)

D. (Deleted by amendment, P.L.1997, c.33.)

E. Loans otherwise authorized. An association may make any other loan which it may be authorized to make by any law of this State.

F. (Deleted by amendment, P.L.1997, c.33.)

G. Educational loans. In addition to the authority otherwise granted by law for an association to make loans guaranteed or insured in whole or in part by the United States of America or the State of New Jersey, or any instrumentality or agency of either of them, or for which a commitment to so guarantee or insure has been made, an association may make any loans so guaranteed or insured or for which a commitment to so guarantee or insure has been made where such loans are made for the purposes of financing the expenses of higher education. Such loans may be made in accordance with the terms and conditions permitted by the guaranteeing or insuring authority, notwithstanding any other provisions of law limiting interest or other charges or prescribing other terms and conditions.

H. (Deleted by amendment, P.L.1997, c.33.)

I. Secondary mortgage loans. Secondary mortgage loans made pursuant to section 26 of P.L.1997, c.33 (C.17:12B-145.1) shall be repayable in installments under the same terms and conditions as provided for secondary mortgage loan licensees under the "Secondary Mortgage Loan Act," P.L.1970, c.205 (C.17:11A-34 et seq.) only with respect to maximum annual percentage rate of interest. The Commissioner of

Banking and Insurance shall have the power, in relation to a "secondary mortgage loan," to adopt, amend, alter or rescind regulations, the requirements of which, in the commissioner's judgment, are necessary for the implementation of this subsection.

J. Mobile homes. An association may invest in mobile or manufactured home chattel paper by making or by buying loans or installment sales contracts on mobile or manufactured homes.

K. Consumer loans.

(1) An association may invest in or make installment loans upon the same terms and conditions prescribed for banks in accordance with Article 12 of the "Banking Act of 1948," P.L.1948, c.67 (C.17:9A-53 et seq.), subject to the limitation established in subsection M. of this section.

(2) In addition, subject to the limitation established in subsection M. of this section, an association may invest in or make secured or unsecured loans for personal, family, or household purposes to the extent and under the conditions permitted by the rules and regulations adopted by the commissioner from time to time. The rate of interest on such loans shall not be in excess of the rate of interest provided for in section 160 of P.L.1963, c.144 (C.17:12B-160) or in excess of any rate of interest for such loans as may be otherwise authorized by law. The commissioner shall promulgate such rules and regulations in substantial conformity with similar rules and regulations of the Federal Home Loan Bank Board.

L. Advance loans. An association may make advance loans upon the same terms and conditions prescribed for banks in accordance with "The Advance Loan Law of 1968," P.L.1959, c.91 (C.17:9A-59.1 et seq.).

M. Limitations on loans and investments. Loans or investments in the following subsections shall not exceed, in the aggregate for each subsection, 20% of the assets of the association, provided that the commissioner may, by regulation, establish an amount in excess of 20% for each subsection if such excess amount is in conformity with federal law or rule or regulation of the Federal Home Loan Bank Board:

(1) (Deleted by amendment, P.L.1997, c.33.)

(2) Secured or unsecured loans for personal, family, or household purposes, and commercial paper and corporate debt securities; provided, however, that no percentage of assets limitation shall apply to the issuance of credit cards or the extension of credit therewith, the investment in property improvement loans as defined in section 158 of P.L.1963, c.144 (C.17:12B-158), or the investment in advance loans as defined in subsection L. of this section.

29. Section 156 of P.L.1963, c.144 (C.17:12B-156) is amended to read as follows:

C.17:12B-156 Investments in additional loans.

156. Investments in additional loans.

A. An association may make additional loans or advances for any purpose expressly or impliedly reserved or provided for in any bond, mortgage or other obligation held by or hereafter acquired by any such association subject to the provisions of subsection D of this section, otherwise;

B. An association may make additional loans to borrowing members for the purpose of repairs, alterations, or improvements already made or to be made upon real estate owned by such borrowing member, subject to the conditions and limitations of subsection D of this section.

C. An association may make additional loans to borrowing members for the purpose of paying the cost of insurance upon the life of such borrowing member. Such policy of insurance may also include health, accident or disability features. The proceeds of such a policy of insurance shall be applied in accordance with the terms and conditions contained therein; provided, however, the amount of such insurance shall not exceed the amount loaned on the mortgage lien held by the association. Any additional loan made under this subsection shall be made pursuant to the conditions and limitations contained in subsection D of this section.

D. Any additional loan to borrowing members made pursuant to the provisions of this section shall be made subject to the following conditions and limitations:

(1) The real estate securing such an additional loan shall be real estate upon which the association already holds a mortgage lien.

(2) (Deleted by amendment, P.L.1997, c.33.)

(3) (Deleted by amendment, P.L.1997, c.33.)

(4) (Deleted by amendment, P.L.1997, c.33.)

(5) Each such additional loan shall be evidenced by an obligation which shall state the terms on which such loan is made, and the amount thereof shall be added to the amount due on the association's mortgage against such real estate.

(6) The payment of such additional loan shall be secured by the mortgage the association already holds on such real estate.

(7) No search or examination of the title to the mortgage real estate shall be required.

All persons who acquire any rights in, or liens upon, the mortgaged real estate, subsequent to the recording of any association's mortgage, shall hold such rights and liens subject to the association's right to make such additional loans.

30. Section 168 of P.L.1963, c.144 (C.17:12B-168) is amended to read as follows:

C.17:12B-168 Limitations on amounts of real estate loans and investments.

168. Limitations on amounts of real estate loans and investments.

No State association shall make loans or extensions of credit in an amount greater than that permitted for banks and savings banks pursuant to sections 60 through 63 of P.L.1948, c.67 (C.17:9A-60 through 17:9A-63).

Notwithstanding the above limits, the commissioner may adopt, amend, alter or rescind regulations permitting associations to make loans for a greater amount or to increase the percentage limitation hereinabove set forth. The commissioner may give consideration to the size of the association, its reserves and current economic conditions in issuing such regulations. Any loans or investments legally made under the provisions of regulations adopted under the authority granted by this section shall be legal loans or investments if they conform with the regulations in effect at the date of closing or purchase of said loan or investment, notwithstanding the subsequent amendments, alterations, rescissions or repeals of the regulations in effect at the date of such closing or purchase.

31. The following are repealed:

Repealer.

Section 25 of P.L.1985, c.81 (C.17:3B-28);

Sections 64 through 70 of P.L.1948, c.67 (C.17:9A-64 through 17:9A-70);

Section 2 of P.L.1973, c.328 (C.17:9A-65.1);

Section 181 of P.L.1948, c.67 (C.17:9A-181);

Sections 146 through 149 and 151 through 154 of P.L.1963, c.144 (C.17:12B-146 through 17:12B-149 and 17:12B-151 through 17:12B-154);

Section 167 of P.L.1963, c.144 (C.17:12B-167);

Sections 4, 5 and 6 of P.L.1977, c.1 (C.17:16F-4 through 17:16F-6);

Sections 2, 6, 7 and 8 of P.L.1990, c.69 (C.17:16F-16 and 17:16F-20 through 17:16F-22); and

P.L.1979, c.87 (C.56:11-10 through 56:11-15).

32. This act shall take effect immediately.

Approved March 7, 1997.

CHAPTER 34

AN ACT concerning conspiracy and amending N.J.S.2C:5-4.

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

1. N.J.S. 2C:5-4 is amended to read as follows:

Grading of criminal attempt and conspiracy; mitigation in cases of lesser danger.

2C:5-4. Grading of Criminal Attempt and Conspiracy; Mitigation in Cases of Lesser Danger. a. Grading. Except as provided in subsection c., an attempt or conspiracy to commit a crime of the first degree is a crime of the second degree; except that an attempt to commit murder is a crime of the first degree. Otherwise an attempt is a crime of the same degree as the most serious crime which is attempted, and conspiracy is a crime of the same degree as the most serious crime which is the object of the conspiracy; provided that, leader of organized crime is a crime of the second degree. An attempt or conspiracy to commit an offense defined by a statute outside the code shall be graded as a crime of the same degree as the offense is graded pursuant to sections 2C:1-4 and 2C:43-1.

b. Mitigation. The court may impose sentence for a crime of a lower grade or degree if neither the particular conduct charged nor the defendant presents a public danger warranting the grading provided for such crime under subsection a. because:

(1) The criminal attempt or conspiracy charged is so inherently unlikely to result or culminate in the commission of a crime; or

(2) The conspiracy, as to the particular defendant charged, is so peripherally related to the main unlawful enterprise.

c. Notwithstanding the provisions of subsection a. of this section, conspiracy to commit a crime set forth in subsection a., b., or d. of N.J.S.2C:17-1 where the structure which was the target of the crime was a church, synagogue, temple or other place of public worship is a crime of the first degree.

2. This act shall take effect immediately.

Approved March 7, 1997.

CHAPTER 35

AN ACT allowing certain withholdings from wages and amending P.L.1965 c. 173.

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

1. Section 4 of P.L.1965, c.173 (C.34:11-4.4) is amended to read as follows:

C.34:11-4.4 Withholding from wages.

4. No employer may withhold or divert any portion of an employee's wages unless:

a. The employer is required or empowered to do so by New Jersey or United States law; or

b. The amounts withheld or diverted are for:

(1) Contributions authorized either in writing by employees, or under a collective bargaining agreement, to employee welfare, insurance, hospitalization, medical or surgical or both, pension, retirement, and profit-sharing plans, and to plans establishing individual retirement annuities on a group or individual basis, as defined by section 408 (b) of the federal Internal Revenue Code of 1986 (26 U.S.C.s.408(b)), or individual retirement accounts at any State or federally chartered bank, savings bank, or savings and loan association, as defined by section 408 (a) of the federal Internal Revenue Code of 1986 (26 U.S.C.s.408(a)), for the employee, his spouse or both.

(2) Contributions authorized either in writing by employees, or under a collective bargaining agreement, for payment into company-operated thrift plans; or security option or security purchase plans to buy securities of the employing corporation, an affiliated corporation, or other corporations at market price or less, provided such securities are listed on a stock exchange or are marketable over the counter.

(3) Payments authorized by employees for payment into employee personal savings accounts, such as payments to a credit union, savings fund society, savings and loan or building and loan association; and payments to banks for Christmas, vacation, or other savings funds; provided all such deductions are approved by the employer.

(4) Payments for company products purchased in accordance with a periodic payment schedule contained in the original purchase agreement; payments for employer loans to employees, in accordance with a periodic payment schedule contained in the original loan agreement; payments for safety equipment; payments for the purchase of United States Government bonds; and payments to correct payroll errors; provided all such deductions are approved by the employer.

(5) Contributions authorized by employees for organized and generally recognized charities; provided the deductions for such contributions are approved by the employer.

(6) Payments authorized by employees or their collective bargaining agents for the rental of work clothing or uniforms or for the laundering or dry cleaning of work clothing or uniforms; provided the deductions for such payments are approved by the employer.

(7) Labor organization dues and initiation fees, and such other labor organization charges permitted by law.

(8) Contributions authorized in writing by employees, pursuant to a collective bargaining agreement, to a political committee, continuing political committee, or both, as defined in section 3 of P.L.1973, c.83 (C.19:44A-3), established by the employees' labor union for the purpose of making contributions to aid or promote the nomination, election or defeat of any candidate for a public office of the State or of a county, municipality or school district or the passage or defeat of any public question, subject to the conditions specified in section 2 of P.L.1991, c.190 (C.34:11-4.4a).

(9) Contributions authorized in writing by employees to any political committee or continuing political committee, other than a committee provided for in paragraph (8) of this subsection, for the purpose of making contributions to aid or promote the nomination, election or defeat of any candidate for a public office of the State or of a county, municipality or school district or the passage or defeat of any public question, subject to the conditions specified in section 2 of P.L.1991, c.190 (C.34:11-4.4a); in making a payroll deduction pursuant to this paragraph the administrative expenses incurred by the employer shall be borne by such committee, at the option of the employer.

(10) Payments authorized by employees for employer-sponsored programs for the purchase of insurance or annuities on a group or individual basis, if otherwise permitted by law.

(11) Such other contributions, deductions and payments as the Commissioner of Labor may authorize by regulation as proper and in conformity with the intent and purpose of this act, if such deductions are approved by the employer.

2. This act shall take effect immediately.

Approved March 7, 1997.

CHAPTER 36

AN ACT concerning professional wrestling, amending and supplementing P.L.1985, c.83 and amending P.L.1988, c.20.

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

1. Section 1 of P.L.1985, c.83 (C.5:2A-1) is amended to read as follows:

C.5:2A-1 Definitions.

1. As used in this act:

a. "Attending physician" means a physician assigned to attend a boxing exhibition or performance pursuant to this act.

b. "Board" means the State Athletic Control Board established pursuant to section 3 of this act.

c. "Commissioner" means the commissioner appointed pursuant to section 5 of this act.

d. "Contest" means an engagement in which the participants strive in good faith to win.

e. "Council" means the State Athletic Control Board Medical Advisory Council established pursuant to section 8 of this act.

f. "Event" means any occurrence in which a boxer, wrestler, kick boxer or combative sports practitioner displays or exhibits his skills, performs or fights, but does not include professional wrestling except as provided in section 5 of P.L.1997, c.36 (C.5:2A-14.3).

g. "Exhibition" means an engagement in which the participants show or display their skills without necessarily striving to win, but does not include professional wrestling except as provided in section 5 of P.L.1997, c.36 (C.5:2A-14.3).

h. "Kick boxing or Thai boxing" means any professional sport where the use of hands or feet or other striking techniques are utilized to disable or cause injury to an opponent in a contest, exhibition, or performance.

i. "Combative sport" means any professional sport where participants intend to and actually inflict kicks, punches, blows, and other techniques to injure or disable an opponent in a contest, exhibition, or performance.

j. "Martial arts" means any discipline where the participants utilize kicks, punches, blows, and other techniques where the intent is not to injure or disable an opponent in a contest, exhibition, or performance.

k. "Physician" means an individual licensed to practice medicine and surgery in this State.

l. "Promoter" means any person, club, corporation or association, and in the case of a corporate promoter includes any officer, director, employee or stockholder thereof, who produces, arranges or stages any professional boxing, wrestling, kick boxing, or combative sports exhibition, event, performance or contest.

m. "Professional wrestling" means an activity in which participants struggle hand-in-hand primarily for the purpose of providing entertainment to spectators rather than conducting a bona fide athletic contest.

n. "Wrestling" means a bona fide athletic contest in which participants struggle hand-in-hand with the object of winning by throwing an opponent or scoring points and in which any purpose of providing entertainment is secondary.

2. Section 2 of P.L.1985, c.83 (C.5:2A-2) is amended to read as follows:

C.5:2A-2 Findings, declarations.

2. The Legislature finds and declares to be the public policy of this State that it is in the best interest of the public and of boxing, wrestling, kick boxing and combative sports that boxing, wrestling, kick boxing and combative sports exhibitions, events, performances and contests should be subject to an effective and efficient system of strict control and regulation in order to:

a. Protect the safety and well-being of participants in boxing, wrestling, kick boxing and combative sports exhibitions, events, performances and contests; and

b. Promote the public confidence and trust in the regulatory process and the conduct of boxing, wrestling, kick boxing and combative sports exhibitions, events, performances and contests.

To further such public confidence and trust, the regulatory provisions of this act are designed to extend strict State regulation to all persons, practices and associations related to the operation of any boxing, wrestling, kick boxing or combative sports exhibition, event, performance or contest held in this State.

The Legislature further finds and declares that, because its principal purpose is to entertain without injuring or disabling one of the participants, professional wrestling should be excluded from this system of regulation and control.

3. Section 14 of P.L.1985, c. 83 (C.5:2A-14) is amended to read as follows:

C.5:2A-14 Licensure.

14. a. No promoter shall hold or conduct any public boxing, wrestling, kick boxing or combative sports exhibition, event, performance or contest in the State of New Jersey without first having obtained a license from the board.

b. No person shall participate, either directly or indirectly, in any boxing, wrestling, kick boxing or combative sports exhibition, event, performance or contest, or be a holder thereof, unless the person shall have first obtained a license from the board.

The board shall license all promoters; boxers, wrestlers, kick boxers, combative sports contestants or performers, their managers, scorers and trainers; booking agents; ring officials and other persons the board deems necessary.

c. All licenses shall be for a period of one year, unless revoked for cause, and shall be subject to the provisions of this act and to the rules and regulations adopted pursuant to this act. Before acting upon any application for a license, the board may examine, under oath, applicants or other witnesses. All applications shall be on a form prescribed by the board. The board shall, by regulation, establish fees for the issuance or renewal of all licenses.

d. A license from the board shall not be required of any person in order to conduct or participate in professional wrestling.

4. Section 4 of P.L.1988, c.20 (C.5:2A-6.1) is amended to read as follows:

C.5:2A-6.1 Prohibited officeholding.

4. No board member, employee or agent, including the commissioner, shall hold an office or position in any body, organization, association or federation which is established for the purpose of sanctioning boxing, professional wrestling, wrestling, kick boxing and combative sports exhibitions, events, performances and contests in this State or other states.

C.5:2A-14.3 Professional wrestling events, exhibitions in casino hotels, requirements.

5. No person, club, corporation, or association, and in the case of a corporation no officer, director, employee or stockholder thereof, who produces, arranges or stages any professional wrestling event or exhibition shall hold or conduct such an event or exhibition in a casino hotel which is licensed pursuant to or is an applicant for licensure pursuant to the "Casino Control Act," P.L.1977, c.110 (C.5:12-1 et seq.) unless the person or entity is licensed as a casino service industry or is an applicant for licensure as a casino service industry pursuant to the "Casino Control Act," P.L.1977, c.110 (C.5:12-1 et seq.) or is registered as a vendor in accordance with the rules and regulations promulgated by the Casino Control Commission.

6. This act shall take effect immediately.

Approved March 17, 1997.

CHAPTER 37

AN ACT concerning the Work First New Jersey program, supplementing Title 44 of the Revised Statutes and amending various parts of the statutory law.

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

C.44:10-71 Definitions relative to Work First New Jersey program.

1. As used in this act:

"Assistance unit" means: a single person without dependent children; a couple without dependent children; dependent children only; or a person or couple with one or more dependent children who are legally or blood-related, or who is their legal guardian, and who live together as a household unit.

"Benefits" means any assistance provided to needy persons and their dependent children and needy single persons and couples without dependent children under the Work First New Jersey program established pursuant to P.L.1997, c.38 (C.44:10-55 et seq.).

"Commissioner" means the Commissioner of Human Services.

"County agency" means the county agency that was administering the aid to families with dependent children program at the time the federal "Personal Responsibility and Work Opportunity Reconciliation Act of 1996," Pub.L.104-193, was enacted and which, upon the enactment of P.L.1997, c.37 (C.44:10-71 et al.) shall also administer the Work First New Jersey program in that county.

"Department" means the Department of Human Services.

"Dependent child" means a child:

a. under the age of 18;

b. under the age of 19 and a full-time student in a secondary school or an equivalent level of vocational or technical training, if, before the student attains age 19, the student may reasonably be expected to complete the student's program of secondary school or training; or

c. under the age of 21 and enrolled in a special education program,

who is living in New Jersey with the child's natural or adoptive parent or legal guardian, or with a relative designated by the commissioner in a place of residence maintained by the relative as the relative's home.

"Full-time employment" means employment unsubsidized by any level of government in which a person is engaged for at least 35 hours a week.

"Legal guardian" means the person who exercises continuing control over the person or property, or both, of a child, including any specific right of control over an aspect of the child's upbringing, pursuant to a court order.

"Program" means the Work First New Jersey program established pursuant to P.L.1997, c. 38 (C.44:10-55 et seq.).

"Recipient" means a recipient of benefits under the Work First New Jersey program established pursuant to P.L.1997, c. 38 (C.44:10-55 et seq.).

C.44:10-72 Time limit on eligibility for benefits.

2. a. Effective no later than the 30th day after the date of enactment of this act, a recipient's eligibility for benefits shall be limited to a total of 60 cumulative months, except as otherwise provided in this act, regardless of whether the recipient meets more than one assistance unit criteria during that 60-month period. Receipt of assistance from federal block grant funds for temporary assistance for needy families provided by another state or territory pursuant to the federal "Personal Responsibility and Work Opportunity Reconciliation Act of 1996," Pub.L.104-193, shall count towards the 60-month time limit. Receipt of benefits as a dependent child or minor parent shall not count towards the 60-month time limit in the event that the dependent child or minor parent becomes a head of household in the child's or parent's own right for the purposes of receiving benefits.

b. A recipient shall be exempted from the 60-month time limit established pursuant to subsection a. of this section if the recipient is:

(1) over 60 years of age;

(2) the parent or other relative of a disabled child or other disabled dependent who must provide full-time care for the disabled child or other disabled dependent;

(3) permanently disabled, including, but not limited to, a person eligible for disability insurance benefits under Title II of the federal Social Security Act (42 U.S.C.s.401 et seq.), as defined by regulation of the commissioner; or

(4) chronically unemployable as defined by regulation of the commissioner.

c. A recipient may receive an extension of no more than 12 cumulative months beyond the 60-month time limit established pursuant to subsection a. of this section, to be granted in increments that shall not exceed six months, if the commissioner determines that the recipient meets one of the following criteria:

(1) the recipient or the recipient's dependent child would be subject to extreme hardship or incapacity, as defined by regulation of the commissioner, in the event of a termination of benefits;

(2) the recipient is engaged in full-time employment but remains eligible for benefits due to earned income disregards provided for under section 4 of P.L.1997, c.13 (C.44:10-37);

(3) the recipient has not received an opportunity to engage in work activities as specified in the individual responsibility plan pursuant to subsection f. of section 8 of P.L.1997, c.38 (C.44:10-62); or

(4) the recipient was engaged in full-time employment and was income-ineligible for benefits but was terminated from the employment through no fault of the recipient.

d. The provisions of this section shall apply to a person who receives general public assistance pursuant to P.L.1947, c.156 (C.44:8-107 et seq.) after the effective date of this act and is subsequently transferred directly into the Work First New Jersey program.

C.44:10-73 Implementation of Work First New Jersey program by municipal or county agency, reimbursement.

3. a. The county agency shall be responsible for implementing the Work First New Jersey program in accordance with regulations adopted by the commissioner and ensuring that all eligible persons residing in the county have access to benefits; except as otherwise provided in this subsection.

(1) A municipality may continue to administer general public assistance for eligible single persons and couples without dependent children through the program in accordance with the provisions of P.L.1947, c.156 (C.44:8-107 et seq.), and fund the administrative costs thereof upon passage of a resolution. The resolution shall be passed no later than six months after the commissioner adopts regulations to effectuate these provisions. A copy of the resolution shall be filed with the Division of Local Government Services in the Department of Community Affairs within three days after its passage. The resolution shall include the reasons for the governing body's decision to administer the program.

(2) The Division of Local Government Services in the Department of Community Affairs shall not include the municipality's general public assistance budget in its budget review and approval process.

(3) A municipality which administers general public assistance pursuant to the provisions of paragraph (1) of this subsection shall be responsible for all administrative costs of providing benefits to eligible single persons and couples without dependent children. The State shall reimburse the municipality for 100% of cash assistance benefits paid to recipients of general public assistance.

(4) If a municipality fails to comply with the provisions of paragraph (1) of this subsection, the commissioner is authorized to require the transfer of its administration of general public assistance to the county.

(5) If the commissioner determines by financial or performance audit that a municipality has failed to administer benefits pursuant to this subsection in accordance with standards established by regulation of the commissioner, the commissioner is authorized to: take appropriate action pursuant to section 15 of P.L.1990, c.66 (C.30:1-12.2), recoup any funds identified by that audit, and require the transfer by the municipality of its administration of general public assistance to the county.

Prior to effecting such a transfer, the commissioner shall specify in writing to the municipality the financial or performance deficiencies determined by audit and provide the municipality with a reasonable opportunity to correct those deficiencies, in accordance with a process to be established by regulation of the commissioner. The regulations shall include, but not be limited to, the form and manner for submission of a plan of correction by the municipality which sets forth the specific activities and time periods within which the deficiencies are to be corrected. If the municipality fails to correct these deficiencies, the commissioner may proceed with the transfer.

(6) Within 30 days after the adoption of regulations to effectuate the purposes of this section, the commissioner shall notify each municipality in writing of its option to administer general public assistance pursuant to the provisions of paragraph (1) of this subsection or transfer its administration of general public assistance to the county .

b. (1) The administration by county agencies of the program for eligible single persons and couples without dependent children shall commence January 1, 1998, in accordance with a schedule to be determined by the commissioner for the respective geographic areas of the State; except as provided in subsection a. of this section.

In accordance with procedures established by the commissioner, the State shall reimburse the county for 100% of the administrative costs incurred by the county agency with respect to the provision of cash assistance benefits to the eligible single adults and couples without dependent children residing in a municipality which has transferred its administration of general public administration to the county, up to the maximum amount allocated for that county by the commissioner within the limits of available funds.

(2) With respect to a municipality which has opted to continue to administer general public assistance pursuant to the provisions of paragraph (1) of subsection a. of this section, the commissioner is authorized to: provide for the issuance of cash assistance benefits, in accordance with regulations adopted by the commissioner, by paper check, electronic benefit distribution, or other appropriate means; and to require the municipality to report information to the commissioner which the commissioner deems

necessary to the proper administration of the program through electronic means, as prescribed by regulation of the commissioner.

c. The county agency and municipal welfare agency, and any other State, local, public or private entity or person working with the department, county agency or municipal welfare agency to effectuate the purposes of this act, shall collect and provide on a timely basis to the commissioner any information requested by the commissioner on the operation and administration of the program.

d. For the first 12 months following the enactment of P.L.1997, c.37 (C.44:10-71 et al.), a county agency shall not enter into a contract with a private nonprofit or a private for profit entity for eligibility determination functions and benefit computation services that the county agency's current employees are capable of performing.

C.44:10-74 Allocation of federal funding.

4. a. The commissioner shall allocate among the counties the federal funding available for administrative costs from the federal block grant funds for temporary assistance for needy families provided to New Jersey under Pub.L.104-193. The administrative costs incurred by the county agency with respect to recipients with dependent children shall be reimbursed by the State at the rate of 50% of total administrative costs, up to the maximum amount allocated for that county by the commissioner within the limits of available funds. The remaining administrative costs shall be funded by the county. The county's share of cash assistance benefits to recipients with dependent children shall be 5% of total cash assistance benefit costs, and the remaining 95% shall be funded by the State and federal governments.

b. The State shall reimburse the county agency for 100% of cash assistance benefits paid to or on behalf of recipients who are single adults or couples without dependent children.

c. The commissioner shall allocate among the counties the funding available for work activities as defined in section 3 of P.L.1997, c.38 (C.44:10-57), and case management activities applicable to work activities, from State appropriations and federal block grant funds for temporary assistance for needy families provided to the State pursuant to Pub.L.104-193. Costs incurred by the counties for work activities and case management shall be reimbursed up to the maximum amount allocated for that county by the commissioner, and within the limits of available funds.

C.44:10-75 Implementation of electronic benefit distribution system.

5. a. The department shall implement the electronic benefit distribution system established pursuant to P.L.1985, c.501 (C.44:10-5.1 et seq.) in every county of the State.

b. All cash assistance and food stamp benefits shall be provided through the issuance of a single benefit card utilizing the electronic benefit distribution system. The commissioner may include additional programs in this system at his discretion.

c. No charge, including a fee imposed by a terminal owner, shall be imposed upon a person receiving cash assistance, food stamp or other benefits for participating in the electronic benefit transfer system, except as follows:

(1) after three free cash automatic teller machine withdrawals in a month, the department may deduct a transaction fee from a recipient's account for each subsequent withdrawal;

(2) a recipient shall be required to pay a fee for a replacement benefit card in an amount to be determined by the commissioner, which may be deducted from the recipient's account as determined by the commissioner, in accordance with federal law; and

(3) in the case of a recipient who elects to receive benefits at a point-of-sale location licensed by the Department of Banking and Insurance pursuant to P.L.1993, c.383 (C.17:15A-30 et seq.), the State shall pay the licensee the difference between the contracted base transaction fee and $1.00. The provisions of this paragraph shall expire two years after the effective date of the single Statewide electronic benefits distribution contract that is let pursuant to P.L.1997, c.37 (C.44:10-71 et al.) .

d. A retail establishment currently authorized to participate in the food stamp program shall be afforded the opportunity to participate in the electronic benefit distribution system.

e. The department shall cycle the issuance of cash assistance and food stamp benefits over multiple dates throughout the month in a manner that best serves cash assistance and food stamp recipients within the framework of the electronic benefit distribution system in each county.

f. The commissioner shall have the discretion to determine the need for appropriate benefit card security measures, as well as whatever personal identification technology is included on the benefit card, to access cash assistance, food stamp or other benefits under the electronic benefit distribution system.

g. A county agency shall issue a photo-identification card to each adult recipient as a condition of receiving benefits until implementation of the electronic benefit distribution system in that county agency. Once a county begins to implement the electronic benefit distribution system, the county agency shall no longer be required to issue a photo-identification card to each adult recipient but may continue the issuance of photo-identification cards separate from the benefit cards.

h. Notwithstanding any provisions of law to the contrary, until such time as the electronic benefit distribution system is implemented Statewide, contracts for the provision of food stamp coupons are not subject to the requirements of the "Local Public Contracts Law," P.L.1971, c.198 (C.40A:11-1 et seq.).

C.44:10-76 Social security number used as common identifier of individuals.

6. The federal Social Security number shall be used as the common identifier of individuals for any record, license, certificate or other document identifying a person by name which is used by an agency of State government in accordance with the requirements of federal law. Each such agency shall be required to implement the provisions of this section no later than July 1, 1998.

C.44:10-77 Establishment, implementation of technological investments.

7. The commissioner, in consultation with the State Treasurer, is authorized to establish and implement necessary technological investments appropriate to create a Statewide community-based electronic network designed to link federal, State and local government agencies, nonprofit entities and private business entities, for the effective and efficient exchange of information relating to, and management of, the Work First New Jersey program and other related programs.

8. Section 1 of P.L.1993, c.13 (C.2C:20-35) is amended to read as follows:

C.2C:20-35 Definitions.

1. As used in this act:

"ATP card" means a document issued by a State or federal agency, to a certified household, to show the food stamp allotment a household is authorized to receive on presentation.

"Benefit card" means a card used or intended for use to access Work First New Jersey, food stamp or other benefits as determined by the Commissioner of Human Services under the electronic benefit distribution system established pursuant to the "Public Assistance Electronic Benefit Distribution System Act," P.L.1985, c.501 (C.44:10-5.1 et seq.) and continued pursuant to P.L.1997, c.37 (C.44:10-71 et al.).

"Department" means the Department of Human Services.

"Food stamp coupon" means any coupon or stamp used or intended for use in the purchase of food pursuant to the federal food stamp program, 7 U.S.C.s.2011 et seq.

9. Section 2 of P.L.1993, c.13 (C.2C:20-36) is amended to read as follows:

C.2C:20-36 Misuse of food stamp coupons, ATP card, benefit card, value equal or greater than $150.

2. If the face value of food stamp coupons or an ATP card or benefit card is equal to or greater than $150, an individual shall be guilty of a crime of the fourth degree if he purposely or knowingly and without authorization:

a. Receives or uses the proceeds of food stamp coupons or an ATP card or benefit card for which he has not applied or has not been approved by the department to use;

b. Engages in any transaction to convert food stamp coupons or an ATP card or benefit card to other property contrary to federal and State government rules and regulations governing the Work First New Jersey program, the food stamp program, or any other program included in the electronic benefit distribution system; or

c. Transfers food stamp coupons or an ATP card or benefit card to another person who is not lawfully entitled or approved by the department to use the coupons or ATP card or benefit card.

10. Section 3 of P.L.1993, c.13 (C.2C:20-37) is amended to read as follows:

C.2C:20-37 Misuse of food stamp coupons, ATP card, benefit card, value less than $150.

3. If the face value of food stamp coupons or an ATP card or benefit card is less than $150, an individual shall be guilty of a disorderly persons offense if he purposely or knowingly and without authorization:

a. Receives or uses the proceeds of food stamp coupons or an ATP card or benefit card for which he has not applied or has not been approved, by the department, to use;

b. Engages in any transaction to convert food stamp coupons or an ATP card or benefit card to other property contrary to federal and State government rules and regulations governing the Work First New Jersey program, the food stamp program, or any other program included in the electronic benefit distribution system; or

c. Transfers food stamp coupons or an ATP card or benefit card to another person who is not lawfully entitled or approved, by the department, to use the coupons or ATP card or benefit card.

11. R.S.30:1-12 is amended to read as follows:

Findings; general policy; commissioner's power.

30:1-12. a. The Legislature finds that the Commissioner of Human Services is obligated by State and federal law to assure that programs that

serve eligible, low-income, handicapped, elderly, abused, and disabled persons are provided in an accessible, efficient, cost-effective and high quality manner. In order to meet these ends, the commissioner must have sufficient authority to require institutions and agencies that are under his direct or indirect supervision to meet State and federal mandates. This authority is especially necessary given the manner in which certain services are provided by county or local agencies, but are funded in whole or part by the State. The Legislature finds that the commissioner must have the authority to establish rules, regulations and directives, including incentives and sanctions, to assure that these institutions and agencies are providing services in a manner consistent with these mandates.

b. The commissioner shall have power to determine all matters relating to the unified and continuous development of the institutions and noninstitutional agencies within his jurisdiction. He shall determine all matters of policy and shall have power to regulate the administration of the institutions or noninstitutional agencies within his jurisdiction, correct and adjust the same so that each shall function as an integral part of a general system. The rules, regulations, orders and directions issued by the commissioner pursuant thereto, for this purpose shall be accepted and enforced by the executive having charge of any institution or group of institutions or noninstitutional agencies or any phase of the work within the jurisdiction of the department.

In order to implement the public policy of this State concerning the provision of charitable, hospital, relief and training institutions established for diagnosis, care, treatment, training, rehabilitation and welfare of persons in need thereof, for research and for training of personnel, and in order that the personnel, buildings, land, and other facilities provided be most effectively used to these ends and to advance the public interest, the commissioner is hereby empowered to classify and designate from time to time the specific functions to be performed at and by any of the aforesaid institutions under his jurisdiction and to designate, by general classification of disease or disability, age or sex, the classes of persons who may be admitted to, or served by, these institutions or agencies.

In addition to and in conjunction with its general facilities and services for the mentally ill, mentally retarded and tuberculous, the department may at its discretion establish and maintain specialized facilities and services for the residential care, treatment and rehabilitation of persons who are suffering from chronic mental or neurological disorders, including, but not limited to alcoholism, drug addiction, epilepsy and cerebral palsy.

The commissioner shall have the power to regulate the administration of agencies under his supervision including, but not limited to, municipal and county agencies that administer public assistance. The commissioner may issue rules, regulations, orders and directions to assure that programs

administered by the agencies are financially and programmatically efficient and effective, and to establish incentives and impose sanctions to assure the appropriate operation of programs and compliance with State and federal laws and regulations.

In addition, the commissioner shall have the authority to:

(1) review and approve county and municipal budgets for public assistance; and

(2) take appropriate interim action, including withholding State and federal administrative funds, or take over and operate county or municipal public assistance operations in situations in which the commissioner determines that the public assistance agency is failing to substantially follow federal or State law, thereby placing clients, who are dependent on public assistance benefits to survive in a humane and healthy manner, at serious risk. In this situation, the commissioner shall have the authority to bill the county for the cost of such operations and for necessary changes to assure that services are provided to accomplish federal and State mandates in an effective and efficient manner.

No rule, regulation, order or direction shall abridge the authority of a county or municipality to establish wages and terms and conditions of employment for its employees through collective negotiation with an authorized employee organization pursuant to P.L.1984, c.14 (C.44:7-6.1 et seq.).

The commissioner shall have the power to promulgate regulations to assure that services in State and county psychiatric facilities are provided in an efficient and accessible manner and are of the highest quality. Regulations shall include, but shall not be limited to, the transfer of patients between facilities; the maintenance of quality in order to obtain certification by the United States Department of Health and Human Services; the review of the facility's budget; and the establishment of sanctions to assure the appropriate operation of facilities in compliance with State and federal laws and regulations.

The commissioner shall have the power to promulgate regulations to assure that county adjusters effectively and efficiently conduct investigations, notify legally responsible persons of amounts to be assessed against them, petition the courts, represent patients in psychiatric facilities, and as necessary reopen the question of payment for maintenance of persons residing in psychiatric facilities. Regulations may include minimum standards for determining payment of care by legally responsible persons; a uniform reporting system of findings, conclusions and recommendations; and the establishment of sanctions to assure compliance with State laws and regulations.

c. The commissioner shall have the power to conduct an investigation into the financial ability to pay, directly or indirectly, of any person receiving services from the department, or his chargeable relatives. This authority shall include the power to issue subpoenas to compel testimony and the production of documents. The commissioner may contract with a public or private entity to perform the functions set forth in this subsection, subject to terms and conditions required by the commissioner.

12. Section 15 of P.L.1990, c.66 (C.30:1-12.2) is amended to read as follows:

C.30:1-12.2 Commissioner's authority to assure compliance.

15. If the commissioner determines that any county agency administering public assistance or municipal welfare agency has failed to administer their respective programs in accordance with applicable State and federal laws and regulations, the commissioner shall have the authority to take the following action:

a. Take the necessary administrative and programmatic changes necessary to ensure compliance with State and federal law and regulation and bill the municipality or county for the reasonable expenses incurred by the department in ensuring compliance, withhold administrative costs and take such other interim actions, as deemed necessary and appropriate;

b. Hire any consultant or undertake any studies of the agency operations deemed appropriate;

c. Direct expenditures of the county agency administering public assistance or municipal welfare agency in a reasonable and prudent manner to effectuate the purposes of their respective programs, including reallocating funds within the county agency administering public assistance or municipal welfare agency budget and determine additional amounts of revenue needed to implement the programs within the agency's budget;

d. Operate the county agency administering public assistance or municipal welfare agency, as deemed necessary and appropriate; and

e. Do all acts necessary or appropriate to ensure that the needs of eligible public assistance recipients are met pursuant to State and federal law.

13. Section 1 of P.L.1947, c.156 (C.44:8-107) is amended to read as follows:

C.44:8-107 Short title, other references.

1. a. This act may be cited as the "Work First New Jersey General Public Assistance Act."

b. Whenever the term "General Public Assistance Law" occurs or any reference is made thereto in any law, contract or document, the same shall be deemed to mean or refer to the "Work First New Jersey General Public Assistance Act."

c. Whenever the term "general public assistance" occurs or any reference is made thereto in any law, contract or document, the same shall be deemed to mean or refer to benefits provided to single adults and couples without dependent children through the Work First New Jersey program established pursuant to P.L.1997, c.38 (C.44:10-55 et seq.).

14. Section 2 of P.L.1947, c.156 (C.44:8-108) is amended to read as follows:

C.44:8-108 Definitions.

2. As used in this act:

"Commissioner" means the Commissioner of the Department of Human Services;

"Department" means the Department of Human Services;

"Employable person" means any person applying for or receiving public assistance under this act who is not unable to perform work due to physical or mental disability as such terms shall be defined in regulations established by the commissioner;

"Municipality" shall include any city, borough, township, town, village or municipality governed by a board of commissioners or an improvement commission which administers general public assistance to single adults and couples without dependent children through the Work First New Jersey program established pursuant to P.L.1997, c.38 (C.44:10-55 et seq.);

"Public assistance" means assistance rendered to needy single adults and couples without dependent children who are willing to work but are unable to secure employment due either to physical or mental disability or inability to find employment, and includes what is commonly called "relief" or "emergency relief," which shall be provided under the Work First New Jersey program established pursuant to P.L.1997, c.38 (C.44:10-55 et seq.) in the form of benefits as defined in section 3 of P.L.1997, c.38 (C.44:10-57);

"State aid" means State aid for public assistance or relief as in this act prescribed and provided for;

"Unemployable person" means any person applying for or receiving public assistance who is not an employable person as defined by the commissioner;

"Year" means calendar year.

15. Section 8 of P.L.1947, c.156 (C.44:8-114) is amended to read as follows:

C.44:8-114 Administration and funding of public assistance.

8. a. The State shall provide, through each municipality or county, as appropriate, public assistance to the persons eligible therefor, residing therein or otherwise when so provided by law, which assistance shall be fully funded by the State and administered by a local assistance board or the county welfare agency according to law and in accordance with P.L.1947, c.156 (C.44:8-107 et seq.) and with such rules and regulations as may be promulgated by the commissioner.

b. An employable person who is receiving public assistance shall be required, except when good cause exists, to comply with the requirements of the Work First New Jersey program pursuant to P.L.1997, c.38 (C.44:10-55 et seq.).

c. The commissioner may exempt a person from the provisions of subsection b. of this section for reasons of physical or mental impairment, age, illness or injury, caretaker responsibilities, employment or unsuitability, as determined by the commissioner.

Any person who without good cause fails or refuses to comply with the requirements of the Work First New Jersey program, according to rules and regulations adopted by the commissioner, shall be subject to the provisions of section 9 of P.L.1997, c.38 (C.44:10-63).

16. Section 1 of P.L.1993, c.305 (C.44:8-117.1) is amended to read as follows:

C.44:8-117.1 Municipality authorized to establish staffing level of welfare department.

1. Notwithstanding any provisions of law to the contrary, the governing body of a municipality shall have the authority to establish staffing levels for the municipality's welfare department for the purpose of administering public assistance pursuant to the "Work First New Jersey General Public Assistance Act," P.L.1947, c.156 (C.44:8-107 et seq.).

C.44:10-78 Rules, regulations.

17. 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 effectuate the purposes of this act and to comply with the requirements of Pub.L.104-193.

18. This act shall take effect immediately, except that sections 13 through 16 shall take effect on January 1, 1998.

Approved March 24, 1997.

CHAPTER 38

AN ACT establishing the Work First New Jersey program and revising parts of the statutory law.

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

C.44:10-55 Short title.

1. This act shall be known and may be cited as the "Work First New Jersey Act."

C.44:10-56 Findings, declarations relative to Work First New Jersey program.

2. The Legislature finds and declares that:

a. The federal "Personal Responsibility and Work Opportunity Reconciliation Act of 1996," Pub.L.104-193, establishes the federal block grant for temporary assistance for needy families and provides the opportunity for a state to establish and design its own welfare program;

b. Work and the earning of income promote the best interests of families and children;

c. Working individuals and families needing temporary assistance should have the transitional support necessary to obtain and keep a job in order to be able to avoid cycling back onto public assistance;

d. Teenage pregnancy is counter to the best interests of children;

e. Successful welfare reform requires the active involvement of the private sector as well as all departments of State government;

f. Personal and family security and stability, including the protection of children and vulnerable adults, are important to the establishment and maintenance of successful family life and childhood development and a family's inability or failure to qualify for benefits under the Work First New Jersey program established pursuant to this act shall not in and of itself be the basis for the separation of a dependent child from his family or the justification for the foster care placement of a dependent child;

g. Children and teenagers need the benefits of the support and guidance which a family structure provides; the welfare system has provided a vehicle for breaking up families by giving teenage mothers the means to shift their financial dependence from their parents to the State; in the process, these youths deprive themselves of the education and family structure necessary to support themselves and their babies; and the support and structure provided by families are important to the development of a child's maximum potential; and

h. The Work First New Jersey program established pursuant to this act incorporates and builds upon the fundamental concepts of the Family Development Initiative established pursuant to P.L.1991, c.523 (C.44:10-19 et seq.) in a manner that is consistent with the federal program of temporary assistance for needy families, by establishing requirements for: time limits on cash assistance; the participation of recipients in work activities; enhanced efforts to establish paternity and establish and enforce child support obligations; sanctions for failure to comply with program requirements; a cap on the use of funds for administrative costs; the maintenance of State and county financial support of the program; teenage parent recipients to live at home and finish high school; and restrictions on eligibility for benefits for aliens.

C.44:10-57 Definitions relative to Work First New Jersey program.

3. As used in this act:

"Alternative work experience" means unpaid work and training only with a public, private nonprofit or private charitable employer that provides a recipient with the experience necessary to adjust to, and learn how to function in, an employment setting and the opportunity to combine that experience with education and job training. An alternative work experience participant shall not be assigned to work for a private, for profit employer.

"Applicant" means an applicant for benefits provided by the Work First New Jersey program.

"Assistance unit" means: a single person without dependent children; a couple without dependent children; dependent children only; or a person or couple with one or more dependent children who are legally or blood-related, or who is their legal guardian, and who live together as a household unit.

"Benefits" means any assistance provided to needy persons and their dependent children and needy single persons and couples without dependent children under the Work First New Jersey program.

"Case management" means the provision of certain services to Work First New Jersey recipients, which shall include an assessment and development of an individual responsibility plan.

"Commissioner" means the Commissioner of Human Services.

"Community work experience" means unpaid work and training only with a public, private nonprofit or private charitable employer provided to a recipient when, and to the extent, that such experience is necessary to enable the recipient to adjust to, and learn how to function in, an employment setting. A community work experience participant shall not be assigned to work for a private, for profit employer.

"County agency" means the county agency that was administering the aid to families with dependent children program at the time the federal "Personal Responsibility and Work Opportunity Reconciliation Act of 1996," Pub.L.104-193, was enacted and which, upon the enactment of P.L.1997, c.38 (C.44:10-55 et seq.) shall also administer the Work First New Jersey program in that county.

"Dependent child" means a child:

a. under the age of 18;

b. under the age of 19 and a full-time student in a secondary school or an equivalent level of vocational or technical training, if, before the student attains age 19, the student may reasonably be expected to complete the student's program of secondary school or training; or

c. under the age of 21 and enrolled in a special education program,

who is living in New Jersey with the child's natural or adoptive parent or legal guardian, or with a relative designated by the commissioner in a place of residence maintained by the relative as the relative's home.

"Eligible alien" means one of the following:

a. a qualified alien admitted to the United States prior to August 22, 1996, who is eligible for means-tested, federally funded public benefits pursuant to federal law;

b. a refugee, asylee, or person granted withholding of deportation under federal law for the person's first five years after receiving that classification in the United States pursuant to federal law;

c. a qualified alien who is a veteran of, or on active duty in, the armed forces of the United States, or the spouse or dependent child of that person pursuant to federal law;

d. a recipient of refugee and entrant assistance activities or a Cuban or Haitian entrant pursuant to federal law;

e. a legal permanent resident alien who has worked 40 qualifying quarters of coverage as defined under Title II of the federal Social Security Act; except that, for any period after December 31, 1996, a quarter during which an individual received means-tested, federally funded public benefits shall not count toward the total number of quarters;

f. a qualified alien admitted to the United States on or after August 22, 1996, who has lived in the United States for at least five years and is eligible for means-tested, federally funded public benefits pursuant to federal law; or

g. a qualified alien who has been battered or subjected to extreme cruelty in the United States by a spouse, parent or a member of the spouse or parent's family residing in the same household as the alien, or a qualified alien whose child has been battered or subjected to extreme cruelty in the United States by a spouse or parent of the alien, without the active

participation of the alien, or by a member of the spouse or parent's family residing in the same household as the alien. In either case, the spouse or parent shall have consented or acquiesced to the battery or cruelty and there shall be a substantial connection between the battery or cruelty and the need for benefits to be provided. The provisions of this subsection shall not apply to an alien during any period in which the individual responsible for the battery or cruelty resides in the same household or assistance unit as the individual subjected to the battery or cruelty. Benefits shall be provided to the extent and for the period of time that the alien or alien's child is eligible for the program.

For the purposes of this section, "qualified alien" is defined pursuant to the provisions of section 431 of Title IV of Pub.L.104-193.

"Full-time post-secondary student" means a student enrolled for a minimum of 12 credit hours in a post-secondary school.

"Income" means, but is not limited to, commissions, salaries, self-employed earnings, child support and alimony payments, interest and dividend earnings, wages, receipts, unemployment compensation, any legal or equitable interest or entitlement owed that was acquired by a cause of action, suit, claim or counterclaim, insurance benefits, temporary disability claims, estate income, trusts, federal income tax refunds, State income tax refunds, homestead rebates, lottery prizes, casino and racetrack winnings, annuities, retirement benefits, veterans' benefits, union benefits, or other sources that may be defined as income by the commissioner; except that in the event that individual development accounts for recipients are established by regulation of the commissioner, any interest or dividend earnings from such an account shall not be considered income.

"Legal guardian" means a person who exercises continuing control over the person or property, or both, of a child, including any specific right of control over an aspect of the child's upbringing, pursuant to a court order.

"Program" means the Work First New Jersey program established pursuant to this act.

"Recipient" means a recipient of benefits under the Work First New Jersey program.

"Resources" means all real and personal property as defined by the commissioner; except that in the event that individual development accounts for recipients are established by regulation of the commissioner, all funds in such an account, up to the limit determined by the commissioner, including any interest or dividend earnings from such an account, shall not be considered to be a resource.

"Title IV-D" means the provisions of Title IV-D of the federal Social Security Act governing paternity establishment and child support enforcement activities and requirements.

"Work activity" includes, but is not limited to, the following, as defined by regulation of the commissioner: employment; on-the-job training; job search and job readiness assistance; vocational educational training; job skills training related directly to employment; community work experience; alternative work experience; supportive work; community service programs, including the provision of child care as a community service project; in the case of teenage parents or recipients under the age of 19 who are expected to graduate or complete their course of study by their 19th birthday, satisfactory attendance at a secondary school or in a course of study leading to a certificate of general equivalence; and education that is necessary for employment in the case of a person who has not received a high school diploma or a certificate of high school equivalency, a course of study leading to a certificate of general equivalence, or post-secondary education, when combined with community work experience participation or another work activity approved by the commissioner, including employment.

C.44:10-58 Establishment of Work First New Jersey program.

4. a. The Work First New Jersey program is established in the Department of Human Services. The commissioner shall take such actions as are necessary to implement and operate the program in accordance with the provisions of the federal "Personal Responsibility and Work Opportunity Reconciliation Act of 1996," Pub.L.104-193. The commissioner may delegate to the Commissioner of Labor, by agreement, any responsibility to assist a person in the transition to a work activity.

b. The program shall replace programs which were in effect prior to the enactment of this act, including : aid to families with dependent children (AFDC) pursuant to P.L.1959, c.86 (C.44:10-1 et seq.) and emergency assistance for AFDC recipient families; general public assistance (GA) pursuant to P.L.1947, c.156 (C.44:8-107 et seq.), emergency assistance for GA recipients, and the GA employability program; and the Family Development Initiative established pursuant to P.L.1991, c.523 (C.44:10-19 et seq.).

C.44:10-59 Primary responsibility for support; benefits eligibility.

5. a. All adult persons, except as otherwise provided by law governing the Work First New Jersey program, are charged with the primary responsibility of supporting and maintaining themselves and their dependents; the primary responsibility for the support and maintenance of minor children is that of the parents and family of those children; and benefits shall be provided only when other means of support and maintenance are not present to support the assistance unit.

b. Benefits shall be temporary and serve the primary goal of fostering self-sufficiency. Failure to cooperate with any of the program eligibility requirements without good cause, as determined by the commissioner, shall result in ineligibility for benefits for some or all assistance unit members.

c. If the county agency or municipal welfare agency, as appropriate, determines, based upon an applicant's written statement signed under oath, that the applicant is in immediate need of benefits because the applicant's available resources are insufficient, as determined by the commissioner, to meet the minimal current living expenses pursuant to regulations adopted by the commissioner, of the applicant's assistance unit, the county agency or municipal welfare agency shall issue cash assistance benefits to the applicant on the date of application, subject to the applicant meeting all other program eligibility requirements.

d. The commissioner shall establish by regulation, standards and procedures to screen and identify recipients with a history of being subjected to domestic violence and refer these recipients to counseling and supportive services. The commissioner may waive program requirements, including, but not limited to, the time limit on benefits pursuant to section 2 of P.L.1997, c.37 (C.44:10-72), residency requirements pursuant to section 6 of P.L.1997, c.38 (C.44:10-60), child support cooperation requirements pursuant to subsection b. of section 2 of P.L.1997, c.14 (C.44:10-45) and the limitation on increase of cash assistance benefits as a result of the birth of a child pursuant to section 7 of P.L.1997, c.38 (C.44:10-61), in cases where compliance with such requirements would make it more difficult for a recipient to escape domestic violence or unfairly penalize the recipient who is or has been victimized by such violence, or who is at risk of further domestic violence.

e. The commissioner shall establish regulations determining eligibility and other requirements of the Work First New Jersey program. Regulations shall include provisions for the deeming of income, when appropriate, which include situations involving the sponsor of an eligible alien in accordance with federal law, and legally responsible relatives of assistance unit members.

C.44:10-60 Requirements for benefits for individuals under 18 with a dependent child.

6. a. If an applicant or recipient is less than 18 years of age, has never married, and is pregnant or is caring for a dependent child, the applicant or recipient shall be required, as a condition of eligibility for benefits for the applicant or recipient and the applicant's or recipient's dependent child to:

(1) reside in a home maintained by, and have the benefits paid to, the applicant's or recipient's parent, legal guardian, or other adult relative; and

(2) regularly attend a high school or equivalency program of study; or

(3) engage in a work activity if the applicant or recipient has completed secondary education.

b. The commissioner shall exempt from the provisions of paragraph (1) of subsection a. of this section an applicant or recipient who, as determined by the commissioner during the application or eligibility redetermination process, as appropriate, presents evidence that the parent, legal guardian or other adult relative with whom the applicant or recipient would otherwise be required to reside in order to be eligible for benefits:

(1) refuses or is unable to allow the applicant or recipient, or that person's dependent child, to reside in that adult's home;

(2) poses a threat to the emotional health or physical safety of the applicant or recipient;

(3) has physically or sexually abused the applicant or recipient, or the applicant's or recipient's dependent child, or poses a risk of doing so; or

(4) has exhibited neglect with respect to the needs of the applicant or recipient and the applicant's or recipient's dependent child.

In making the determination to exempt an applicant or recipient who is under 18 years of age pursuant to this subsection, the commissioner shall obtain information directly from that applicant or recipient when there has been any known circumstance or incident of physical or sexual abuse, or upon the request of that applicant or recipient.

c. In the case of an applicant or recipient and the applicant's or recipient's dependent child who are exempted from the requirements of paragraph (1) of subsection a. of this section, in accordance with subsection b. of this section, the county agency, pursuant to guidelines established by the commissioner, shall make a determination as to the most appropriate living arrangement that would be in the best interest of the applicant or recipient and the applicant's or recipient's dependent child.

d. The commissioner shall exempt from the provisions of paragraph (2) of subsection a. of this section an applicant or recipient whom the commissioner determines, based upon an assessment of the person's ability and aptitude, lacks a reasonable prospect of being able to successfully complete the academic requirements of a high school or equivalency program of study.

e. The commissioner may also exempt an applicant or recipient from the provisions of subsection a. of this section, if the commissioner otherwise determines that the exemption would be in the best interest of that applicant or recipient and the applicant's or recipient's dependent child.

f. The commissioner shall provide an appropriate appeal mechanism for an applicant or recipient to present evidence that would provide the basis for an exemption pursuant to this section.

C.44:10-61 Benefits not to increase due to birth of child; exceptions.

7. a. The level of cash assistance benefits payable to an assistance unit with dependent children shall not increase as a result of the birth of a child during the period in which the assistance unit is eligible for benefits, or during a temporary period in which the assistance unit is ineligible for benefits pursuant to a penalty imposed by the commissioner for failure to comply with benefit eligibility requirements, subsequent to which the assistance unit is again eligible for benefits.

b. The provisions of subsection a. of this section shall not apply to medical assistance, pursuant to P.L.1968, c.413 (C.30:4D-1 et seq.), or food stamp benefits, pursuant to the federal "Food Stamp Act of 1977," Pub.L.95-113 (7 U.S.C. s.2011 et seq.), provided to an assistance unit.

c. In the case of an assistance unit with dependent children in which the adult or minor parent recipient gives birth to an additional child during the period in which the assistance unit is eligible for benefits, or during a temporary penalty period of ineligibility for benefits subsequent to which the assistance unit again becomes eligible for benefits, the commissioner shall provide that in computing the amount of cash assistance benefits to be granted to the assistance unit, the following shall be deducted from the monthly earned income of each employed person in the assistance unit:

those earned income disregards provided for under section 4 of P.L.1997, c.13 (C. 44:10-37); and

after application of the earned income disregards, the total countable income shall be compared for eligibility purposes and subtracted for cash assistance benefit calculation purposes from the eligibility standard for the assistance unit size, adjusted to include any person for whom cash assistance has not been received due to the application of the provisions of subsection a. of this section.

d. Notwithstanding the provisions of subsection a. of this section to the contrary, a person receiving AFDC benefits on the effective date of this act whose AFDC benefits were limited pursuant to P.L.1991, c.526 (C.44:10-3.5 et seq.) shall continue to be subject to the same limitation as a recipient of Work First New Jersey benefits, in accordance with regulations adopted by the commissioner.

e. The provisions of this section shall not apply to an individual in an assistance unit with dependent children who gives birth to a child fewer than 10 months after applying for and receiving cash assistance benefits.

f. The provisions of this section shall not apply to the birth of a child that occurs as a result of rape or incest.

C.44:10-62 Adult recipient to seek employment.

8. a. As defined by the commissioner, each adult recipient shall continuously and actively seek employment in an effort to remove the

assistance unit of which the recipient is a member from the program. A recipient may be assigned to a work activity as determined by the commissioner. The recipient shall sign an individual responsibility plan, as provided in subsection f. of this section, in order to be able to participate in the program, which shall indicate the terms of the work activity requirements that the recipient must fulfill in order to continue to receive benefits.

b. In accordance with Pub.L.104-193, a recipient in an assistance unit with dependent children shall commence participation in a work activity, self-directed job search or other activities as determined by the commissioner at some time prior to having received 24 months of benefits; except that if the recipient is a full-time post-secondary student in a course of study related to employment as defined by regulation of the commissioner, the recipient shall be required to engage in another work activity for no more than 15 hours a week, subject to the recipient making satisfactory progress toward the completion of the post-secondary course of study as determined by the commissioner.

c. A recipient shall comply with work activity participation requirements as a condition of remaining eligible for benefits. In accordance with the requirements of Pub.L.104-193, a minimum participation rate of 25% shall be realized in federal fiscal year 1997. The participation rate shall increase by 5% in each federal fiscal year to a level of 50% in federal fiscal year 2002 and thereafter. For two-parent assistance units with dependent children receiving benefits, the participation rate shall be 75% for federal fiscal years 1997 and 1998 and 90% in federal fiscal year 1999 and thereafter. The participation rate shall be calculated in accordance with federal requirements. A recipient may be required to participate in one or more work activities for a maximum aggregate hourly total of 40 hours per week.

d. A recipient shall not be required to engage in a work activity if child care, including the unavailability of after-school child care for children over six years of age, is unavailable for the recipient's dependent child, as determined by regulation of the commissioner.

e. A recipient may temporarily be deferred from work activity requirements as provided for by the commissioner if the recipient is:

(1) a woman in the third trimester of pregnancy;

(2) a person certified by an examining physician to be unable, by reason of a physical or mental defect, disease or impairment, to engage in any gainful occupation for any period less than 12 months; or

(3) the parent or relative of a child under the age of 12 weeks who is providing care for that child, except that, the deferral may be extended for an appropriate period of time if determined to be medically necessary for the parent or child.

f. Upon a determination of eligibility for benefits, each adult recipient not otherwise deferred or exempted under this act shall be given an assessment of that person's potential and readiness for work, including, but not limited to, skills, education, past work experience and any barriers to securing employment, including a screening and assessment for substance abuse, as appropriate. For all recipients not deferred or exempt, an annual individual responsibility plan shall be developed jointly by the county agency or municipal welfare agency, as appropriate, and recipient specifying the steps that will be taken by each to assist the recipient to secure employment. The individual responsibility plan shall include specific goals for each adult member or minor parent in the assistance unit, and may include specific goals for a dependent child member of the assistance unit. The goals, as determined by regulation of the commissioner, shall include, but not be limited to, requirements for parental participation in a dependent child's primary school program, immunizations for a dependent child, and regular school attendance by a dependent child. Recipients who are job ready shall be placed immediately in a self-directed job search. Within the amount of funds allocated by the commissioner for this purpose, other recipients shall be placed in an appropriate work activity as indicated by their individual assessments.

g. The county agency or municipal welfare agency, as appropriate, shall ensure the provision of necessary case management for recipients, as appropriate to their degree of job readiness, pursuant to regulations adopted by the commissioner. The most intensive case management shall be directed to those recipients facing the most serious barriers to employment.

h. (1) A recipient shall not be placed or utilized in a position at a particular workplace:

(a) that was previously filled by a regular employee if that position, or a substantially similar position at that workplace, has been made vacant through a demotion, substantial reduction of hours or a layoff of a regular employee in the previous 12 months, or has been eliminated by the employer at any time during the previous 12 months;

(b) in a manner that infringes upon a wage rate or an employment benefit, or violates the contractual overtime provisions of a regular employee at that workplace;

(c) in a manner that violates an existing collective bargaining agreement or a statutory provision that applies to that workplace;

(d) in a manner that supplants or duplicates a position in an existing, approved apprenticeship program;

(e) by or through an employment agency or temporary help service firm as a community work experience or alternative work experience worker;

(f) if there is a contractual or statutory recall right to that position at that workplace; or

(g) if there is an ongoing strike or lockout at that workplace.

(2) A person who believes that he has been adversely affected by a violation of this subsection, or the organization that is duly authorized to represent the collective bargaining unit to which that person belongs, shall be afforded an opportunity to meet with a designee of the Commissioner of Labor or the Governor's Office of Employee Relations, as appropriate. The designee shall attempt to resolve the complaint of the alleged violation within 30 days of the date of the request for the meeting. The Commissioner of Labor, in consultation with the Governor's Office of Employee Relations, shall adopt regulations to effectuate the provisions of this subsection. In the event that the complaint is not resolved within the 30-day period, the complainant may appeal to the New Jersey State Board of Mediation in the Department of Labor for expedited binding arbitration in accordance with the rules of the board. If the arbitrator determines that a violation has occurred, he shall provide an appropriate remedy. The cost of the arbitration shall be borne equally by both parties to the dispute.

(3) Nothing in this subsection shall be construed to prevent a collective bargaining agreement from containing additional protections for a regular employee.

i. The commissioner, acting in conjunction with the Commissioners of Banking and Insurance, Commerce and Economic Development, Community Affairs, Education, Health and Senior Services, Labor and Transportation, shall implement all elements of the program and establish initiatives to assist in moving recipients towards self-sufficiency.

j. The commissioner shall take such actions as are necessary to ensure that the program meets the requirements to qualify for the maximum amount of federal funds due the State under Pub.L.104-193.

k. The commissioner is authorized to seek such waivers from the federal government as are necessary to accomplish the goals of the program.

C.44:10-63 Noncompliance to result in loss of certain cash benefits.

9. The failure of a recipient to actively cooperate with the program or participate in work activities without good cause as determined by the commissioner shall result in a loss of cash assistance benefits in accordance with the provisions of this section.

a. (1) In an assistance unit with a single adult or couple without dependent children or a single adult with dependent children, the person in noncompliance shall be subject to a loss of cash assistance benefits for a minimum of one month for a first offense. If an intent to comply by the person in noncompliance, as defined by regulation of the commissioner, is

not evidenced by the end of the one-month period, continued suspension of cash assistance benefits for the person shall remain in effect for up to two more months. If an intent to comply by the person in noncompliance is not evidenced by the end of the third month, the assistance unit's case shall be closed for cash assistance benefits, and a reapplication shall be required by the assistance unit in order to receive cash assistance benefits.

(2) In a two-parent assistance unit with dependent children, if one parent is in noncompliance for a first offense, the needs of the parent in noncompliance shall be deleted from the cash assistance benefits provided to the assistance unit for a minimum of one month when the other parent is not otherwise participating in a work activity, or is not otherwise exempt as determined by the commissioner. If an intent to comply by the parent in noncompliance, as defined by regulation of the commissioner, is not evidenced by the end of the one-month period, continued suspension of cash assistance benefits for the parent shall remain in effect for up to two more months. If an intent to comply by the parent in noncompliance is not evidenced by the end of the third month, the assistance unit's case shall be closed for cash assistance benefits, and a reapplication shall be required by the assistance unit in order to receive cash assistance benefits.

(3) If the noncompliance for a first offense is due to the inaction of a minor parent in the assistance unit, the needs of the minor parent and the minor parent's spouse, if any, in the assistance unit shall be deleted from the cash assistance benefits provided to the assistance unit for a minimum of one month. If an intent to comply by the minor parent in noncompliance is not evidenced by the end of the first-month period, suspension of the cash assistance benefits shall remain in effect for up to two additional months. If an intent to comply by the minor parent in noncompliance is not evidenced by the end of the third month, the minor parent and the minor parent's spouse, if any, in the assistance unit, as well as the dependent child of the minor parent in the assistance unit, shall be excluded from the assistance unit for cash assistance benefits.

(4) A dependent child 16 years of age or older who fails to comply with the requirement for school attendance or other work activity participation pursuant to this act for a first offense shall be subject to a loss of cash assistance benefits for one month. If an intent to comply by the dependent child is not evidenced by the end of the one-month period, cash assistance benefits shall be suspended for that person for up to two additional months. If an intent to comply by the dependent child is not evidenced by the end of the third month, the dependent child shall be excluded from the assistance unit for cash assistance benefits.

b. (1) In an assistance unit with a single adult or couple without dependent children or a single adult with dependent children, the person in

noncompliance shall be subject to a loss of cash assistance benefits for a minimum of one month for a second offense. If an intent to comply by the person in noncompliance, as defined by regulation of the commissioner, is evidenced by the end of the one-month period, only that person's needs shall be deleted from the cash assistance benefits provided to the assistance unit for the following month. If an intent to comply by the person in noncompliance is not evidenced by the end of the one-month period, the entire assistance unit shall be subject to a loss of cash assistance benefits for the following month. If an intent to comply by the person in noncompliance is not evidenced by the end of the second month, the assistance unit's case shall be closed for cash assistance benefits, and a reapplication shall be required by the assistance unit in order to receive cash assistance benefits.

(2) In a two-parent assistance unit with dependent children, if one parent is in noncompliance for a second offense, the needs of the parent in noncompliance shall be deleted from the cash assistance benefits provided to the assistance unit for a period of one month when the other parent is not otherwise participating in a work activity, or is otherwise exempt as determined by the commissioner. If an intent to comply by the parent in noncompliance, as defined by regulation of the commissioner, is not evidenced by the end of the one-month period, the entire assistance unit shall be subject to a loss of cash assistance benefits for the following month. If an intent to comply by the person in noncompliance is not evidenced by the end of the second month, the assistance unit's case shall be closed for cash assistance benefits, and a reapplication shall be required by the assistance unit in order to receive cash assistance benefits.

(3) If the noncompliance for a second offense is due to the inaction of a minor parent in the assistance unit, the needs of the minor parent and the minor parent's spouse, if any, in the assistance unit shall be deleted from the cash assistance benefits provided to the assistance unit for a minimum of one month. If an intent to comply by the minor parent in noncompliance is not evidenced by the end of the one-month period, the minor parent and the minor parent's spouse, if any, in the assistance unit, as well as the dependent child of the minor parent in the assistance unit, shall be subject to a loss of cash assistance benefits for the following month. If an intent to comply by the minor parent in noncompliance is not evidenced by the end of the second month, the minor parent and the minor parent's spouse in the assistance unit, as well as the dependent child of the minor parent in the assistance unit, shall be excluded from the assistance unit for cash assistance benefits.

(4) A dependent child 16 years of age or older who is in noncompliance with the requirement for school attendance or other work activity participation pursuant to this act for a second offense shall be subject to a loss of cash

assistance benefits for a minimum of two months. If an intent to comply by the dependent child is not evidenced by the end of the two-month period, the dependent child shall be excluded from the assistance unit for cash assistance benefits.

(5) A person sanctioned for a second offense pursuant to this subsection shall be counseled by a county agency or municipal welfare agency employee, as appropriate, prior to the reinstatement of eligibility for cash assistance benefits.

c. (1) The person in noncompliance and all other members of the person's assistance unit shall be subject to a loss of cash assistance benefits for a minimum of three months for a third and subsequent offense. If an intent to comply by the person in noncompliance is not evidenced by the end of the three-month period, the assistance unit's case shall be closed for cash assistance benefits, and a reapplication shall be required by the assistance unit in order to receive cash assistance benefits.

(2) A dependent child 16 years of age or older who is in noncompliance with the requirement for school attendance or other work activity participation pursuant to this act for a third or subsequent offense shall be subject to a loss of cash assistance benefits for a minimum of three months. If an intent to comply by the dependent child is not evidenced by the end of the three-month period, the dependent child shall be excluded from the assistance unit for cash assistance benefits.

d. The county agency or municipal welfare agency, as appropriate, shall maintain a record of the number of sanctions which have accrued to an assistance unit. The number of sanctions accruing to an assistance unit shall be reduced by one for each continuous 12-month period in which no sanction has been imposed on a member of that assistance unit.

e. An adult recipient who voluntarily quits a job without good cause, as defined by regulation of the commissioner, shall render the entire assistance unit ineligible for cash assistance benefits for a period of two months from the date the county agency or municipal welfare agency, as appropriate, makes the determination that the recipient quit the job.

C.44:10-64 Satisfaction of sanction, repayment obligation.

10. a. A person shall be required to satisfy any sanction or repayment obligation incurred pursuant to any federal or State law governing public assistance, including any act repealed by this act, as a condition of eligibility for benefits.

b. (1) Whenever a parent or relative with whom a dependent child is living applies for or is receiving benefits for that child, and it appears that there is pending entitlement to a payment to the child or to either or both of his parents of funds arising from a claim or interest legally or equitably

owned by the child or by either or both of his parents, other than that portion of a personal injury award which a court specifically awards to a child to make him whole as a result of an injury, the county agency may, as a condition of eligibility or continuation of eligibility for benefits, require either or both parents, or relative, to execute a written promise to repay, from the funds anticipated, the amount of benefits to be granted from the date of entitlement to that payment. Upon any refusal to make repayment, including refusal by any person acting for or on behalf of either or both parents, or relative, in accordance with the written promise, the county agency may take all necessary and proper action under State law to enforce that promise, and the granting or continuing of benefits, as the case may be, shall be deemed due consideration therefor. Any payments from the settlement of the claim or interest legally or equitably owned by the child or by either or both of his parents made by any person acting for or on behalf of either or both parents, or relative, subsequent to notice of claim of the county agency and prior to express written approval by the county agency shall cause that person to be liable to the county agency in the amount of the payment.

(2) Whenever any child with respect to whom benefits have been paid pursuant to this act or assistance paid pursuant to any act repealed by this act, shall die prior to the attainment of his 21st birthday, and shall leave an estate, the total amount of benefits paid with respect to that child pursuant to this act and the total amount of assistance paid pursuant to any act repealed by this act, shall be a valid and enforceable claim against that estate, with priority over all other unsecured claims except reasonable funeral expenses and terminal medical and hospital expenses, and the county agency shall take all necessary and proper action under State law to enforce that claim.

(3) The county agency may, with the consent and approval of the Division of Family Development in the Department of Human Services, compromise and settle any claim for repayment of benefits paid pursuant to this act or assistance paid pursuant to any act repealed by this act.

(4) The Division of Family Development shall determine and cause to be made such financial adjustments as are necessary to maintain a correct proportional participation in any repayment among the counties and State.

C.44:10-65 Community, alternative work experience not considered employment.

11. Participation by a recipient in a community work experience or alternative work experience provided by a sponsor pursuant to this act shall not be considered employment for any purpose, except that:

a. It shall be regarded as employment for the purposes of the "Law Against Discrimination," P.L.1945, c.169 (C.10:5-1 et seq.), and the

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sponsor, not the program, shall be deemed the employer for purposes of any action brought under that act;

b. It shall be regarded as employment for the purposes of the "New Jersey Public Employees' Occupational Safety and Health Act," P.L.1983, c.516 (C.34:6A-25 et seq.) if the sponsor is a public employer subject to that act;

c. It shall be regarded as employment for the purposes of the "Conscientious Employee Protection Act," P.L.1986, c.105 (C.34:19-1 et seq.), and the "Worker and Community Right to Know Act," P.L.1983, c.315 (C.34:5A-1 et seq.);

d. It shall be regarded as employment for the purposes of chapter 15 of Title 34 of the Revised Statutes, subject to the provisions of section 12 of this act; and

e. The recipient shall be entitled, to the same degree as any similarly-situated employee of the sponsor, to family leave pursuant to the "Family Leave Act," P.L.1989, c.261 (C.34:11B-1 et seq.) and family and medical leave pursuant to federal law.

C.44:10-66 Workers' compensation status of recipient participating in community alternative work experience.

12. For the purposes of chapter 15 of Title 34 of the Revised Statutes, a recipient who participates in a community work experience or alternative work experience shall be regarded as an employee of the State and the sponsor. The recipient and the dependents of the recipient shall be provided by the State with all compensation required, and defenses and remedies available, pursuant to that chapter, except for: (1) compensation provided for temporary disability pursuant to subsection a. of R.S.34:15-12; and (2) medical and hospital services provided pursuant to R.S.34:15-15 unless the recipient becomes ineligible for medical assistance under the "New Jersey Medical Assistance and Health Services Act," P.L.1968, c.413 (C.30:4D-1 et seq.). In the event that it is determined that the recipient has been subject to an injury or illness producing a temporary disability, the program shall not provide compensation pursuant to subsection a. of R.S.34:15-12, but the recipient shall receive cash benefits from the program and shall be deferred from the work activity requirements as provided in subsection e. of section 8 of P.L.1997, c. 38 (C.44:10-62). Notwithstanding any other provision of law, the recipient shall be exempted from the 60-month time limit provided pursuant to section 2 of P.L.1997, c.37 (C.44:10-72) during the first 90 days of each period of temporary disability subject to the provisions of this section. When determining the amount of any compensation provided pursuant to chapter 15 of Title 34 of the Revised Statutes other than compensation for temporary disability, the amount of compensation shall

be calculated as if the recipient's weekly wage was 60% of the Statewide average weekly wages earned by all employees covered by the "unemployment compensation law," R.S.43:21-1 et seq. The program may provide this compensation by appropriate means, including purchasing and serving as the master policyholder for any insurance, self-insurance, or an administrative services contract. Compensation received by a recipient pursuant to chapter 15 of Title 34 of the Revised Statutes for a disability which is caused by an injury or illness which arises out of and in the course of the community work experience or alternative work experience and which is permanent in quality and partial or total in character shall not be regarded as earned income for the purposes of section 4 of P.L.1997, c.13 (C.44:10-37) and there shall not be a disregard for that amount in computing the cash assistance benefit provided to the recipient. Compensation received by a dependent of a recipient pursuant to chapter 15 of Title 34 of the Revised Statutes for the death of the recipient which is caused by an injury or illness which arises out of and in the course of the community work experience or alternative work experience shall not be regarded as earned income for the purposes of section 4 of P.L.1997, c.13 (C.44:10-37) and there shall not be a disregard for that amount in computing the cash assistance benefit provided to the dependent.

C.44:10-67 Injury, illness, death arising from community, alternative work experience.

13. Any recipient participating in community work experience or alternative work experience or dependent of the recipient who is provided compensation, benefits, or both by the State in the manner required pursuant to section 12 of P.L.1997, c.38 (C.44:10-66) for an injury, illness or death arising out of and in the course of the community work experience or alternative work experience shall surrender any other method, form or amount of compensation or benefits from the sponsor or the State for that injury, illness or death; and the sponsor of the recipient, the State and the employees of the sponsor shall not be liable for the injury, illness or death for which the recipient or dependent of the recipient is provided the compensation, benefits or both, except for an intentional wrong.

As used in sections 11 and 14 of this act and in this section, "sponsor" means a private nonprofit employer, private charitable employer, or public employer that provides a community work experience or alternative work experience to a recipient.

C.44:10-68 Action against program as tort claim.

14. The sole recourse of a person, other than a recipient or a sponsor, who is injured as a result of an act or omission of a recipient in connection with the recipient's community work experience or alternative work experience participation shall be to file an action against the program in a

court of competent jurisdiction. The program shall have available all of the notice requirements and the defenses available to the State under the "New Jersey Tort Claims Act," N.J.S.59:1-1 et seq. except that the program shall not have available to it the defense that the recipient is not a public employee.

C.44:10-69 Reimbursement to tort claims fund.

15. The program shall reimburse the fund established pursuant to N.J.S.59:12-1 for all costs incurred by the fund in connection with a recipient's participation in community work experience or alternative work experience.

C.44:10-70 Rules, regulations.

16. 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 effectuate the purposes of this act and to comply with the requirements of Pub.L.104-193; except that, 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 regulations as the commissioner deems necessary to implement the provisions of this act, which shall be effective for a period not to exceed six months and may thereafter be amended, adopted or re-adopted by the commissioner in accordance with the requirements of P.L.1968, c.410 (C.52:14B-1 et seq.). The Commissioner of Labor, pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), shall adopt regulations with respect to those responsibilities delegated to him under sections 4 and 8 of P.L.1997, c.38 (C.44:10-58 and C.44:10-62).

Repealer.

17. The following are repealed:
R.S.34:15-43.1;
Section 1 of P.L.1987, c.283 (C.30:4D-6b);
P.L.1941, c.34 (C.44:8-104);
P.L.1959, c.86 (C.44:10-1 et seq.);
P.L.1983, c.85 (C.44:10-3.1 et seq.);
P.L.1985, c.501 (C.44:10-5.1 et seq.);
P.L.1991, c.523 (C.44:10-19 through 44:10-33);
P.L.1991, c.525 (C.44:10-3.3 et seq.);
P.L.1991, c.526 (C.44:10-3.5 et seq.); and
P.L.1991, c.527 (C.44:10-3.7 et seq.).

Repealer.

18. The following are repealed:

P.L.1950, c.303 (C.44:8-146 et seq.);
P.L.1988, c.79 (C.44:8-153 et seq.); and
Section 27 of P.L.1994, c.182 (C.44:8-158).

19. This act shall take effect immediately, except that section 18 shall take effect on January 1, 1998.

Approved March 24, 1997.

CHAPTER 39

AN ACT concerning certain county utilities authorities and amending P.L.1972, c.154.

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

1. Section 30 of P.L.1972, c.154 (C.40:41A-30) is amended to read as follows:

C.40:41A-30 Grant of powers to county.

30. The grant of powers under this act is intended to be as broad as is consistent with the Constitution of New Jersey and with general law relating to local government. The grant of powers shall be construed as liberally as possible in regard to the county's right to reorganize its own form of government, to reorganize its structure and to alter or abolish its agencies, subject to the general mandate of performing services, whether they be performed by the agency previously established or by a new agency or another department of county government. All county offices, boards, commissions and authorities authorized or established by statute, other than an authority organized under the "municipal and county utilities authorities law," P.L.1957, c.183 (C.40:14B-1 et seq.), those boards and offices which are subject to the provisions of subsection b. of section 125 of P.L.1972, c.154 (C.40:41A-125), and other than educational institutions authorized or established pursuant to Title 18A of the New Jersey Statutes, shall be considered to be county agencies for the purposes of this section.

Based on the need to develop effective services to meet problems which cross municipal boundaries and which cannot be met effectively on an individual basis by the municipalities or the State, this act shall be construed as intending to give the county power to establish innovative programs and to perform such regional services as any municipality or the State may

determine, in its own best interest, to have the county perform on a contractual basis.

2. This act shall take effect immediately and shall apply to any action to reorganize or to alter or abolish a county utilities authority organized under the "municipal and county utilities authorities law," P.L.1957, c.183 (C.40:14B-1 et seq.), adopted or approved pursuant to section 30 of P.L.1972, c.154 (C.40:41A-30), on or after March 3, 1997.

Approved March 24, 1997.

CHAPTER 40

AN ACT concerning the taxation of S corporations under the corporation business tax, amending P.L.1945, c.162.

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

1. Section 5 of P.L.1945, c.162 (C.54:10A-5) is amended to read as follows:

C.54:10A-5 Franchise Tax.

5. The franchise tax to be annually assessed to and paid by each taxpayer shall be the sum of the amount computed under subsection (a) hereof, or in the alternative to the amount computed under subsection (a) hereof, the amount computed under subsection (f) hereof, and the amount computed under subsection (c) hereof:

(a) That portion of its entire net worth as may be allocable to this State as provided in section 6, multiplied by the following rates: 2 mills per dollar on the first $100,000,000.00 of allocated net worth; 4/10 of a mill per dollar on the second $100,000,000.00; 3/10 of a mill per dollar on the third $100,000,000.00; and 2/10 of a mill per dollar on all amounts of allocated net worth in excess of $300,000,000.00; provided, however, that with respect to reports covering accounting or privilege periods set forth below, the rate shall be that percentage of the rate set forth in this subsection for the appropriate year:

Accounting or Privilege Periods Beginning on or After:	The Percentage of the Rate to be Imposed Shall Be:
April 1, 1983	75%
July 1, 1984	50%

July 1, 1985	25%
July 1, 1986	0

(b) (Deleted by amendment, P.L.1968, c.250, s.2.)

(c) (1) For a taxpayer that is not a New Jersey S corporation, 3¼% of its entire net income or such portion thereof as may be allocable to this State as provided in section 6 of P.L.1945, c.162 (C.54:10A-6); provided, however, that with respect to reports covering accounting or privilege periods or parts thereof ending after December 31, 1967, the rate shall be 4¼%; and that with respect to reports covering accounting or privilege periods or parts thereof ending after December 31, 1971, the rate shall be 5½%; and that with respect to reports covering accounting or privilege periods or parts thereof ending after December 31, 1974, the rate shall be 7½%; and that with respect to reports covering accounting or privilege periods or parts thereof ending after December 31, 1979, the rate shall be 9%; provided however, that for a taxpayer that has entire net income of $100,000 or less for a privilege period the rate for that privilege period shall be 7½%.

(2) For a taxpayer that is a New Jersey S corporation, for privilege periods ending on or before June 30, 1998 the rate determined by subtracting the maximum tax bracket rate provided under N.J.S.54A:2-1 for the privilege period from the tax rate that would otherwise be applicable to the taxpayer's entire net income for the privilege period if the taxpayer were not an S corporation provided under paragraph (1) of this subsection for the privilege period and for privilege periods ending on or after July 1, 1998 the rate shall be 2%, provided however that for a taxpayer that has entire net income of $100,000 or less for a privilege period ending on or after July 1, 1998, the rate for that privilege period shall be 0.5%, multiplied by its entire net income that is not subject to federal income taxation or such portion thereof as may be allocable to this State pursuant to sections 6 through 10 of P.L.1945, c.162 (C.54:10A-6 through 54:10A-10); plus

(3) For a taxpayer that is a New Jersey S corporation, the tax rate that would otherwise be applicable to the taxpayer's entire net income for the privilege period if the taxpayer were not an S corporation provided under paragraph (1) of this subsection for the privilege period multiplied by its entire net income that is subject to federal income taxation or such portion thereof as may be allocable to this State pursuant to sections 6 through 10 of P.L.1945, c.162 (C.54:10A-6 through 54:10A-10).

(d) Provided, however, that the franchise tax to be annually assessed to and paid by any investment company or real estate investment trust, which has elected to report as such and has filed its return in the form and within the time provided in this act and the rules and regulations promulgated in connection therewith, shall, in the case of an investment company, be measured by 25% of its entire net income and 25% of its entire net worth,

and in the case of a real estate investment trust, by 4% of its entire net income and 15% of its entire net worth, at the rates hereinbefore set forth for the computation of tax on net income and net worth, respectively, but in no case less than $250.00, and further provided, however, that the franchise tax to be annually assessed to and paid by a regulated investment company which for a period covered by its report satisfies the requirements of Chapter 1, Subchapter M, Part I, Section 852(a) of the federal Internal Revenue Code shall be $250.00.

(e) The tax assessed to any taxpayer pursuant to this section shall not be less than $25.00 in the case of a domestic corporation, $50.00 in the case of a foreign corporation, or $250.00 in the case of an investment company or regulated investment company. Provided however, that for accounting or privilege periods beginning in calendar year 1994 and thereafter the minimum taxes for taxpayers other than an investment company or a regulated investment company shall be as provided in the following schedule:

Period Beginning In Calendar Year	Domestic Corporation Minimum Tax	Foreign Corporation Minimum Tax
1994	$ 50	$100
1995	$100	$200
1996	$150	$200
1997	$200	$200

and provided further that the director shall adjust the minimum tax for accounting or privilege periods beginning in each fifth year following calendar year 1997 and each fifth year thereafter by multiplying the minimum tax for periods beginning in 1997 by an amount equal to one plus 75% of the increase, if any, in the annual average total producer price index for finished goods published by the federal Department of Labor, Bureau of Labor Statistics, for the year preceding the determination year over such index for calendar year 1996.

(f) In lieu of the portion of the tax based on net worth and to be computed under subsection (a) of this section, any taxpayer, the value of whose total assets everywhere, less reasonable reserves for depreciation, as of the close of the period covered by its report, amounts to less than $150,000.00, may elect to pay the tax shown in a table which shall be promulgated by the director.

2. This act shall take effect immediately.

Approved March 27, 1997.

CHAPTER 41

AN ACT concerning the New Jersey State Firemen's Association, amending and repealing various sections of the statutory law, and supplementing Title 54 of the Revised Statutes.

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

1. R.S.54:18-1 is amended to read as follows:

Annual reports, payments to New Jersey State Firemen's Association; effects of noncompliance.

54:18-1. Each insurer, not organized under the laws of the State of New Jersey, which takes fire insurance risks on property in this State, shall on or before March 1 in each year, for the period during the 12 months ending December 31 of the preceding year, cause to be made to the Treasurer of the New Jersey State Firemen's Association, on behalf of each municipality or fire district in this State, for any property on which the insurer has taken any fire insurance risk situate therein, a true return in writing, verified by the oath of an officer or representative of the insurer, showing the amount of all premiums received by or agreed to be paid to the insurer, for insurance underwritten by that insurer against loss or injury by fire upon real or personal property, except automobiles that are not stored for sale, including loss of use thereof in the municipality, or fire district. The return also shall contain the Insurance Services Office "ISO" numerical identification code or designation assigned by the New Jersey State Firemen's Association for such municipality or fire district. The insurer shall, on or before March 1 of each year, pay to the Treasurer of the New Jersey State Firemen's Association the sum of 2% upon the amount of all the premiums received or agreed to be paid during the 12 months ending December 31 of the preceding year.

If the insurer fails to comply herewith, and the failure is reported to the Commissioner of Banking and Insurance in writing, attested by the oath of the Treasurer of the New Jersey State Firemen's Association, then the commissioner shall forthwith revoke the certificate of authority issued to the insurer, and, until the provisions of this chapter have been complied with by the insurer, it shall not transact further business in this State.

2. R.S.54:18-2 is amended to read as follows:

Returns by agents, brokers, insurers; payments to association.

54:18-2. If any person residing or having an office or place of business in this State, in the capacity either of agent, broker, or insurer shall effect, or cause to be effected, any insurance, or shall receive any application for the effecting of insurance upon property in any municipality or fire district in this

State, and shall directly or indirectly place the insurance or cause the same to be placed in an insurer not organized under the laws of this State, the agent, broker or insurer shall make a return to the Treasurer of the New Jersey State Firemen's Association on behalf of the municipality or fire district in which the property is situate, as set forth in R.S.54:18-1, on or before March 1 in each year. The return shall contain an account, under oath, of all premiums received by such agent, broker or insurer, or by any other person for him, or agreed to be paid, during the 12 months ending December 31 of the preceding year, for insurance against loss or injury by fire upon real or personal property, except automobiles that are not stored for sale, including loss of use thereof in the municipality or fire district. The return also shall contain the Insurance Services Office "ISO" numerical identification code or designation assigned by the New Jersey State Firemen's Association of such municipality or fire district. The agent, broker or insurer shall, on or before March 1 of each year, pay to the Treasurer of the New Jersey State Firemen's Association the sum of 2% upon the amount of all the premiums received or agreed to be paid as aforesaid within the 12 months ending December 31 of the preceding year. The Treasurer of the New Jersey State Firemen's Association shall allocate the tax monies received to the appropriate local firemen's relief association incorporated and affiliated with the State association, collected on behalf of the municipality or fire district under the control thereof, and to the Board of Managers of the New Jersey Firemen's Home. Any monies received, allocated or paid by any agent, broker or insurer pursuant to the provisions of this chapter on behalf of any municipality or fire district that does not have a local firemen's relief association affiliated with the New Jersey State Firemen's Association shall be allocated to the New Jersey Firemen's Home in accordance with the provisions of section 7 of P.L.1997, c.41 (C.54:18-8).

3. R.S.54:18-3 is amended to read as follows:

Account books.

54:18-3. Every agent, broker, or insurer residing or having an office or authorized or licensed to do business in this State shall make the return and payment as set forth in R.S.54:18-2 and shall keep accurate books of account of all business done by him. The agent, broker or insurer shall record the name of the insured, the date and expiration of the insurance, a description of the property insured, a statement of its location, including the Insurance Services Office "ISO" numerical identification code or designation of the municipality or fire district, the amount of the insurance and premiums paid therefor. If an agent, broker or insurer fails, neglects or refuses to comply with any provisions of this chapter, or if any fraud or dishonesty in the returns required pursuant to the provisions of this chapter is apparent or becomes known, the Treasurer of the New Jersey State

Firemen's Association, on behalf of the municipality or fire district, may obtain from a judge of the Superior Court, in the county wherein the insured property is located, an order compelling the agent, broker or insurer to produce all books and records required to be kept by this chapter for an accounting and examination by the court.

4. R.S.54:18-4 is amended to read as follows:

Penaltyfor noncompliance by agent, broker, or insurer.

54:18-4. Any such agent, broker or insurer who fails, neglects or refuses to keep books of account as required, or to produce them in the Superior Court upon an order of the court, or to make proper and accurate returns as hereinbefore provided, or to pay over the percentage due upon any premium as required, at the time and in the manner specified in this chapter, or who is found, upon examination by the court, to have made a false return of the business done by him, shall, for each offense, be guilty of a crime of the fourth degree and forfeit and pay the amount owed to the Treasurer of the New Jersey State Firemen's Association.

5. R.S.54:18-5 is amended to read as follows:

Revocation of authority of agent, broker, or insurer.

54:18-5. If any such agent, broker or insurer fails, neglects or refuses to pay any percentage herein provided for, or to pay and satisfy any forfeiture or penalty adjudged to be due under the provisions of this chapter, and that fact is reported to the Commissioner of Banking and Insurance in writing, attested by the oath of the Treasurer of the New Jersey State Firemen's Association, the commissioner shall forthwith revoke any certificate of authority previously issued under which the failure has occurred. The revocation of a certificate shall not release any penalty or forfeiture previously incurred.

6. R.S.54:18-7 is amended to read as follows:

Effect of chapter on reciprocal legislation.

54:18-7. This chapter shall not alter or abridge any reciprocal legislation existing between different states of the United States, in regard to the percentage of taxes collected and received for this State. The amount of premiums paid by any insurance company pursuant to this chapter shall be deemed part of the reciprocal tax to be collected for this State. The Commissioner of Banking and Insurance, in consultation with the Treasurer of the State of New Jersey, shall enforce the provisions of this chapter and shall require the Treasurer of the New Jersey State Firemen's Association to provide a certified annual accounting of the monies received and allocated

under the provisions of this chapter and R.S.43:17-1 et seq., and shall hold the treasurer and officers accountable and subject to the penalties provided herein.

C.54:18-8 Use of monies.

7. All monies received by the Treasurer of the New Jersey State Firemen's Association from the 2% tax on fire insurance premiums paid by insurance companies not organized in this State, on behalf of municipalities or fire districts which do not have a duly incorporated local firemen's relief association affiliated with the State Association under R.S.43:17-2 et seq., shall be dedicated to the New Jersey Firemen's Home. Upon adoption of the budget, subject to the approval of the Governor, in accordance with R.S.30:7-1 et seq., these funds shall be allocated to the Board of Managers for the operation of the New Jersey Firemen's Home. A certified copy of the budget approved by the Governor shall be filed immediately with the Treasurer of the New Jersey State Firemen's Association.

The Treasurer of the New Jersey State Firemen's Association shall return to the general fund of the State Association the balance of the monies not required for the annual operation of the New Jersey Firemen's Home.

If there are not sufficient funds in the account for the annual operating expenses of the New Jersey Firemen's Home in accordance with R.S.30:7-1 et seq., the Board of Managers of the New Jersey Firemen's Home shall certify the amount of the deficiency to the Treasurer of the New Jersey State Firemen's Association. The certification shall be filed before the fiscal year for the New Jersey Firemen's Home commences. The certification shall set forth the specific sum necessary to fund the operational expenses of the New Jersey Firemen's Home. The operational budget shall include all necessary costs for the maintenance and operation of the home, including purchase of equipment. Upon receipt of the certification, the Treasurer of the New Jersey State Firemen's Association shall pay the certified amount to the New Jersey Firemen's Home no later than May 1 of each year.

The procedure set forth below shall be followed if the Board of Managers proposes a capital project consisting of a building addition to the New Jersey Firemen's Home or the construction of a new facility:

a. At least 30 days before the capital project is submitted to the Governor, the Board of Managers of the New Jersey Firemen's Home shall submit to the officers and executive committee of the New Jersey State Firemen's Association, a description of the proposed project, and costs thereof, including future operational costs. Within 30 days of receipt of the notice the officers of the New Jersey Firemen's Home and New Jersey State Firemen's Association shall approve or disapprove the funding necessary therefor. After the project has been approved or disapproved, the executive committee shall meet in a special executive session to confirm the action of the officers.

b. If the officers or the executive committee disapproves the proposed capital project, the board of managers or the officers may appeal to the Commissioner of Banking and Insurance who shall issue a final decision within 30 days, but in any event not later than November 1 of any year. The budget then shall be submitted to the Governor for approval pursuant to law.

Repealer.

8. The following are hereby repealed:
N.J.S.54:17-4 through 54:17-5;
N.J.S.54:18-6;
Section 6 of P.L.1955, c.204 (C.54:18-1.1).

9. This act shall take effect on July 1, 1997.

Approved March 27, 1997.

CHAPTER 42

AN ACT concerning assaults on judges and amending N.J.S.2C:12-1.

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

1. N.J.S.2C:12-1 is amended to read as follows:

Assault.

2C:12-1. Assault. a. Simple assault. A person is guilty of assault if he:

(1) Attempts to cause or purposely, knowingly or recklessly causes bodily injury to another; or

(2) Negligently causes bodily injury to another with a deadly weapon; or

(3) Attempts by physical menace to put another in fear of imminent serious bodily injury.

Simple assault is a disorderly persons offense unless committed in a fight or scuffle entered into by mutual consent, in which case it is a petty disorderly persons offense.

b. Aggravated assault. A person is guilty of aggravated assault if he:

(1) Attempts to cause serious bodily injury to another, or causes such injury purposely or knowingly or under circumstances manifesting extreme indifference to the value of human life recklessly causes such injury; or

(2) Attempts to cause or purposely or knowingly causes bodily injury to another with a deadly weapon; or

(3) Recklessly causes bodily injury to another with a deadly weapon; or

(4) Knowingly under circumstances manifesting extreme indifference to the value of human life points a firearm, as defined in section 2C:39-1f., at or in the direction of another, whether or not the actor believes it to be loaded; or

(5) Commits a simple assault as defined in subsection a. (1), (2) or (3) of this section upon:

(a) Any law enforcement officer acting in the performance of his duties while in uniform or exhibiting evidence of his authority; or

(b) Any paid or volunteer fireman acting in the performance of his duties while in uniform or otherwise clearly identifiable as being engaged in the performance of the duties of a fireman; or

(c) Any person engaged in emergency first-aid or medical services acting in the performance of his duties while in uniform or otherwise clearly identifiable as being engaged in the performance of emergency first-aid or medical services; or

(d) Any school board member or school administrator, teacher or other employee of a school board while clearly identifiable as being engaged in the performance of his duties or because of his status as a member or employee of a school board; or

(e) Any employee of the Division of Youth and Family Services while clearly identifiable as being engaged in the performance of his duties or because of his status as an employee of the division; or

(f) Any justice of the Supreme Court, judge of the Superior Court, judge of the Tax Court or municipal judge while clearly identifiable as being engaged in the performance of judicial duties or because of his status as a member of the judiciary; or

(6) Causes bodily injury to another person while fleeing or attempting to elude a law enforcement officer in violation of subsection b. of N.J.S.2C:29-2 or while operating a motor vehicle in violation of subsection c. of N.J.S.2C:20-10. Notwithstanding any other provision of law to the contrary, a person shall be strictly liable for a violation of this subsection upon proof of a violation of subsection b. of N.J.S.2C:29-2 or while operating a motor vehicle in violation of subsection c. of N.J.S.2C:20-10 which resulted in bodily injury to another person; or

(7) Attempts to cause significant bodily injury to another or causes significant bodily injury purposely or knowingly or, under circumstances manifesting extreme indifference to the value of human life recklessly causes such significant bodily injury.

Aggravated assault under subsections b. (1) and b. (6) is a crime of the second degree; under subsections b. (2) and b. (7) is a crime of the third degree; under subsections b. (3) and b. (4) is a crime of the fourth degree; and under subsection b. (5) is a crime of the third degree if the victim suffers bodily injury, otherwise it is a crime of the fourth degree.

c. A person is guilty of assault by auto or vessel when the person drives a vehicle or vessel recklessly and causes either serious bodily injury or bodily injury to another. Assault by auto or vessel is a crime of the fourth degree if serious bodily injury results and is a disorderly persons offense if bodily injury results.

As used in this section, "vessel" means a means of conveyance for travel on water and propelled otherwise than by muscular power.

d. A person who is employed by a facility as defined in section 2 of P.L.1977, c.239 (C.52:27G-2) who commits a simple assault as defined in paragraph (1) or (2) of subsection a. of this section upon an institutionalized elderly person as defined in section 2 of P.L.1977, c.239 (C.52:27G-2) is guilty of a crime of the fourth degree.

e. A person who commits a simple assault as defined in subsection a. of this section is guilty of a crime of the fourth degree if the person acted with a purpose to intimidate an individual or group of individuals because of race, color, religion, gender, handicap, sexual orientation, or ethnicity.

2. This act shall take effect immediately.

Approved March 27, 1997.

CHAPTER 43

AN ACT concerning the purchase of service credit for public employment with certain municipalities or counties in this State by certain members of the Police and Firemen's Retirement System and supplementing P.L.1944, c.255 (C.43:16A-1 et seq.).

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

C.43:16A-11.12 Service credit in PFRS for local service; purchase.

1. A member of the Police and Firemen's Retirement System who had established service credit in a municipal or county retirement system or pension fund in this State and who is ineligible to transfer the service credit to the retirement system may file a detailed statement of public employment

with the municipality or county rendered prior to becoming a member for which the member desires credit and of such other facts as the retirement system may require. The member may purchase credit for all of the service evidenced in the statement up to the nearest number of years and months. No application shall be accepted for the purchase of credit for the service if, at the time of the application, the member has a vested right to retirement benefits in the municipal or county retirement system or pension fund based in whole or in part upon that service.

The member may purchase credit for the service by paying into the annuity savings fund the amount required by applying the factor, supplied by the actuary as being applicable to the member's age at the time of the purchase, to the member's salary at that time, or to the highest annual compensation for service in this State for which contributions were made during any prior fiscal year of membership, whichever is greater. The purchase may be made in lump sum or in regular installments, equal to at least 1/2 of the full normal contribution to the retirement system, over a maximum period of 10 years. A member who applies to purchase credit for the service shall pay the full cost attributable to the increased benefits to be derived from the purchased credit in accordance with the actuarial method used to determine the cost at the time of the purchase. A member shall not be liable for any costs associated with the financing of pension adjustment benefits and health care benefits for retirees when purchasing credit.

Any member electing to purchase the service who retires prior to completing payments as agreed with the retirement system will receive pro rata credit for service purchased prior to the date of retirement, but if the member so elects at the time of retirement, the member may make the additional lump sum payment required at that time to provide full credit.

2. This act shall take effect immediately.

Approved March 27, 1997.

CHAPTER 44

AN ACT concerning radon testing at child care centers, and supplementing Title 26 of the Revised Statutes.

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

C.30:5B-5.2 Radon testing in child care centers, requirements.

1. a. Within six months of the effective date of this act, the owner of any building in which a child care center licensed pursuant to the provisions of P.L.1983, c.492 (C.30:5B-1 et seq.) is located shall test or cause to be tested the space in the building in which the child care center is located for the presence of radon gas and radon progeny. The test shall be conducted at least once every five years. If the building has been tested less than five years prior to the effective date of this act, then the test shall be performed within five years of that test and once every five years thereafter.

b. The provisions of section 4 of P.L.1986, c.83 (C.26:2D-73) to the contrary notwithstanding, any owner of a building who tests for the presence of radon gas and radon progeny pursuant to this act or who has performed the test within five years prior to the effective date of this act shall post, within 30 days of the completion of the testing procedures, or within 30 days of the effective date of this act if the test has been performed prior thereto,the results of the test, and any measures taken or proposed to mitigate the presence of radon gas or radon progeny, at a location in the building which is readily visible to persons having responsibility for any child that attends the child care center.

2. This act shall take effect immediately.

Approved March 27, 1997.

CHAPTER 45

AN ACT authorizing the U.S.S. New Jersey Battleship Commission to establish the Foundation for the U.S.S. New Jersey Battleship, increasing the membership of the commission, and amending and supplementing P.L.1979, c.440.

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

C.13:15A-10 Foundation for the U.S.S. New Jersey Battleship, established.

1. The U.S.S. New Jersey Battleship Commission is authorized to establish a nonprofit, educational and charitable organization to be known as the Foundation for the U.S.S. New Jersey Battleship, hereinafter referred to as "the foundation." The foundation shall be devoted to the sponsoring of activities and the raising of funds for the support and promotion of the commission and its several purposes. The foundation shall be incorporated,

organized and operated in such manner as to be eligible under applicable federal law for tax-exempt status and for the receipt of tax-deductible contributions.

C.13:15A-11 Board of directors.

2. The foundation shall be governed by a board of directors. No more than nine such directors shall also serve as members of the U.S.S. New Jersey Battleship Commission, and of those directors serving on both, at least three directors may also be officers of the foundation. Up to six members of the foundation may also be appointed as members of the commission because of their fundraising ability and other activities on behalf of the foundation. The number of all other directors and their terms and manner of selection shall be determined upon the incorporation of the foundation.

C.13:15A-12 Professional, administrative personnel, services.

3. The foundation's board of directors shall be authorized, within the limits of its own funds, to employ an executive director and professional, technical and administrative personnel. Employees of the foundation shall not be construed to be employees of the State of New Jersey. The board shall also be authorized to contract for such professional and administrative services as it shall deem necessary.

C.13:15A-13 Bylaws adopted.

4. Upon the incorporation of the foundation and the establishment of the first board of directors, the board shall adopt bylaws setting forth the structure, offices, powers and duties of the foundation.

C.13:15A-14 Use of funds.

5. All funds received by the foundation, other than those necessary to pay the expenses of the foundation, shall be used exclusively for the support and promotion of the U.S.S. New Jersey Battleship Commission.

6. Section 3 of P.L.1979, c.440 (C.13:15A-3) is amended to read as follows:

C.13:15A-3 U.S.S. Battleship Commission; members.

3. a. There is hereby established in the Department of Environmental Protection a U.S.S. New Jersey Battleship Commission consisting of 22 members as follows:

(1) The State Treasurer, the Commissioner of Environmental Protection, and the Commissioner of Transportation, ex officio, or their designees;

(2) Nineteen citizens of the State to be appointed by the Governor with the advice and consent of the Senate.

b. The Governor shall designate five of the initial 13 citizen members to serve for terms of one year, five to serve for three years, and three to serve for five years. Of the six citizen members initially appointed pursuant to P.L.1997, c.45, two shall serve terms which expire on October 6, 2000, two shall serve terms which expire on October 6, 2001 and two shall serve terms which expire on October 6, 2003. The terms of all members thereafter appointed, except those appointed to fill unexpired terms, shall run for 5 years from the date of expiration of the terms of their predecessors. Members may be appointed to succeed themselves.

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

d. Members of the commission shall not receive compensation for their services as members but shall be entitled to reimbursement by the commission for expenses necessarily incurred in the performance of their duties.

e. A member of the commission may be removed from office by the Governor for cause after a public hearing.

f. As soon as may be after the appointment of its members the commission shall meet and organize by the election of a chairman and vice chairman and shall elect such other officers as it shall determine, all from among its membership.

7. This act shall take effect immediately.

Approved March 27, 1997.

CHAPTER 46

AN ACT appropriating $2,100,000 from the "Jobs, Education and Competitiveness Bond Act of 1988," P.L.1988, c.78, for the construction, reconstruction, development, extension, improvement and equipment of classrooms, academic buildings, libraries, computer facilities and other higher education buildings at New Jersey's public and private institutions of higher education.

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

1. There is appropriated to the Commission on Higher Education, in but not of the Department of State, from the "Jobs, Education and Competitiveness Fund" created pursuant to section 14 of the "Jobs, Education and

Competitiveness Bond Act of 1988," P.L.1988, c.78, the sum of $2,100,000 for the purpose of constructing, reconstructing, developing, extending, improving and equipping classrooms, academic buildings, libraries, computer facilities and other higher education buildings. The sum shall be allocated to the following institutions of higher education which shall provide funds to projects which have been approved by the Commission on Higher Education as provided below:

PROJECT	INSTITUTION FUNDS	P.L. 1988, c.78 BOND FUNDS
CONSTRUCTION OF HIGHER EDUCATION BUILDINGS AT NEW JERSEY STATE COLLEGES		
Underground electrical distribution system at Rowan College of New Jersey	$417,000	$500,000
CONSTRUCTION OF HIGHER EDUCATION BUILDINGS AT INDEPENDENT INSTITUTIONS		
Renovation of Gannon Hall at Saint Peter's College	$3,869,000	$1,600,000

2. The expenditure of the sums appropriated by this act are subject to the provisions and conditions of P.L.1988, c.78.

3. This act shall take effect immediately.

Approved March 27, 1997.

CHAPTER 47

AN ACT concerning public school pupils and amending N.J.S.18A:40-4.

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

1. N.J.S.18A:40-4 is amended to read as follows:

Health records; examinations for physical defects, hearing.

18A:40-4. The medical inspector, or the nurse or licensed medical and health care personnel under the immediate direction of the medical inspector, shall examine every pupil to learn whether any physical defect exists, or in lieu thereof the medical inspector may accept the report of such an examination by a physician licensed to practice medicine and surgery within the State or by a nurse practitioner/clinical nurse specialist certified by the New Jersey Board of Nursing working in collaboration with a physician licensed to practice medicine and surgery within the State. If any deviations in health status are detected, the nurse practitioner/clinical nurse specialist shall refer the pupil to the collaborating physician. The frequency and procedure of and selection of pupils for examinations shall comply with the rules of the State board. Additionally a screening of hearing examination shall be conducted on each pupil during the school year pursuant to rules, regulations and standards established by the State Department of Education in consultation with the State Department of Health.

A pupil who presents a statement signed by his parents or guardian that such required examinations interfere with the free exercise of his religious beliefs shall be examined only to the extent necessary to determine whether he is ill or infected with a communicable disease or to determine his fitness to participate in any health, safety and physical education course required by law.

A health record of each pupil shall be kept, in which shall be entered the findings of each examination, and such record shall be the property of the board of education and shall be forwarded to any public school to which the pupil is transferred, if such school is known.

2. This act shall take effect immediately.

Approved March 27, 1997.

CHAPTER 48

AN ACT concerning the compensation of certain election officers and amending R.S.19:45-6.

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

1. R.S.19:45-6 is amended to read as follows:

Members of district boards; compensation.

19:45-6. The compensation of each member of the district boards for all services performed by them under the provisions of this Title shall be as follows:

In all counties, for all services rendered including the counting of the votes, and in counties wherein voting machines are used, the tabulation of the votes registered on the voting machines, and the delivery of the returns, registry binders, ballot boxes and keys for the voting machines to the proper election officials, $75.00 each time the primary election, the general election or any special election is held under this Title, except that the governing body of a county may, by ordinance or resolution as appropriate, provide that such amount shall be $100 for the members of each district board within the county performing those services at such an election; provided, however, that:

a. (1) The member of the board charged with the duty of obtaining and signing for the signature copy registers shall receive an additional $12.50 per election, such remuneration being limited to only one board member per election, or $6.25 to each of two board members if they share such responsibility for the signature copy registers, and (2) the member of the board charged with the duty of returning the signature copy registers shall receive an additional $12.50 per election, such remuneration being limited to only one board member per election, or $6.25 to each of two board members if they share such responsibility for the signature copy registers;

b. In the case of any member of the board who is required under R.S.19:50-1 to attend in a given year a training program for district board members, but who fails to attend such a training program in that year, that compensation shall be $50.00 for each of those elections;

c. In counties wherein voting machines are used no compensation shall be paid for any services rendered at any special election held at the same time as any primary or general election. Such compensation shall be in lieu of all other fees and payments; and

d. Compensation for district board members serving at a school election shall be paid by the board of education of the school district conducting the election at an hourly rate of $5.77, except that the board of education may compensate such district board members at an hourly rate of $7.69 if the school district is within a county that provides that the compensation for its district board members at a primary, general or special election is $100. The provisions of subsections a., b., and c. of this section shall also apply to district board members serving at a school election, except that in the case of subsection b., the compensation shall be at an hourly rate of $3.85.

Compensation due each member shall be paid within 30 days but not within 20 days after each election; provided, however, that no compensation shall be paid to any member of any such district board who may have been removed from office or application for the removal of whom is pending under the provisions of R.S.19:6-4.

2. This act shall take effect immediately.

Approved March 27, 1997.

CHAPTER 49

AN ACT concerning affordable housing and amending P.L.1995, c.231.

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

1. Section 1 of P.L.1995, c.231 (C.52:27D-310.1) is amended to read as follows:

C.52:27D-310.1 Computing municipal adjustment, exclusions.

1. When computing a municipal adjustment regarding available land resources as part of the determination of a municipality's fair share of affordable housing, the Council on Affordable Housing shall exclude from designating as vacant land (a) any land that is owned by a local government entity that as of January 1, 1997, has adopted, prior to the institution of a lawsuit seeking a builder's remedy or prior to the filing of a petition for substantive certification of a housing element and fair share plan, a resolution authorizing an execution of agreement that the land be utilized for a public purpose other than housing; (b) any land listed on a master plan of a municipality as being dedicated, by easement or otherwise, for purposes of conservation, park lands or open space and which is owned, leased, licensed, or in any manner operated by a county, municipality or tax-exempt, nonprofit organization including a local board of education, or by more than one municipality by joint agreement pursuant to P.L.1964, c.185 (C.40:61-35.1 et seq.), for so long as the entity maintains such ownership, lease, license, or operational control of such land ; and (c) any vacant contiguous parcels of land in private ownership of a size which would accommodate fewer than five housing units if current standards of the council were applied pertaining to housing density. No municipality

shall be required to utilize for affordable housing purposes land that is excluded from being designated as vacant land.

2. This act shall take effect immediately.

Approved March 27, 1997.

CHAPTER 50

AN ACT concerning the New Jersey Railroad and Transportation Museum Commission and amending P.L.1993, c.209.

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

1. Section 1 of P.L.1993, c.209 (C.52:16A-43) is amended to read as follows:

C.52:16A-43 Findings, declarations; authority of department.

1. The Legislature finds and declares that:

a. The New Jersey Railroad and Transportation Museum Study Commission was created under P.L.1987, c.41, continued under P.L.1988, c.5, and reconstituted under P.L.1990, c.58, for the purpose of investigating the feasibility of establishing a railroad and transportation museum in New Jersey; including in its study such issues as the possible location of the museum, the costs associated with the creation and operation of the museum, and the potential sources and types of financial support required for the museum;

b. In its Interim Report, published in February 1988, the study commission documented the public interest in, the historical need for, and the financial viability of, a railroad and transportation museum in this State;

c. Since then, the study commission has devoted many hours to meetings, on-site inspections, public hearings, research and planning, to ensure that the State's railroad and transportation heritage will be preserved in a well-planned, financially sound manner, and that there will be enthusiastic public support for the museum;

d. The continuity of this planning process must extend beyond the September 30, 1991 expiration date of the legislation authorizing the study commission, if the museum is to succeed, and the extensive preparatory work of the study commission, a major contribution to the museum project, should be expanded upon, so as not to lose the momentum of public interest

in the project, and to take advantage of the opportunities now available to obtain equipment, artifacts and other memorabilia, railroad rights-of-way and other real properties, and the sources of funding for the project;

e. Therefore, it is only appropriate that the Legislature create a new long-term commission, to continue the work of the study commission, and to take further preparatory actions toward creation of the museum. At this time the Department of Transportation is deemed the appropriate authority to establish the museum, pending any final decision made in the future, and for this reason the Department of Transportation is authorized to receive funds for the proposed museum and to take other appropriate preparatory and transitional action.

2. Section 2 of P.L.1993, c.209 (C.52:16A-44) is amended to read as follows:

C.52:16A-44 New Jersey Railroad and Transportation Museum Commission, created.

2. There is created, in but not of the Department of Transportation, a commission to be known as the New Jersey Railroad and Transportation Museum Commission, with a membership of 16. The commission shall consist of:

a. Two members of the Senate, to be appointed by the President thereof, who shall not be of the same political party, and two members of the General Assembly, to be appointed by the Speaker thereof, who shall not be of the same political party. A legislative member shall serve only as long as he or she is a member of the House which made the original appointment.

b. The Commissioner of Transportation, or his designee, the Commissioner of Commerce and Economic Development, or his designee, the Commissioner of Environmental Protection, or his designee, the Secretary of State, or his designee, the State Treasurer, or his designee, and the Executive Director of the New Jersey Transit Corporation or his designee.

c. Six public members, to be appointed by the Governor, with the advice and consent of the Senate, one of whom shall be chosen from the United Railroad Historical Society, one of whom shall be chosen from the Friends of the New Jersey Railroad and Transportation Museum, and the rest of whom shall be chosen from among persons who are affiliated with railroad or transportation historical preservation, exhibition or tourism organizations in New Jersey, or from among persons who have knowledge of, individual experience with, or demonstrated interest in, New Jersey railroad or transportation history, preservation, exhibition or tourism. If a public member is chosen from the United Railroad Historical Society, the Friends of the New Jersey Railroad and Transportation Museum, or a

railroad or transportation historical preservation, exhibition or tourism organization, the public member shall have the power to appoint a designee from the membership of the organization. If one of these organizations goes out of existence, the position on the commission shall be considered vacant, and the position may be filled, for the unexpired term only, from among persons who are affiliated with other railroad or transportation historical preservation, exhibition or tourism organizations in New Jersey, or from among persons who have knowledge of, individual experience with, or demonstrated interest in, New Jersey railroad or transportation history, preservation, exhibition or tourism. The public members shall have terms of three years, and shall be eligible for reappointment to the commission; except that, of those first appointed, two of the public members shall have terms of three years, two shall have terms of two years and two shall have terms of one year, and all of the members first appointed shall be eligible for reappointment.

All appointments shall be made within 60 days of the effective date of this act. For purposes of continuity, and to the extent practicable and feasible, the first appointments to the commission shall include the legislative, ex officio, and public members of the New Jersey Railroad and Transportation Museum Study Commission last serving on that study commission; except that a member of the study commission shall have the right to decline appointment to the new commission. Vacancies in the membership of the commission shall be filled, for the unexpired term only, in the manner described in subsections a. through c. of this section, and within 60 days of the vacancy. Members of the commission shall serve without compensation for performing their duties as members, but the commission may, within the limits of funds appropriated or otherwise made available therefor, reimburse members for the actual expenses necessarily incurred in the performance of their duties.

3. Section 4 of P.L.1993, c.209 (C.52:16A-46) is amended to read as follows:

C.52:16A-46 Commission duties.

4. The commission may:

a. Make recommendations to the Governor, the Legislature and the Department of Transportation concerning the general nature and scope of a transportation and railroad museum, including the presentation and examination of various alternative sites for the museum. The commission shall make no recommendations or decisions concerning a choice of a preliminary or final site for the museum unless it has developed a master

plan therefor, provided, however, that the Legislature has by law authorized the development of such a plan;

b. Make recommendations to the Governor, the Legislature and the Department of Transportation concerning the selection of architectural and interior design plans for the railroad and transportation museum;

c. Make recommendations to the Governor, the Legislature and the Department of Transportation concerning the selection, acquisition, movement, storage and security of railroad and transportation related equipment, memorabilia, books, papers, and other documents;

d. Raise funds, through direct solicitation or other fund raising events, alone, or in conjunction with nonprofit railroad or transportation groups in this State, and accept gifts, donations, devises and bequests, for the purposes of a State railroad and transportation museum and to defray the administrative expenses of the commission;

e. Work with various nonprofit railroad and transportation groups around the State, for purposes of obtaining funding and enhancing public interest in the museum project;

f. Continue any studies or projects begun by the New Jersey Railroad and Transportation Museum Study Commission, and prepare any new studies or projects related to the creation and development of a railroad and transportation museum in this State.

4. Section 6 of P.L.1993, c.209 (C.52:16A-48) is amended to read as follows:

C.52:16A-48 Meetings; report.

6. The commission may meet and hold hearings at any place or places as it shall designate during the sessions or recesses of the Legislature. The commission shall report a summary of its activities and its findings, conclusions and recommendations to the Governor, the Legislature, and the Department of Transportation on an annual basis, not later than March 1 of each year of the commission's life, accompanying them with any legislative bills which it may desire to recommend for adoption by the Legislature.

5. Section 8 of P.L.1993, c.209 (C.52:16A-50) is amended to read as follows:

C.52:16A-50 Acquisition of other funds and related materials.

8. The Department of Transportation is authorized to acquire, through purchase, transfer, condemnation, devise, bequest, donation, gift or otherwise, in the name of the State, for purposes of a State railroad and transportation museum, and subject to the availability of appropriations or other funds as may be necessary therefor, any real property, including, but

not limited to land, buildings, improvements, and railroad rights-of-way. The department may use moneys from the Railroad and Transportation Museum Fund to effectuate its responsibilities under this section. Additionally, the Department of Transportation is authorized to acquire, through purchase, transfer, devise, donation, gift or otherwise, railroad and transportation related equipment, memorabilia, books, papers, and other documents. The Department of Transportation also is authorized to provide for the selecting, moving, securing and storage of any such acquisitions by the New Jersey Transit Corporation or by any department or agency which the Department of Transportation shall deem appropriate.

6. Section 9 of P.L.1993, c.209 (C.52:16A-51) is amended to read as follows:

C.52:16A-51 "Railroad and Transportation Museum Fund," established.

9. There is established in the Department of Transportation a fund to be known as the "Railroad and Transportation Museum Fund." The fund shall be credited with moneys received under subsection d. of section 4 of this act, and with any other moneys and appropriations obtained by the department for railroad and transportation museum purposes. All interest earned on the investment moneys in the fund shall be credited to the fund. Appropriations of moneys made by the Legislature to the commission or otherwise received by the commission for its administrative purposes shall be credited to the fund established under section 7 of this act until the expiration date of the commission under section 13 of this act. The moneys in the fund established by this section shall be administered by the Commissioner of Transportation, to be held thereby in the fund until appropriated by law. Moneys from the fund shall be used only for the purposes of a State railroad and transportation museum, including, but not limited to, the costs related to the establishment of the museum; the acquisition of a site for the museum; the selection and preparation of the architectural and interior design plans for the museum; and the acquisition, storage and security for railroad and transportation related equipment, memorabilia, books, papers and other documents for the museum. Not later than one year after the effective date of this act, and quarterly thereafter, the Commissioner of Transportation shall certify to the Legislature, the Department of the Treasury, and the commission until the date of its expiration under section 13 of this act, the total amount of moneys in the fund.

Moneys received by the fund to be used for an expressly specified purpose, such as, but not limited to, moneys expressly donated for the purchase of a certain type of railroad or transportation equipment for the

railroad and transportation museum, shall be held in a restricted account within the fund. Interest earned on investment moneys in each restricted account shall be credited to the fund. The moneys in the fund shall be invested and reinvested in the same manner that trust funds in the custody of the State Treasurer are invested and reinvested.

7. This act shall take effect immediately.

Approved March 27, 1997.

CHAPTER 51

AN ACT making sexual offenders responsible for the cost of DNA testing and supplementing Title 53 of the New Jersey Statutes.

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

C.53:1-20.29 Liability for cost of certain blood tests.

1. Any person required pursuant to the provisions of P.L.1994, c.136 (C.53:1-20.17 et seq.) to have a blood sample drawn for purposes of DNA testing shall be liable for the costs of such testing.

C.53:1-20.30 Lien against property, income of offender.

2. The State shall have a lien against the property and income of each offender for whom DNA testing is conducted pursuant to section 1 of this act. The lien when properly filed as set forth herein shall have priority over all unrecorded encumbrances except for any restitutions, assessments or fines which the offender has been sentenced to pay.

C.53:1-20.31 Form of lien.

3. The lien shall be in a form to be prescribed by the Attorney General and shall contain the name of the offender who is the owner of the real property which is the subject of the lien. The lien shall be signed by the Attorney General or a designee assigned by the Attorney General.

C.53:1-20.32 Filing of lien.

4. The lien shall be filed with the clerk of the county or register of deeds and mortgages, as the case may be, and shall immediately attach to and become binding upon all real property in the ownership of the offender.

If it is believed that the offender is the owner of real property within the State, but the exact location of same is not known, then the lien may be filed

with the clerk of the Superior Court and shall become binding upon all real property of the offender wherever situate within the State.

C.53:1-20.33 Forwarding of notice of lien, effect.

5. If it is found that the offender is possessed of any goods, rights, credits, chattels, moneys or effects which are held by any person, firm or corporation for the present or subsequent use of the offender, then the lien provided for herein, or a notice of the existence thereof, may be forwarded by registered mail to the person, firm, or corporation and shall become binding upon any property rights so held. The person, firm or corporation shall thereafter be precluded from disposing of the property rights until the lien is satisfied or until the holder of the lien consents thereto.

Any person, firm or corporation disposing of any such property or moneys after receipt of notice of the lien shall be liable to the State for the value of the property or moneys of which disposition has been made.

C.53:1-20.34 Provision of books for entering lien, recordation.

6. The clerk of the county or register of deeds and mortgages, or clerk of the Superior Court, as the case may be, shall provide suitable books in which he shall enter the liens filed hereunder properly indexed in the name of the offender.

All liens and other papers incidental thereto required hereunder shall be received and recorded by the clerk of the county, register of deeds and mortgages, or clerk of the Superior Court, as the case may be, without payment of fees.

C.53:1-20.35 Discharge of lien by the State.

7. To discharge any lien or liens filed hereunder, the Attorney General or an agent designated by the Attorney General shall file with the clerk of the county, register of deeds and mortgages or clerk of the Superior Court, as the case may be, a duly acknowledged certificate setting forth the fact that the State desires to discharge the lien of record.

The Attorney General or an agent designated by the Attorney General is authorized to compromise for settlement any lien filed under the provisions of this act. A memorandum of the compromise and settlement signed by the Attorney General shall be sufficient authorization for a complete discharge of the lien.

C.53:1-20.36 Discharge of lien by a person.

8. Any person desiring to secure immediate discharge of any lien may deposit with the court cash in sufficient amount to cover the amount of the lien or post a bond in an amount and with sureties to be approved by said court. Upon proper notice of this fact being given to the Attorney General

a satisfaction of said lien shall be filed forthwith with the county clerk or register of deeds and mortgages as the case may be.

9. This act shall take effect immediately.

Approved April 1, 1997.

CHAPTER 52

AN ACT concerning the management of Lyme disease and other tick-borne illlness, amending and supplementing P.L.1991, c.227, and amending P.L.1976, c.68.

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

1. Section 1 of P.L.1991, c.277 (C.26:2P-1) is amended to read as follows:

C.26:2P-1 Findings, declarations.

1. The Legislature finds and declares that:

a. Lyme disease is a bacterial infection which is spread by certain ticks, and is one of the fastest growing public health problems in New Jersey;

b. Studies of Lyme disease treatment have shown that costs associated with long-term treatment of infected persons have often exceeded $100,000 per case and have a significant negative social impact;

c. Lyme disease, which is the most common tick-borne disease in this country, is present in 48 states and five continents and is spreading, with New Jersey being one of the states in which the disease is most prevalent. New Jersey experienced the largest percentage increase in reported cases of Lyme disease of any state between 1993 and 1994 ;

d. Lyme disease was not widely recognized in the United States until 1975 and was first identified in New Jersey in Monmouth county in 1978;

e. Even though Lyme disease is receiving increased public attention among both the medical community and the general public, it is often misdiagnosed or not diagnosed, which results in more serious health problems for the affected person;

f. If untreated, Lyme disease, in its later stages, can result in neurological disorders, including, but not limited to, chronic and severe fatigue, encephalitis, meningitis, memory loss, dementia and seizures; severe arthritis; cardiac dysfunction; vision loss, gastrointestinal disorders, paralysis, strokes and death;

g. Other tick-borne diseases known or suspected to occur in New Jersey include Rocky Mountain spotted fever, human monocytic ehrlichiosis, human granulocytic ehrlichiosis and human babesiosis; and

h. County mosquito control agencies throughout the State are currently staffed and equipped to control nuisance and vector species of mosquitoes. These commissions or agencies provide a central operational unit within each county with the capability to advise and assist the Department of Health and Senior Services in the development and implementation of an integrated approach to manage tick-borne disease vectors.

C.26:2P-7 Designation of commission, agency to coordinate pest management.

2. The Board of Chosen Freeholders of a county may designate any county mosquito commission or other agency or any combination thereof to provide surveillance, education, training and recommendations on integrated pest management for the management of Lyme disease or other tick-borne disease vectors.

In the event of a public health necessity, the designated commission or agency may conduct other tick management activities in accordance with tick management protocols established by the Department of Health and Senior Services.

3. Section 4 of P.L.1976, c.68 (C.40A:4-45.4) is amended to read as follows:

C.40A:4-45.4 Limitation on increase in county tax levies over previous year; exceptions.

4. In the preparation of its budget, a county may not increase the county tax levy to be apportioned among its constituent municipalities in excess of 5% or the index rate, whichever is less, of the previous year's county tax levy, subject to the following exceptions:

a. The amount of revenue generated by the increase in valuations within the county, based solely on applying the preceding year's county tax rate to the apportionment valuation of new construction or improvements within the county, and such increase shall be levied in direct proportion to said valuation;

b. Capital expenditures, including appropriations for current capital expenditures, whether in the capital improvement fund or as a component of a line item elsewhere in the budget, provided that any such current capital expenditures would be otherwise bondable under the requirements of N.J.S.40A:2-21 and 40A:2-22;

c. (1) An increase based upon emergency temporary appropriations made pursuant to N.J.S.40A:4-20 to meet an urgent situation or event which immediately endangers the health, safety or property of the residents of the county, and over which the governing body had no control and for which it

could not plan and emergency appropriations made pursuant to N.J.S.40A:4-46. Emergency temporary appropriations and emergency appropriations shall be approved by at least two-thirds of the governing body and by the Director of the Division of Local Government Services, and shall not exceed in the aggregate 3% of the previous year's final current operating appropriations.

(2) (Deleted by amendment, P.L.1990, c.89.)

The approval procedure in this subsection shall not apply to appropriations adopted for a purpose referred to in subsection d. or f. below;

d. All debt service;

e. (Deleted by amendment, P.L.1990, c.89.)

f. Amounts required to be paid pursuant to (1) any contract with respect to use, service or provision of any project, facility or public improvement for water, sewerage, parking, senior citizen housing or any similar purpose, or payments on account of debt service therefor, between a county and any other county, municipality, school or other district, agency, authority, commission, instrumentality, public corporation, body corporate and politic or political subdivision of this State; and (2) any lease of a facility owned by a county improvement authority when the lease payment represents the proportionate amount necessary to amortize the debt incurred by the authority in providing the facility which is leased, in whole or in part;

g. That portion of the county tax levy which represents funding to participate in any federal or State aid program and amounts received or to be received from federal, State or other funds in reimbursement for local expenditures. If a county provides matching funds in order to receive the federal or State or other funds, only the amount of the match which is required by law or agreement to be provided by the county shall be excepted;

h. (Deleted by amendment, P.L.1987, c.74.)

i. (Deleted by amendment, P.L.1990, c.89.)

j. (Deleted by amendment, P.L.1990, c.89.)

k. (Deleted by amendment, P.L.1990, c.89.)

l. Amounts expended to meet the standards established pursuant to the "New Jersey Public Employees' Occupational Safety and Health Act," P.L.1983, c.516 (C.34:6A-25 et seq.);

m. (Deleted by amendment, P.L.1990, c.89.)

n. (Deleted by amendment, P.L.1990, c.89.)

o. (Deleted by amendment, P.L.1990, c.89.)

p. Extraordinary expenses, approved by the Local Finance Board, required for the implementation of an interlocal services agreement;

q. Any expenditure mandated as a result of a natural disaster, civil disturbance or other emergency that is specifically authorized pursuant to a

declaration of an emergency by the President of the United States or by the Governor;

r. Expenditures for the cost of services mandated by any order of court, by any federal or State statute, or by administrative rule, directive, order, or other legally binding device issued by a State agency which has identified such cost as mandated expenditures on certification to the Local Finance Board by the State agency;

s. That portion of the county tax levy which represents funding to a county college in excess of the county tax levy required to fund the county college in local budget year 1992;

t. Amounts appropriated for the cost of administering a joint insurance fund established pursuant to subsection b. of section 1 of P.L.1983, c.372 (C.40A:10-36), but not including appropriations for claims payments by local member units;

u. Expenditures for the administration of general public assistance pursuant to P.L.1995, c.259 (C.40A:4-6.1 et al.);

v. Amounts in a separate line item of a county budget that are expended on tick-borne disease vector management activities undertaken pursuant to P.L.1997, c.52 (C.26:2P-7 et al.).

4. This act shall take effect immediately.

Approved April 1, 1997.

CHAPTER 53

AN ACT concerning the transportation of school pupils and supplementing chapter 39 of Title 18A of the New Jersey Statutes.

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

C.18A:39-11.1 List of agencies providing cooperative transportation services; provision of transportation for certain pupils.

1. a. The Commissioner of Education shall identify and publish a list of local school boards of education, educational services commissions, county special services school districts, and any other established agencies providing cooperative transportation services.

b. Any school district responsible for the transportation of pupils to and from a school, other than a local district school, pursuant to N.J.S.18A:39-1 which transports pupils to a county vocational school and

pupils classified pursuant to chapter 46 of Title 18A of the New Jersey Statutes shall utilize one of the agencies identified by the commissioner for the transportation of the pupils. Transportation by one of the agencies shall not be required when the local district can provide transportation at a lower cost than those agencies, or the transportation to be provided by one of the agencies does not fall within the policies of the resident school district regarding length of ride and assignment of students to a route based on student age or classification.

c. Any school district which has in the prior year provided payments in lieu of transportation for any nonpublic school pupil pursuant to N.J.S.18A:39-1 or which cannot provide transportation in the ensuing school year shall attempt to provide transportation through an agency identified by the commissioner prior to determining to pay aid in lieu of transportation. The school district shall provide to the agency any unique limitations or restrictions of the required transportation. If the costs to provide transportation by the agency identified by the commissioner are less than the in-lieu-of payments, the agency shall provide transportation. The school district shall make the determination on the manner in which transportation services shall be provided and shall notify the nonpublic school and the parent or guardian of the nonpublic school pupil by August 1 prior to the beginning of the school year.

d. The county superintendents shall assist local boards of education and the chief school administrators of nonpublic schools in coordinating the calendars and schedules of the public and nonpublic schools to facilitate the coordination of transportation of pupils to and from school in their respective county.

2. The commissioner shall report to the Governor and the Legislature within three years following the effective date of this act on its effectiveness in promoting regionalized transportation services and the advisability of expanding the provisions of the act to transportation services provided to other pupils.

3. This act shall take effect immediately.

Approved April 1, 1997.

CHAPTER 54

AN ACT concerning certain sales of alcoholic beverages in cities of the first class and amending P.L.1971, c.184.

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

1. Section 1 of P.L.1971, c.184 (C.33:1-40.3) is amended to read as follows:

C.33:1-40.3 Sale of wine and malt alcoholic beverages in original containers.

1. Whenever the sale of alcoholic beverages for consumption on the premises and off the premises or either thereof is authorized in any municipality by ordinance or rule or regulation of the Division of Alcoholic Beverage Control, by the holder of a retail consumption or retail distribution license, such ordinance or rule shall authorize the sale of wine and malt alcoholic beverages in original bottle or can containers for consumption off the premises on the same days and during the same hours as the sale of alcoholic beverages for consumption on the premises is permitted and authorized in the municipality. If a municipality has no ordinance or local law that authorizes the sale of alcoholic beverages for consumption on the premises, then the municipality may by ordinance authorize the sale of wine and malt alcoholic beverages in original bottle or can containers by retail distribution licensees any time between the hours of 12:30 p.m. and 6:30 p.m. on Sunday, in addition to such weekday hours as may be authorized by ordinance.

Notwithstanding the provisions of this section or any other law to the contrary, a city of the first class may establish by ordinance separate hours for:

(1) sales by each type of retail license set forth in R.S.33:1-12, and

(2) sales by such licensees for consumption on the premises and consumption off the premises.

All parts of ordinances and regulations of the Director of the Division of Alcoholic Beverage Control inconsistent with the provisions of this act are superseded to the extent of such inconsistency.

2. This act shall take effect immediately.

Approved April 1, 1997.

CHAPTER 55

AN ACT concerning certain youthful offenders and amending P.L.1995, c.330.

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

1. Section 3 of P.L.1995, c.330 (C.52:17B-183) is amended to read as follows:

C.52:17B-183 Definitions.

3. As used in this act:

a. "Commission" means the Juvenile Justice Commission in, but not of, the Department of Law and Public Safety established pursuant to P.L.1995, c.284 (C.52:17B-169 et seq.).

b. "Commissioner" means the Commissioner of the Department of Corrections.

c. "Juvenile offender" means a person at least 14 years old at the time of disposition who has been adjudicated delinquent for an act which, if committed by an adult, would constitute a crime, excluding an adjudication for any act which would constitute a crime of the first degree or a crime under chapter 14 of Title 2C of the New Jersey Statutes.

d. "Youthful offender" means a person between 18 and 30 years of age who has been convicted of a crime, excluding any person convicted of:

(1) a crime of the first degree;

(2) a crime under chapter 14 of Title 2C of the New Jersey Statutes;

(3) a crime which requires the imposition of a mandatory term of imprisonment without eligibility for parole, unless the person has less than one year of the mandatory portion of the sentence remaining; or

(4) a crime of the second degree under any of the following: N.J.S.2C:11-4, N.J.S.2C:12-1, N.J.S.2C:13-1, N.J.S.2C:15-1, N.J.S.2C:18-2 or N.J.S.2C:39-4 for possession of a weapon with the purpose of using it unlawfully against the person of another.

2. This act shall take effect immediately.

Approved April 1, 1997.

CHAPTER 56

AN ACT concerning rental housing and amending P.L.1987, c.153.

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

1. Section 7 of P.L.1987, c.153 is amended to read as follows:

7. This act shall take effect immediately.

2. This act shall take effect immediately.

Approved April 1, 1997.

CHAPTER 57

AN ACT concerning criminal offenses involving counterfeit marks 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:21-32 Short title; definitions relative to counterfeit marks; offenses.

1. a. This act shall be known and may be cited as the "New Jersey Trademark Counterfeiting Act."

b. As used in this act:

(1) "Counterfeit mark" means a spurious mark that is identical with or substantially indistinguishable from a genuine mark that is registered on the principal register in the United States Patent and Trademark Office or registered in the New Jersey Secretary of State's office; and that is used or is intended to be used on, or in conjunction with, goods or services for which the genuine mark is registered and in use.

(2) "Retail value" means the counterfeiter's regular selling price for the item or service bearing or identified by the counterfeit mark. In the case of items bearing a counterfeit mark which are components of a finished product, the retail value shall be the counterfeiter's regular selling price of the finished product on or in which the component would be utilized.

c. A person commits the offense of counterfeiting who, with the intent to deceive or defraud some other person, knowingly manufactures, uses, displays, advertises, distributes, offers for sale, sells, or possesses with intent to sell or distribute within, or in conjunction with commercial activities within New Jersey, any item, or services, bearing, or identified by, a counterfeit mark.

A person who has in his possession or under his control more than 25 items bearing a counterfeit mark shall be presumed to have violated this section.

d. (1) An offense set forth in this act shall be punishable as a crime of the fourth degree if:

the offense involves fewer than 100 items bearing a counterfeit mark;

the offense involves a total retail value of less than $1,000.00 for all items bearing, or services identified by, a counterfeit mark; or

the offense involves a first conviction under this act.

(2) An offense set forth in this act shall be punishable as a crime of the third degree if:

the offense involves 100 or more but fewer than 1,000 items bearing a counterfeit mark ;

the offense involves a total retail value of $1,000.00 or more but less than $15,000.00 of all items bearing, or services identified by, a counterfeit mark; or

the offense involves a second conviction under this act.

(3) An offense set forth in this act shall be punishable as a crime of the second degree if:

the offense involves 1,000 or more items bearing a counterfeit mark:

the offense involves a total retail value of $15,000.00 or more of all items bearing, or services identified by a counterfeit mark;

the offense involves a third or subsequent conviction under this act.

In addition, any person convicted under this act, notwithstanding the provisions of N.J.S.2C:43-3, shall be fined by the court an amount up to threefold the retail value of the items or services involved, providing that the fine imposed shall not exceed the following amounts; for a crime of the fourth degree, $100,000.00; for a crime of the third degree, $250,000.00; and for a crime of the second degree, $500,000.00.

e. All items bearing a counterfeit mark, and all personal property, including but not limited to, any items, objects, tools, machines, equipment, instrumentalities or vehicles of any kind, employed or used in connection with a violation of this act, shall be subject to forfeiture in accordance with the procedures set forth in chapter 64 of Title 2C of the New Jersey Statutes.

f. For purposes of this act:

(1) the quantity or retail value of items or services shall include the aggregate quantity or retail value of all items bearing, or services identified by, every counterfeit mark the defendant manufactures, uses, displays, advertises, distributes, offers for sale, sells or possesses;

(2) any State or federal certificate of registration of any intellectual property shall be prima facie evidence of the facts stated therein.

g. Conviction for an offense under this act does not preclude the defendant's liability for the civil remedy available pursuant to section 2 of P.L.1987, c.454 (C.56:3-13.16).

2. This act shall take effect immediately.

Approved April 1, 1997.

CHAPTER 58

AN ACT concerning the "State Judicial Unification Act" and amending and supplementing P.L.1993, c.275.

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

1. Section 6 of P.L.1993, c.275 (C.2B:10-6) is amended to read as follows:

C.2B:10-6 Schedule for payment of county share.

6. a. Except as provided in subsection e., in local fiscal years 1995, 1996 and 1997, each county shall pay a share of its base year amount as determined by the director based on the following schedule:

(1) 1995..... 87.5% of the base year amount;
(2) 1996..... 62.5% of the base year amount;
(3) 1997..... 50.0% of the base year amount.

b. Except as provided in subsection e., each county shall pay the respective amounts established in subsection a. to the State Treasurer on the following schedule:

(1) 1995..... On May 15, 50.0% of the base year amount, and on October 1, 37.5% of the base year amount;
(2) 1996..... On May 15, 37.5% of the base year amount, and on October 1, 25.0% of the base year amount;
(3) 1997..... On May 15, 25.0% of the base year amount, and on October 1, 25.0% of the base year amount.

c. In local budget year 1998 and thereafter, no county shall be required to pay judicial costs or probation costs unless a county elects to proceed under subsection e. of this section in which case the county shall not be required to pay judicial costs or probation costs in local budget year 1999 and thereafter.

d. No county shall be required to pay the employer pension contribution on behalf of any employee who becomes an employee of the State under this act after the date the person becomes an employee of the State. However, notwithstanding the provisions of subsections b. and c. above, it shall continue to be the responsibility of each county to pay any additional liability for any employee who would have become an employee of the State under this act but who retired and received a benefit under P.L.1993, c.138 as provided under that act, and the liability for late enrollment of an employee in the Public Employees' Retirement System, whose date of compulsory enrollment is prior to the date the person becomes an employee

of the State under this act, as provided under section 48 of P.L.1971, c.213 (C.43:15A-7.1).

e. Notwithstanding the provisions of subsections a. and b. of this section, a county may elect in local fiscal year 1997 to pay its share of its base year amount in 1997 and 1998 as follows: in 1997 25.0% of its base year amount on May 15, 1997 and in 1998 25.0% of its base year amount on May 15, 1998.

2. The Director of the Division of Local Government Services in the Department of Community Affairs shall implement the schedule of payments and shall direct the manner by which each county shall make payment to the State pursuant to the provisions of subsection e. of section 6 of P.L.1993, c.275 (C.2B:10-6).

3. This act shall take effect immediately.

Approved April 1, 1997.

CHAPTER 59

AN ACT concerning toll collection enforcement and supplementing Title 27 of the Revised Statutes.

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

C.27:12B-18.2 Definitions relative to toll collection monitoring.

1. As used in sections 1 through 5 of P.L.1997, c.59 (C.27:12B-18.2 through C.27:12B-18.6):

"Authority" means the New Jersey Highway Authority established by section 4 of P.L.1952, c.16 (C.27:12B-4).

"Lessee" means any person, corporation, firm, partnership, agency, association or organization that rents, leases or contracts for the use of a vehicle and has exclusive use of the vehicle for any period of time.

"Lessor" means any person, corporation, firm, partnership, agency, association or organization engaged in the business of renting or leasing vehicles to any lessee under a rental agreement, lease or other contract that provides the lessee with the exclusive use of the vehicle for any period of time.

"Operator" means the term "operator" as defined in R.S.39:1-1.

"Owner" means the term "owner" as defined in R.S.39:1-1.

"Toll collection monitoring system" means a vehicle sensor, placed in a location to work in conjunction with a toll collection facility, that produces one or more photographs, one or more microphotographs, a videotape or other recorded images, or a written record, of a vehicle at the time the vehicle is used or operated in a violation of the toll collection monitoring system regulations. The term shall also include any other technology that identifies a vehicle by photographic, electronic or other method.

"Toll collection monitoring system regulations" means the regulations authorized and adopted pursuant to section 2 of P.L.1997, c.59 (C.27:12B-18.3) that prohibit a vehicle from making use of any project except upon the payment of such tolls as may from time to time be prescribed by the authority and that further makes it a violation subject to a civil penalty for any person to refuse to pay, to evade, or to attempt to evade the payment of such tolls, if the violation is recorded by a toll collection monitoring system as defined in this section.

"Vehicle" means the term "vehicle" as defined in R.S.39:1-1.

C.27:12B-18.3 Toll collection monitoring system regulations.

2. a. The authority may, in accordance with the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), adopt toll collection monitoring system regulations. The regulations shall include a procedure for processing toll violations and for the treatment of inadvertent violations. A person who violates the regulations shall be liable to a civil penalty of not less than $50 nor more than $200 per violation. The penalty shall be enforced pursuant to "the penalty enforcement law," N.J.S.2A:58-1 et seq.

b. Except as provided in subsection b. of section 3 of P.L.1997, c.59 (C.27:12B-18.4), an owner of a vehicle shall be jointly and severally liable for the failure of an operator of the vehicle to comply with the toll collection monitoring system regulations. The owner of a vehicle shall be liable if such vehicle was used or operated by the operator with the express or implied permission of the owner when the violation of the toll collection monitoring system regulations was committed, and the evidence of the violation is obtained by a toll collection monitoring system. An owner of a vehicle shall not be liable if the operator of the vehicle has been identified and charged with a violation of section 18 of P.L.1952, c.16 (C.27:12B-18) for the same incident.

c. A toll collection monitoring system acquired or operated by, or under contract to, the authority shall be so designed that it does not produce one or more photographs, microphotographs, a videotape or other recorded image or images of the face of the operator or any passenger in a motor vehicle.

C.27:12B-18.4 Violations of toll collection monitoring system regulations; penalties.

3. a. If a violation of the toll collection monitoring system regulations is committed as evidenced by a toll collection monitoring system, the agent of the authority may send an advisory and payment request within 30 days of the date of the violation to the owner of the vehicle by regular mail at the address of record for that owner with the Division of Motor Vehicles in the Department of Transportation or with any other motor vehicle licensing authority of another jurisdiction, providing the owner with the opportunity to resolve the matter prior to the issuance of a summons and complaint that charges a violation of the toll collection monitoring system regulations. The advisory and payment request shall contain sufficient information to inform the owner of the nature, date, time and location of the alleged violation. The agent may require as part of the advisory and payment request that the owner pay to the agent the proper toll and a reasonable administrative fee that shall not exceed $25 per violation. If the owner fails to pay the required toll and fee within 60 days of the date the advisory and payment request was sent, the owner shall be subject to liability on the 61st day following the date the advisory and payment request was sent for the violation of the toll collection monitoring system regulations by the vehicle operator.

b. An owner of a vehicle who is a lessor of the vehicle used in violation of the toll collection monitoring system regulations of the authority shall not be liable for the violation of the regulations if the lessor submits to the authority, in a timely manner, a copy of the rental agreement, lease or other contract document covering that vehicle on the date of the violation, with the name and address of the lessee clearly legible to the authority and to the court having jurisdiction over the violation. If the lessor fails to provide the information in a timely manner, the lessor shall be held liable for the violation of the regulations. If the lessor provides the required information to the authority, the lessee of the vehicle on the date of the violation shall be deemed to be the owner of the vehicle for the purposes of sections 1 through 5 of P.L.1997, c.59 (C.27:12B-18.2 through C.27:12B-18.6) and the toll collection monitoring system regulations and shall be subject to liability for the violation of the regulations.

c. A certified report of an employee or agent of the authority reporting a violation of the toll collection monitoring system regulations and any information obtained from a toll collection monitoring system shall be available for the exclusive use of the authority and any law enforcement official for the purposes of discharging their duties pursuant to sections 1 through 5 of P.L.1997, c.59 (C.27:12B-18.2 through C.27:12B-18.6) and the toll collection monitoring system regulations. Any such report or information shall not be deemed a public record under P.L.1963, c.73 (C.47:1A-1 et seq.) or the common law concerning access to public

records. The certified reports and information shall not be discoverable as a public record by any person, entity or governmental agency, nor shall they be offered in evidence in any civil, criminal or administrative proceeding, not directly related to a violation of the toll collection monitoring system regulations. However, in the event that, notwithstanding the provisions of subsection c. of section 2 of this act, a recorded image of the face of the operator or any passenger in a motor vehicle is produced by the toll collection monitoring system, that image shall not be used by the authority for any purpose nor shall the image or any record or copy thereof be transmitted or communicated to any person, governmental, non-governmental or judicial or administrative entity.

d. A complaint and summons charging a violation of the toll collection monitoring system regulations shall be on a form prescribed by the Administrative Director of the Courts pursuant to the Rules Governing the Courts of the State of New Jersey. The authority may authorize by regulation an employee or agent to be a complaining witness to make, sign, and initiate complaints and to issue summonses in the name of the authority on behalf of the State of New Jersey, pursuant to the Rules Governing the Courts of the State of New Jersey. The complaints and summonses may be made on information based upon evidence obtained by a toll collection monitoring system, the toll collection monitoring system record and the records of the Division of Motor Vehicles in the Department of Transportation or of any other state, province, or motor vehicle licensing authority.

Service may be made by means provided by the Rules Governing the Courts of the State of New Jersey.

Except as provided in subsection c. of this section, the recorded images produced by a toll collection monitoring system shall be considered an official record kept in the ordinary course of business and shall be admissible in a proceeding for a violation of any toll collection monitoring system regulations.

e. The municipal court of the municipality wherein a toll collection monitoring system record was made shall have jurisdiction to hear violations of the toll collection monitoring system regulations. Violations shall be enforced and penalties collected pursuant to "the penalty enforcement law," N.J.S.2A:58-1 et seq. A proceeding and a judgment arising therefrom shall be pursued and entered in accordance with the provisions of N.J.S.2B:12-1 et seq. and the Rules Governing the Courts of the State of New Jersey.

In addition to the civil penalty that may be assessed by a court having jurisdiction for a violation of the toll collection monitoring system regulations, a court shall require the defendant to pay the proper toll and may require the defendant to pay a reasonable administrative fee that shall

not exceed $25 per violation if the authority has previously sent an advisory and payment request to the defendant. Following collection and distribution of the fees set forth in section 11 of P.L.1953, c.22 (C. 22A:3-4), any tolls and administrative fees imposed and collected by the court for a violation of the toll collection monitoring system regulations shall be promptly remitted to the authority by the court.

The civil penalty shall be distributed pursuant to the "penalty enforcement law," N.J.S. 2A:58-1 et seq.

C.27:12B-18.5 Enforcement power of authority not limited; exception.

4. Nothing in sections 1 through 5 of P.L.1997, c.59 (C.27:12B-18.2 through C.27:12B-18.6) shall be construed as limiting the power of the authority as provided in P.L.1952, c.16 (C.27:12B-1 et seq.) to proceed against an operator of a vehicle for a violation of the authority's toll collection regulations, or as prohibiting or limiting the enforcement of a violation of the motor vehicle and traffic laws as set forth in Title 39 of the Revised Statutes except that an operator of a vehicle charged with a violation of section 18 of P.L.1952, c.16 (C.27:12B-18) shall not be liable for the civil penalty provided in subsection a. of section 2 of this act for the same incident.

C.27:12B-18.6 Power of authority over tolls unchanged.

5. Nothing in sections 1 through 5 of P.L.1997, c.59 (C.27:12B-18.2 through C.27:12B-18.6) shall be construed as extending or diminishing the power of the authority to establish and assess tolls on projects of the authority.

C.27:23-34.1 Definitions relative to toll collection monitoring.

6. As used in sections 6 through 10 of P.L.1997, c.59 (C.27:23-34.1 through C.27:23-34.5):

"Authority" means the New Jersey Turnpike Authority established by section 3 of P.L.1948, c.454 (C.27:23-3).

"Lessee" means any person, corporation, firm, partnership, agency, association or organization that rents, leases or contracts for the use of a vehicle and has exclusive use of the vehicle for any period of time.

"Lessor" means any person, corporation, firm, partnership, agency, association or organization engaged in the business of renting or leasing vehicles to any lessee under a rental agreement, lease or other contract that provides the lessee with the exclusive use of the vehicle for any period of time.

"Operator" means the term "operator" as defined in R.S.39:1-1.

"Owner" means the term "owner" as defined in R.S.39:1-1.

"Toll collection monitoring system" means a vehicle sensor, placed in a location to work in conjunction with a toll collection facility, that produces one or more photographs, one or more microphotographs, a videotape or other recorded images, or a written record, of a vehicle at the time the vehicle is used or operated in a violation of the toll collection monitoring system regulations. The term shall also include any other technology that identifies a vehicle by photographic, electronic or other method.

"Toll collection monitoring system regulations" means the regulations authorized and adopted pursuant to section 7 of P.L.1997, c.59 (C.27:23-34.2) that prohibit a vehicle from making use of any project except upon the payment of such tolls as may from time to time be prescribed by the authority and that further makes it a violation subject to a civil penalty for any person to refuse to pay, to evade, or to attempt to evade the payment of such tolls, if the violation is recorded by a toll collection monitoring system as defined in this section.

"Vehicle" means the term "vehicle" as defined in R.S.39:1-1.

C.27:23-34.2 Toll collection monitoring system regulations.

7. a. The authority may, in accordance with the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), adopt toll collection monitoring system regulations. The regulations shall include a procedure for processing toll violations and for the treatment of inadvertent violations. A person who violates the regulations shall be liable to a civil penalty of not less than $50 nor more than $200 per violation. The penalty shall be enforced pursuant to the "penalty enforcement law," N.J.S.2A:58-1 et seq.

b. Except as provided in subsection b. of section 8 of P.L.1997, c.59 (C.27:23-34.3), an owner of a vehicle shall be jointly and severally liable for the failure of an operator of the vehicle to comply with the toll collection monitoring system regulations. The owner of a vehicle shall be liable if such vehicle was used or operated by the operator with the express or implied permission of the owner when the violation of the toll collection monitoring system regulations was committed, and the evidence of the violation is obtained by a toll collection monitoring system. An owner of a vehicle shall not be liable if the operator of the vehicle has been identified and charged with a violation of section 10 of P.L.1951, c.264 (C.27:23-34) for the same incident.

c. A toll collection monitoring system acquired or operated by, or under contract to, the authority shall be so designed that it does not produce one or more photographs, microphotographs, a videotape or other recorded image or images of the face of the operator or any passenger in a motor vehicle.

C.27:23-34.3 Violations of toll collection monitoring system regulations; penalties.

8. a. If a violation of the toll collection monitoring system regulations is committed as evidenced by a toll collection monitoring system, the agent of the authority may send an advisory and payment request within 30 days of the date of the violation to the owner of the vehicle by regular mail at the address of record for that owner with the Division of Motor Vehicles in the Department of Transportation or with any other motor vehicle licensing authority of another jurisdiction, providing the owner with the opportunity to resolve the matter prior to the issuance of a summons and complaint that charges a violation of the toll collection monitoring system regulations. The advisory and payment request shall contain sufficient information to inform the owner of the nature, date, time and location of the alleged violation. The agent may require as part of the advisory and payment request that the owner pay to the agent the proper toll and a reasonable administrative fee that shall not exceed $25 per violation. If the owner fails to pay the required toll and fee within 60 days of the date the advisory and payment request was sent, the owner shall be subject to liability on the 61st day following the date the advisory and payment request was sent for the violation of the toll collection monitoring system regulations by the vehicle operator.

b. An owner of a vehicle who is a lessor of the vehicle used in violation of the toll collection monitoring system regulations of the authority shall not be liable for the violation of the regulations if the lessor submits to the authority, in a timely manner, a copy of the rental agreement, lease or other contract document covering that vehicle on the date of the violation, with the name and address of the lessee clearly legible to the authority and to the court having jurisdiction over the violation. If the lessor fails to provide the information in a timely manner, the lessor shall be held liable for the violation of the regulations. If the lessor provides the required information to the authority, the lessee of the vehicle on the date of the violation shall be deemed to be the owner of the vehicle for the purposes of sections 6 through 10 of P.L.1997, c.59 (C.27:23-34.1 through C.27:23-34.5) and the toll collection monitoring system regulations and shall be subject to liability for the violation of the regulations.

c. A certified report of an employee or agent of the authority reporting a violation of the toll collection monitoring system regulations and any information obtained from a toll collection monitoring system shall be available for the exclusive use of the authority and any law enforcement official for the purposes of discharging their duties pursuant to sections 6 through 10 of P.L.1997, c.59 (C.27:23-34.1 through C.27:23-34.5) and the toll collection monitoring system regulations. Any such report or information shall not be deemed a public record under P.L.1963, c.73 (C.47:1A-1 et seq.) or the common law concerning access to public records. The

certified reports and information shall not be discoverable as a public record by any person, entity or governmental agency, nor shall they be offered in evidence in any civil, criminal or administrative proceeding, not directly related to a violation of the toll collection monitoring system regulations. However, in the event that, notwithstanding the provisions of subsection c. of section 7 of this act, a recorded image of the face of the operator or any passenger in a motor vehicle is produced by the toll collection monitoring system, that image shall not be used by the authority for any purpose nor shall the image or any record or copy thereof be transmitted or communicated to any person, governmental, non-governmental, or judicial or administrative entity.

d. A complaint and summons charging a violation of the toll collection monitoring system regulations shall be on a form prescribed by the Administrative Director of the Courts pursuant to the Rules Governing the Courts of the State of New Jersey. The authority may authorize by regulation an employee or agent to be a complaining witness to make, sign, and initiate complaints and to issue summonses in the name of the authority on behalf of the State of New Jersey, pursuant to the Rules Governing the Courts of the State of New Jersey. The complaints and summonses may be made on information based upon evidence obtained by a toll collection monitoring system, the toll collection monitoring system record and the records of the Division of Motor Vehicles in the Department of Transportation or of any other state, province, or motor vehicle licensing authority.

Service may be made by means provided by the Rules Governing the Courts of the State of New Jersey.

Except as provided in subsection c. of this section, the recorded images produced by a toll collection monitoring system shall be considered an official record kept in the ordinary course of business and shall be admissible in a proceeding for a violation of any toll collection monitoring system regulations.

e. The municipal court of the municipality wherein a toll collection monitoring system record was made shall have jurisdiction to hear violations of the toll collection monitoring system regulations. Violations shall be enforced and penalties collected pursuant to "the penalty enforcement law", N.J.S.2A:58-1 et seq. A proceeding and a judgment arising therefrom shall be pursued and entered in accordance with the provisions of N.J.S.2B:12-1 et seq. and the Rules Governing the Courts of the State of New Jersey.

In addition to the civil penalty that may be assessed by a court having jurisdiction for a violation of the toll collection monitoring system regulations, a court shall require the defendant to pay the proper toll and may require the defendant to pay a reasonable administrative fee that shall

not exceed $25 per violation if the authority has previously sent an advisory and payment request to the defendant. Following collection and distribution of the fees set forth in section 11 of P.L.1953, c.22 (C.22A:3-4), any tolls and administrative fees imposed and collected by the court for a violation of the toll collection monitoring system regulations shall be promptly remitted to the authority by the court. The civil penalty shall be distributed pursuant to the "penalty enforcement law," N.J.S.2A:58-1 et seq.

C.27:23-34.4 Enforcement power of authority not limited, exception.

9. Nothing in sections 6 through 10 of P.L.1997, c.59 (C.27:23-34.1 through C.27:23-34.5) shall be construed as limiting the power of the authority as provided in P.L.1951, c.264 (C.27:23-25 et seq.) to proceed against an operator of a vehicle for a violation of the authority's toll collection regulations, or as prohibiting or limiting the enforcement of a violation of the motor vehicle and traffic laws as set forth in Title 39 of the Revised Statutes except that an operator of a vehicle charged with a violation of section 10 of P.L. 1951, c.264 (C.27:23-34) shall not be liable for the civil penalty provided in subsection a. of section 7 of this act for the same incident.

C.27:23-34.5 Power of authority over tolls unchanged.

10. Nothing in sections 6 through 10 of P.L.1997, c.59 (C.27:23-34.1 through C.27:23-34.5) shall be construed as extending or diminishing the power of the authority to establish and assess tolls on turnpike projects of the authority.

C.27:25A-21.1 Definitions relative to toll collection monitoring.

11. As used in sections 11 through 15 of P.L.1997, c.59 (C.27:25A-21.1 through C.27:25A-21.5):

"Authority" means the South Jersey Transportation Authority established by section 4 of P.L.1991, c.252 (C.27:25A-4).

"Lessee" means any person, corporation, firm, partnership, agency, association or organization that rents, leases or contracts for the use of a vehicle and has exclusive use of the vehicle for any period of time.

"Lessor" means any person, corporation, firm, partnership, agency, association or organization engaged in the business of renting or leasing vehicles to any lessee under a rental agreement, lease or other contract that provides the lessee with the exclusive use of the vehicle for any period of time.

"Operator" means the term "operator" as defined in R.S.39:1-1.

"Owner" means the term "owner" as defined in R.S.39:1-1.

"Toll collection monitoring system" means a vehicle sensor, placed in a location to work in conjunction with a toll collection facility, that produces

one or more photographs, one or more microphotographs, a videotape or other recorded images, or a written record, of a vehicle at the time the vehicle is used or operated in a violation of the toll collection monitoring system regulations. The term shall also include any other technology that identifies a vehicle by photographic, electronic or other method.

"Toll collection monitoring system regulations" means the regulations authorized and adopted pursuant to section 12 of P.L.1997, c.59 (C.27:25A-21.2) that prohibit a vehicle from making use of any project except upon the payment of such tolls as may from time to time be prescribed by the authority and that further makes it a violation subject to a civil penalty for any person to refuse to pay, to evade, or to attempt to evade the payment of such tolls, if the violation is recorded by a toll collection monitoring system as defined in this section.

"Vehicle" means the term "vehicle" as defined in R.S.39:1-1.

C.27:25A-21.2 Toll collection monitoring system regulations.

12. a. The authority may, in accordance with the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), adopt toll collection monitoring system regulations. The regulations shall include a procedure for processing toll violations and for the treatment of inadvertent violations. A person who violates the regulations shall be liable to a civil penalty of not less than $50 nor more than $200 per violation. The penalty shall be enforced pursuant to "the penalty enforcement law," N.J.S.2A:58-1 et seq.

b. Except as provided in subsection b. of section 13 of P.L.1997, c.59 (C.27:25A-21.3), an owner of a vehicle shall be jointly and severally liable for the failure of an operator of the vehicle to comply with the toll collection monitoring system regulations. The owner of a vehicle shall be liable if such vehicle was used or operated by the operator with the express or implied permission of the owner when the violation of the toll collection monitoring system regulations was committed, and the evidence of the violation is obtained by a toll collection monitoring system. An owner of a vehicle shall not be liable if the operator of the vehicle has been identified and charged with a violation of section 21 of P.L.1991, c.252 (C.27:25A-21) for the same incident.

c. A toll collection monitoring system acquired or operated by, or under contract to, the authority shall be so designed that it does not produce one or more photographs, microphotographs, a videotape or other recorded image or images of the face of the operator or any passenger in a motor vehicle.

C.27:25A-21.3 Violations of toll collection monitoring system regulations; penalties.

13. a. If a violation of the toll collection monitoring system regulations is committed as evidenced by a toll collection monitoring system, the agent of the authority may send an advisory and payment request within 30 days of the date of the violation to the owner of the vehicle by regular mail at the address of record for that owner with the Division of Motor Vehicles in the Department of Transportation or with any other motor vehicle licensing authority of another jurisdiction, providing the owner with the opportunity to resolve the matter prior to the issuance of a summons and complaint that charges a violation of the toll collection monitoring system regulations. The advisory and payment request shall contain sufficient information to inform the owner of the nature, date, time and location of the alleged violation. The agent may require as part of the advisory and payment request that the owner pay to the agent the proper toll and a reasonable administrative fee that shall not exceed $25 per violation. If the owner fails to pay the required toll and fee within 60 days of the date the advisory and payment request was sent, the owner shall be subject to liability on the 61st day following the date the advisory and payment request was sent for the violation of the toll collection monitoring system regulations by the vehicle operator.

b. An owner of a vehicle who is a lessor of the vehicle used in violation of the toll collection monitoring system regulations of the authority shall not be liable for the violation of the regulations if the lessor submits to the authority, in a timely manner, a copy of the rental agreement, lease or other contract document covering that vehicle on the date of the violation, with the name and address of the lessee clearly legible to the authority and to the court having jurisdiction over the violation. If the lessor fails to provide the information in a timely manner, the lessor shall be held liable for the violation of the regulations. If the lessor provides the required information to the authority, the lessee of the vehicle on the date of the violation shall be deemed to be the owner of the vehicle for the purposes of sections 11 through 15 of P.L.1997, c.59 (C.27:25A-21.1 through C.27:25A-21.5) and the toll collection monitoring system regulations and shall be subject to liability for the violation of the regulations.

c. A certified report of an employee or agent of the authority reporting a violation of the toll collection monitoring system regulations and any information obtained from a toll collection monitoring system shall be available for the exclusive use of the authority and any law enforcement official for the purposes of discharging their duties pursuant to sections 11 through 15 of P.L.1997, c.59 (C.27:25A-21.1 through C.27:25A-21.5) and the toll collection monitoring system regulations. Any such report or information shall not be deemed a public record under P.L.1963, c.73 (C.47:1A-1 et seq.) or the common law concerning access to public

records. The certified reports and information shall not be discoverable as a public record by any person, entity or governmental agency, nor shall they be offered in evidence in any civil, criminal or administrative proceeding, not directly related to a violation of the toll collection monitoring system regulations. However, in the event that, notwithstanding the provisions of subsection c. of section 12 of this act, a recorded image of the face of the operator or any passenger in a motor vehicle is produced by the toll collection monitoring system, that image shall not be used by the authority for any purpose nor shall the image or any record or copy thereof be transmitted or communicated to any person, governmental, non-governmental or judicial or administrative entity.

d. A complaint and summons charging a violation of the toll collection monitoring system regulations shall be on a form prescribed by the Administrative Director of the Courts pursuant to the Rules Governing the Courts of the State of New Jersey. The authority may authorize by regulation an employee or agent to be a complaining witness to make, sign, and initiate complaints and to issue summonses in the name of the authority on behalf of the State of New Jersey, pursuant to the Rules Governing the Courts of the State of New Jersey. The complaints and summonses may be made on information based upon evidence obtained by a toll collection monitoring system, the toll collection monitoring system record and the records of the Division of Motor Vehicles in the Department of Transportation or of any other state, province, or motor vehicle licensing authority.

Service may be made by means provided by the Rules Governing the Courts of the State of New Jersey.

Except as provided in subsection c. of this section, the recorded images produced by a toll collection monitoring system shall be considered an official record kept in the ordinary course of business and shall be admissible in a proceeding for a violation of any toll collection monitoring system regulations.

e. The municipal court of the municipality wherein a toll collection monitoring system record was made shall have jurisdiction to hear violations of the toll collection monitoring system regulations. Violations shall be enforced and penalties collected pursuant to "the penalty enforcement law," N.J.S.2A:58-1 et seq. A proceeding and a judgment arising therefrom shall be pursued and entered in accordance with the provisions of N.J.S.2B:12-1 et seq. and the Rules Governing the Courts of the State of New Jersey.

In addition to the civil penalty that may be assessed by a court having jurisdiction for a violation of the toll collection monitoring system regulations, a court shall require the defendant to pay the proper toll and may require the defendant to pay a reasonable administrative fee that shall

not exceed $25 per violation if the authority has previously sent an advisory and payment request to the defendant. Following collection and distribution of the fees set forth in section 11 of P.L.1953, c.22 (C.22A:3-4), any tolls and administrative fees imposed and collected by the court for a violation of the toll collection monitoring system regulations shall be promptly remitted to the authority by the court. The civil penalty shall be distributed pursuant to the "penalty enforcement law," N.J.S.2A:58-1 et seq.

C.27:25A-21.4 Enforcement power of authority not limited; exception.

14. Nothing in sections 11 through 15 of P.L.1997, c.59 (C.27:25A-21.1 through C.27:25A-21.5) shall be construed as limiting the power of the authority as provided in P.L.1991, c.252 (C.27:25A-1 et seq.) to proceed against an operator of a vehicle for a violation of the authority's toll collection regulations, or as prohibiting or limiting the enforcement of a violation of the motor vehicle and traffic laws as set forth in Title 39 of the Revised Statutes except that an operator of a vehicle charged with a violation of section 21 of P.L.1991, c.252 (C.27:25A-21) shall not be liable for the civil penalty provided in subsection a. of section 12 of this act for the same incident.

C.27:25A-21.5 Powerof authority over tolls unchanged.

15. Nothing in sections 11 through 15 of P.L.1997, c.59 (C.27:25A-21.1 through C.27:25A-21.5) shall be construed as extending or diminishing the power of the authority to establish and assess tolls on expressway projects of the authority.

16. This act shall take effect immediately.

Approved April 2, 1997.

CHAPTER 60

AN ACT concerning eligibility for parole in certain cases and amending N.J.S.2C:11-3, N.J.S.2C:47-5 and P.L.1979, c.441.

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 or criminal escape, 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 subsection c. of this section, by the court to a term of 30 years, during which the person 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, except as otherwise provided in subsection c. of this section, 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 and who is not sentenced to death under this section 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.

The defendant shall not be entitled to a deduction of commutation and work credits from that sentence.

c. 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, shall be sentenced as provided hereinafter:

(1) The court shall conduct a separate sentencing proceeding to determine whether the defendant should be sentenced to death or pursuant to the provisions of subsection b. of this section.

Where the defendant has been tried by a jury, the proceeding shall be conducted by the judge who presided at the trial and before the jury which determined the defendant's guilt, except that, for good cause, the court may discharge that jury and conduct the proceeding before a jury empaneled for the purpose of the proceeding. Where the defendant has entered a plea of guilty or has been tried without a jury, the proceeding shall be conducted by the judge who accepted the defendant's plea or who determined the defendant's guilt and before a jury empaneled for the purpose of the proceeding. On motion of the defendant and with consent of the prosecuting attorney the court may conduct a proceeding without a jury. Nothing in this subsection shall be construed to prevent the participation of an alternate juror in the sentencing proceeding if one of the jurors who rendered the guilty verdict becomes ill or is otherwise unable to proceed before or during the sentencing proceeding.

(2) (a) At the proceeding, the State shall have the burden of establishing beyond a reasonable doubt the existence of any aggravating factors set forth in paragraph (4) of this subsection. The defendant shall have the burden of producing evidence of the existence of any mitigating factors set forth in paragraph (5) of this subsection but shall not have a burden with regard to the establishment of a mitigating factor.

(b) The admissibility of evidence offered by the State to establish any of the aggravating factors shall be governed by the rules governing the admission of evidence at criminal trials. The defendant may offer, without regard to the rules governing the admission of evidence at criminal trials, reliable evidence relevant to any of the mitigating factors. If the defendant produces evidence in mitigation which would not be admissible under the rules governing the admission of evidence at criminal trials, the State may

rebut that evidence without regard to the rules governing the admission of evidence at criminal trials.

(c) Evidence admitted at the trial, which is relevant to the aggravating and mitigating factors set forth in paragraphs (4) and (5) of this subsection, shall be considered without the necessity of reintroducing that evidence at the sentencing proceeding; provided that the fact finder at the sentencing proceeding was present as either the fact finder or the judge at the trial.

(d) The State and the defendant shall be permitted to rebut any evidence presented by the other party at the sentencing proceeding and to present argument as to the adequacy of the evidence to establish the existence of any aggravating or mitigating factor.

(e) Prior to the commencement of the sentencing proceeding, or at such time as he has knowledge of the existence of an aggravating factor, the prosecuting attorney shall give notice to the defendant of the aggravating factors which he intends to prove in the proceeding.

(f) Evidence offered by the State with regard to the establishment of a prior homicide conviction pursuant to paragraph (4)(a) of this subsection may include the identity and age of the victim, the manner of death and the relationship, if any, of the victim to the defendant.

(3) The jury or, if there is no jury, the court shall return a special verdict setting forth in writing the existence or nonexistence of each of the aggravating and mitigating factors set forth in paragraphs (4) and (5) of this subsection. If any aggravating factor is found to exist, the verdict shall also state whether it outweighs beyond a reasonable doubt any one or more mitigating factors.

(a) If the jury or the court finds that any aggravating factors exist and that all of the aggravating factors outweigh beyond a reasonable doubt all of the mitigating factors, the court shall sentence the defendant to death.

(b) If the jury or the court finds that no aggravating factors exist, or that all of the aggravating factors which exist do not outweigh all of the mitigating factors, the court shall sentence the defendant pursuant to subsection b.

(c) If the jury is unable to reach a unanimous verdict, the court shall sentence the defendant pursuant to subsection b.

(4) The aggravating factors which may be found by the jury or the court are:

(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 offense 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 offense 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 or kidnapping;

(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 offense or (ii) committed the offense 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; or

(k) The victim was less than 14 years old.

(5) The mitigating factors which may be found by the jury or the court are:

(a) The defendant was under the influence of extreme mental or emotional disturbance insufficient to constitute a defense to prosecution;

(b) The victim solicited, participated in or consented to the conduct which resulted in his death;

(c) The age of the defendant at the time of the murder;

(d) The defendant's capacity to appreciate the wrongfulness of his conduct or to conform his conduct to the requirements of the law was significantly impaired as the result of mental disease or defect or intoxication, but not to a degree sufficient to constitute a defense to prosecution;

(e) The defendant was under unusual and substantial duress insufficient to constitute a defense to prosecution;

(f) The defendant has no significant history of prior criminal activity;

(g) The defendant rendered substantial assistance to the State in the prosecution of another person for the crime of murder; or

(h) Any other factor which is relevant to the defendant's character or record or to the circumstances of the offense.

(6) When a defendant at a sentencing proceeding presents evidence of the defendant's character or record pursuant to subparagraph (h) of paragraph (5) of this subsection, the State may present evidence of the murder victim's character and background and of the impact of the murder on the victim's survivors. If the jury finds that the State has proven at least one aggravating factor beyond a reasonable doubt and the jury finds the existence of a mitigating factor pursuant to subparagraph (h) of paragraph (5) of this subsection, the jury may consider the victim and survivor evidence presented by the State pursuant to this paragraph in determining the appropriate weight to give mitigating evidence presented pursuant to subparagraph (h) of paragraph (5) of this subsection.

d. The sentencing proceeding set forth in subsection c. of this section shall not be waived by the prosecuting attorney.

e. Every judgment of conviction which results in a sentence of death under this section shall be appealed, pursuant to the Rules of Court, to the Supreme Court. Upon the request of the defendant, the Supreme Court shall also determine whether the sentence is disproportionate to the penalty imposed in similar cases, considering both the crime and the defendant. Proportionality review under this section shall be limited to a comparison of similar cases in which a sentence of death has been imposed under subsection c. of this section. In any instance in which the defendant fails, or refuses to appeal, the appeal shall be taken by the Office of the Public Defender or other counsel appointed by the Supreme Court for that purpose.

f. Prior to the jury's sentencing deliberations, the trial court shall inform the jury of the sentences which may be imposed pursuant to subsection b. of this section on the defendant if the defendant is not sentenced to death. The jury shall also be informed that a failure to reach a unanimous verdict shall result in sentencing by the court pursuant to subsection b.

g. A juvenile who has been tried as an adult and convicted of murder shall not be sentenced pursuant to the provisions of subsection c. but shall be sentenced pursuant to the provisions of subsection b. of this section.

h. In a sentencing proceeding conducted pursuant to this section, no evidence shall be admissible concerning the method or manner of execution which would be imposed on a defendant sentenced to death.

i. For purposes of this section the term "homicidal act" shall mean conduct that causes death or serious bodily injury resulting in death.

2. N.J.S.2C:47-5 is amended to read as follows:

Parole.

2C:47-5. Parole.

a. Any person committed to confinement under the terms of this chapter shall be released under parole supervision when it shall appear to the satisfaction of the State Parole Board, after recommendation by a special classification review board appointed by the commissioner that such person is capable of making an acceptable social adjustment in the community.

b. The Chief Executive Officer of the Adult Diagnostic and Treatment Center shall report in writing at least semiannually to the special classification review board concerning the physical and psychological condition of such person with a recommendation as to his continued confinement or consideration for release on parole.

c. Any person paroled pursuant to this section shall be subject to the provisions of Title 30 of the Revised Statutes governing parole and the regulations promulgated pursuant thereto.

d. When a person confined under the terms of this chapter has not been paroled in accordance with subsection a. of this section and is scheduled for release, not less than 90 days prior to the date of the person's scheduled release the Chief Executive Officer shall:

(1) Notify the Attorney General and the prosecutor of the county from which the person was committed of the scheduled release;

(2) Provide the Attorney General and the county prosecutor with the officer's opinion as to whether the person may be "in need of involuntary commitment" within the meaning of section 2 of P.L.1987, c.116 (C.30:4-27.2); and

(3) Without regard to classification as confidential pursuant to regulations of the State Parole Board or the Department of Corrections, provide the Attorney General and county prosecutor with all reports, records and assessments relevant to determining whether the person is "in need of involuntary commitment." All information received shall be deemed confidential and shall be disclosed only as provided in section 4 of P.L.1994, c.134 (C.30:4-82.4).

e. Upon receipt of the notice, advice and information required by subsection d. of this section, the Attorney General or county prosecutor shall proceed as provided in section 4 of P.L.1994, c.134 (C.30:4-82.4).

f. Notwithstanding any provisions of this section to the contrary, a person confined for life at the Adult Diagnostic and Treatment Center, for a crime whose circumstances conform to those enumerated in paragraph (3) of subsection b. of N.J.S.2C:11-3, shall not be eligible for parole or a deduction for commutation or work credits.

3. 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 through 45) 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 N.J.S.2C:44-1(f).

e. Each adult inmate sentenced to the Adult Diagnostic and Treatment Center, Avenel, shall become primarily eligible for parole upon recommendation by the special classification review board pursuant to N.J.S.2C:47-5, except that no such inmate shall become primarily eligible prior to the expiration of any mandatory or fixed minimum term imposed pursuant to N.J.S.2C:14-6.

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 N.J.S.2C:1-1(b) 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 or N.J.S.2C:47-5 to the contrary, a person sentenced to imprisonment pursuant to paragraph (2) or (3) of subsection b. of N.J.S.2C:11-3 shall not be eligible for parole.

4. This act shall take effect immediately, and shall be applicable to any person sentenced on or after the effective date.

Approved April 3, 1997.

CHAPTER 61

AN ACT concerning the appropriation of moneys from the "Water Conservation Bond Act," P.L.1969, c.127, for the cost of acquisition of lands or interests therein in Sterling Forest for the purpose of augmenting, increasing, improving, preserving, protecting, or conserving natural water resources and supplies important to New Jersey and facilitating recreational uses incidental thereto, and amending P.L.1995, c.7.

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

1. Section 1 of P.L.1995, c.7 is amended to read as follows:

1. a. There is appropriated to the Department of Environmental Protection from the "Water Conservation Fund" established pursuant to section 13 of the "Water Conservation Bond Act," P.L.1969, c.127, for distribution to the Palisades Interstate Park Commission, the sum of $10,000,000 for the acquisition of lands or interests therein by the Palisades Interstate Park Commission in Sterling Forest, New York, for the purpose of augmenting, increasing, improving, preserving, protecting, or conserving natural water resources and supplies important to New Jersey and facilitating recreational uses incidental thereto. Upon the enactment of the federal "Omnibus Parks and Public Lands Management Act of 1996," Pub. L. 104-333, and within 60 days of the effective date of P.L.1997, c.61, the Department of Environmental Protection shall distribute to the Palisades Interstate Park Commission the sum of $10,000,000 appropriated pursuant to this subsection as New Jersey's share of the purchase. The Palisades Interstate Park Commission shall hold these funds in an interest bearing account until such time as a purchase agreement has been consummated and the funds are required. Any interest that accrues on the funds in the account shall be used for the acquisition of lands or interests therein in Sterling Forest, New York, or costs related thereto. If no purchase agreement is entered into within three years of the effective date of P.L.1997, c.61, the $10,000,000 plus interest earnings shall be returned to the Department of Environmental Protection and deposited into the "Water Conservation Fund" to be used for the purposes expressed in the "Water Conservation Bond Act," P.L.1969, c.127. The Department of Environmental Protection shall be satisfied that any moneys expended pursuant to this section are consistent with the fair market value of the lands or interests therein purchased.

b. To the extent that the balance of the moneys available in the "Water Conservation Fund" that have not been previously appropriated pursuant to law is insufficient to support the sum appropriated pursuant to subsection a. of this section, the following shall be made available from the "Water Conservation Fund" to support the remainder of the appropriation made in subsection a. as required: (1) moneys returned to the "Water Conservation Fund" due to project withdrawals, cancellations, or cost savings involving projects previously funded by law; and (2) moneys previously appropriated by law from the "Water Conservation Fund" to fund projects but for 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, or to fund projects deemed by the Department of Environmental Protection as of the effective date of this act to be no longer active, the previous appropriation of which is cancelled subject to the approval of the Joint Budget Oversight Committee or its successor.

2. Section 4 of P.L.1995, c.7 is amended to read as follows:

4. This act shall take effect immediately, except that section 1 of this act shall take effect upon the State of New York committing the sum of at least $10,000,000 for the acquisition of lands or interests therein in Sterling Forest, New York, for the purpose of augmenting, increasing, improving, preserving, protecting, and conserving natural water resources and supplies, or for recreation and conservation or similar purposes.

3. This act shall take effect immediately.

Approved April 3, 1997.

CHAPTER 62

AN ACT concerning the Division of Youth and Family Services and supplementing chapter 6 of Title 9 of the Revised Statutes.

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

C.9:6-8.40a Unfounded child abuse allegation information, expungement from DYFS records.

1. a. The Division of Youth and Family Services in the Department of Human Services shall expunge from its records all information relating to a report, complaint or allegation of an incident of child abuse or neglect with respect to which the division has determined, based upon its investigation

thereof, that the report, complaint or allegation of the incident was unfounded.

b. For purposes of this act, "unfounded" means there is no concern on the part of the division that the safety or welfare of the child is at risk.

The process of making a determination of an unfounded report, complaint or allegation of an incident of child abuse or neglect shall be further defined in regulations promulgated by the department pursuant to the "Administrative Procedure Act," P.L.1968, c. 410 (C.52:14B-1 et seq.).

2. This act shall take effect immediately.

Approved April 7, 1997.

CHAPTER 63

AN ACT concerning the terms of office of certain elected members of the board of trustees of the Teachers' Pension and Annuity Fund, amending N.J.S.18A:66-56 and supplementing chapter 66 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:66-56.1 Board of trustees, terms staggered.

1. Notwithstanding the provisions of N.J.S.18A:66-56 and in order to effect the staggering of the terms of the members of the board of trustees of the retirement system elected from the groups defined in the regulations of the retirement system, the terms of those members shall be as follows:

a. the member elected from Group A for a term commencing January 1, 1997, shall serve a term of three years;

b. the member elected from Group C for a term commencing January 1, 1997, shall serve a term of two years;

c. the member elected from Group B for a term commencing on January 1, 1998, shall serve a term of three years.

Members elected thereafter shall serve three-year terms.

2. N.J.S.18A:66-56 is amended to read as follows:

Board of trustees; duties, appointment or election, terms, vacancies, oaths, voting, expenses.

18A:66-56. Subject to the provisions of chapter 70 of the laws of 1955, the general responsibility for the proper operation of the teachers' pension and annuity fund shall be vested in the board of trustees. Subject to the limitations of the law, the board shall annually establish rules and regula-

tions for the administration and transaction of its business and for the control of the funds created by this article. Such rules and regulations shall be consistent with those adopted by the other pension funds within the Division of Pensions in order to permit the most economical and uniform administration of all such retirement systems. The membership of the board shall consist of the following:

(a) The State Treasurer or the deputy State Treasurer, when designated for that purpose by the State Treasurer;

(b) Two trustees appointed by the Governor, with the advice and consent of the Senate, who shall serve for a term of office of three years and until their successors are appointed, and who shall be private citizens of the State of New Jersey and who are neither an officer thereof nor active or retired members of the system, except that of the two trustees initially appointed by the Governor pursuant to P.L.1992, c.41 (C.43:6A-33.1 et al.), one shall be appointed for a term of two years and one for a term of three years;

(c) Three trustees from among the active or retired members of the retirement system, elected by the membership or by the delegates elected for this purpose by the membership, one of whom shall be elected each year for a three-year term commencing on January 1, following such election in such manner as the board of trustees may prescribe;

(d) One trustee not an active or retired teacher nor an officer of the State, elected by the other trustees, other than the State Treasurer, for a term of three years.

A vacancy occurring in the board of trustees shall be filled in the same manner as provided in this section for regular appointment or election to the position where the vacancy exists, except that a vacancy occurring in the trustees elected from among the active or retired members of the retirement system shall be filled for the unexpired term.

Each member of the board shall, upon appointment or election, take an oath of office that, so far as it devolves upon him, he will diligently and honestly administer the board's affairs, and that he will not knowingly violate or willfully permit to be violated any provision of law applicable to this article. The oath shall be subscribed to by the member making it, certified by the officer before whom it is taken and filed immediately in the office of the Secretary of State.

Each trustee shall be entitled to one vote in the board and a majority of all the votes of the entire board shall be necessary for a decision by the board of trustees at a meeting of the board. The board shall keep a record of all its proceedings, which shall be open to public inspection.

The members of the board shall serve without compensation but shall be reimbursed for any necessary expenditures. No employee shall suffer loss of salary or wages through serving on the board.

The State Treasurer shall designate a medical board after consultation with the Director of the Division of Pensions, subject to veto by the board for valid reason. It shall be composed of three physicians who are not eligible to participate in the retirement system. The medical board shall pass upon all medical examinations required under the provisions of this article, shall investigate all essential statements and certificates by or on behalf of a member in connection with an application for disability retirement, and shall report in writing to the retirement system its conclusions and recommendations upon all matters referred to it.

3. This act shall take effect immediately.

Approved April 7, 1997.

CHAPTER 64

AN ACT requiring the Department of Environmental Protection to establish a natural resources inventory, supplementing Title 13 of the Revised Statutes, and appropriating $20,000.

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

C.13:1B-15.159 Natural resources inventory, established.

1. The Department of Environmental Protection, in cooperation with the Division of Travel and Tourism in the Department of Commerce and Economic Development, and 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), 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.

C.13:1B-15.160 Pamphlet of information published.

2. Within one year of the effective date of this act, the Department of Environmental Protection shall publish and make available to the public at all State offices a pamphlet which shall contain, to the greatest extent possible, information on the location, available facilities and activities, operating hours, admission fees, parking fees, and phone numbers of the areas included on the inventory established pursuant to section 1 of this act, together with any maps or indexes and any other information deemed helpful to facilitate the use of the areas. The department shall annually update the information contained in the pamphlet to provide the public with the most comprehensive and current information on the resources described in section 1 of this act.

C.13:1B-15.161 Information on public computer network.

3. Within one year of the publication of the pamphlet completed pursuant to section 2 of this act, the Department of Environmental Protection shall make the information contained in the pamphlet available to the public through a widely available nonproprietary cooperative public computer network.

4. There is appropriated from the General Fund to the Department of Environmental Protection the sum of $20,000 to implement the provisions of this act.

5. This act shall take effect immediately.

Approved April 7, 1997.

CHAPTER 65

AN ACT establishing an interdepartmental ecotourism task force, 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:*

1. a. There is established within the Department of Environmental Protection the "Ecotourism Development and Strategic Planning Task Force," hereinafter referred to as the "task force."

b. The Commissioner of Environmental Protection, the Commissioner of Commerce and Economic Development, the Commissioner of Transpor-

tation, and the Secretary of Agriculture shall each appoint three employees of their respective departments to the task force. Each member of the task force shall be a person of recognized ability and experience in one or more of the following areas: parks management, natural resource protection, forestry, wildlife conservation, economic development, small business attraction and retention, marketing, tourism, agri-business, and road and trail building. The commissioners together shall select the chairperson and vice-chairperson of the task force from among its members. The task force shall organize as soon as may be practicable after the appointment of its members.

c. The task force shall meet regularly as it may determine, and shall also meet at the call of the chairperson of the task force.

d. A majority of the membership of the task force shall constitute a quorum for the transaction of task force business. Action may be taken and motions and resolutions adopted by the task force at any meeting thereof by the affirmative vote of a majority of the membership of the task force in attendance at the meeting.

e. The task force shall be entitled to call to its assistance and avail itself of the services of such employees of any State, county, or municipal department, authority, board, bureau, commission, agency, or entity, or of Rutgers, The State University or any other public institution of higher education in the State, as it may require and as may be available to it for the purpose of carrying out its duties under this act.

2. It shall be the duty of the task force to:

a. Identify existing and potential natural, historic and cultural resources that could be promoted as ecotourism destinations;

b. Evaluate and assess the measures recommended to be taken to ensure that the promotion of a resource identified pursuant to subsection a. of this section results in the preservation and increased protection of the resource, which shall include, but need not be limited to, any appropriate private, public or volunteer enforcement function, the creation or enhancement of educational or interpretive facilities or programs, and the coordination with local communities with regard to the resource management strategy to be employed;

c. Evaluate and assess the capacity of the resources identified pursuant to subsection a. of this section to accommodate tourism-related development and activities, which shall include, but need not be limited to, the creation or enhancement of transportation or other infrastructure, tourist visitation, and small business development;

d. Investigate methods for funding the costs of ecotourism promotion and development as well as resource preservation, including the use of

volunteers, soliciting private financial support, providing departmental educational and technical assistance for interested public, nonprofit, and private entities, and establishing collaborative relationships between State agencies, the tourism industry and local communities;

e. Hold such public hearings as it may deem necessary to solicit public input on the matters set forth in this section; and

f. Consult with the Pinelands Commission when implementing subsections a. through d. of this section in the pinelands area designated pursuant to section 10 of P.L. 1979, c.111 (C.13:18A-11).

3. The task force shall report its findings and conclusions and any recommendations for legislative or administrative action to the Governor, the Legislature, the Commissioner of Environmental Protection, the Commissioner of Commerce and Economic Development, the Commissioner of Transportation, the Secretary of Agriculture, and the public within one year of the effective date of this act, whereupon the task force shall dissolve.

4. There is appropriated from the General Fund to the Ecotourism Development and Strategic Planning Task Force established pursuant to this act the sum of $25,000 to meet the administrative costs of the task force in carrying out its duties pursuant to this act.

5. This act shall take effect immediately.

Approved April 7, 1997.

CHAPTER 66

AN ACT concerning home health care and supplementing P.L.1991, c.377 (C. 45:11-45 et seq.).

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

C.45:11-49.1 Provision, administration of certain noncontrolled drugs to home health patients.

1. Notwithstanding the provisions of any other law to the contrary, a home health care agency licensed pursuant to P.L.1971, c.136 (C.26:2H-1 et seq.), a health care service firm registered pursuant to N.J.A.C.13:45B-14.1 et seq., a Medicare-certified hospice program or the employees of the agency, firm or program who are registered professional nurses may

purchase, store or transport for the purpose of administering to their home health patients the following noncontrolled drugs: sterile saline solution, sterile water, adrenalin/epinephrine, diphenhydramine hydrochloride, heparin flush solution and any other noncontrolled drug approved by the New Jersey Board of Nursing, in consultation with the State Board of Medical Examiners and the New Jersey Board of Pharmacy. Such drugs shall only be administered pursuant to protocols utilized by a health care professional licensed to prescribe drugs in New Jersey.

The New Jersey Board of Nursing, in consultation with the State Board of Medical Examiners and the New Jersey Board of Pharmacy, may adopt rules and regulations establishing minimum standards for the purchase, storage, handling, use and disposal of such drugs pursuant to this act.

2. This act shall take effect on the 60th day after enactment.

Approved April 7, 1997.

CHAPTER 67

AN ACT concerning firearms, amending N.J.S.2C:39-6 and supplementing chapter 39 of 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: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 ranger, 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 correction 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.

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) An officer of the 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) A person who has not been convicted of a crime under the laws of this State or under the laws of another state or the United States, and who is employed as a full-time security guard for a nuclear power plant under the license of the Nuclear Regulatory Commission, while in the actual performance of his official duties;

(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 Bureau of Parole in the Department of Corrections 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; or

(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.

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 five 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 less than 70 years of age, 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; or a full-time federal law enforcement officer 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, within six months after retirement, 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; and

(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 reapplication 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.

C.2C:39-6.1 Certain retired law enforcement officers, application for permit to carry handgun.

2. Any retired law enforcement officer who meets all of the requirements set forth in subsection l. of N.J.S.2C:39-6, but retired prior to the effective date of P.L.1997, c.67, may apply to carry a handgun. The application shall be in the manner as provided in that subsection and the applicant, if approved, shall be subject to all the requirements set forth therein.

3. This act shall take effect immediately, but section 2 shall expire on the 365th day following enactment.

Approved April 8, 1997.

CHAPTER 68

AN ACT concerning State psychiatric facilities and supplementing Title 30 of the Revised Statutes.

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

C.30:1-12a Definitions relative to psychiatric facilities.

1. As used in this act:

"Clinical treatment staff" means a physician, psychiatrist, psychologist, physical therapist or social worker licensed pursuant to Title 45 of the Revised Statutes, an occupational, recreation, art or music therapist or a substance abuse counselor.

"Nursing direct care staff" means a Human Services Assistant, Human Services Technician or a nurse licensed pursuant to Title 45 of the Revised Statutes.

C.30:1-12b Unannounced site visits to State psychiatric facilities.

2. a. The Commissioner of Human Services shall designate staff who are not employed at a State psychiatric facility listed in R.S.30:1-7 to conduct unannounced site visits to randomly check staffing on various shifts at a State psychiatric facility, at least three times during a calendar year. During the site visit, the designated staff shall review: the daily operation of the facility, including, the actual deployment of clinical treatment staff and nursing direct care staff on various shifts to determine whether the actual deployment of staff meets the documented staffing plan of the facility; the system for reporting any information concerning alleged patient abuse or professional misconduct as provided for in P.L.1997, c.70 (C.30:4-3.15 et seq.); the operation of therapeutic programs or activities for patients; and any other aspect of the facility which the commissioner deems appropriate.

b. The commissioner shall provide and implement, on an ongoing basis, surveillance procedures designed to identify problems related to patient care at a State psychiatric facility. These procedures shall include, but not be limited to, the use of security cameras and the use of persons to perform covert investigations of the daily operation of the facility. Persons performing covert investigations shall assume roles which do not suggest their actual function.

3. This act shall take effect immediately.

Approved April 16, 1997.

CHAPTER 69

AN ACT concerning employees of State psychiatric hospitals and supplementing Title 30 of the Revised Statutes.

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

C.30:4-3.12 Definitions relative to employees of State psychiatric hospitals.

1. For the purposes of this act:

"Clinical treatment staff" means a physician, psychiatrist, psychologist, physical therapist or social worker licensed pursuant to Title 45 of the Revised Statutes, an occupational, recreation, art or music therapist or a substance abuse counselor.

"Immediate family member" includes the staff member's spouse and children, the staff member's siblings and parents, the staff member's spouse's siblings and parents and the spouses of the staff member's children.

"Nursing direct care staff" means a Human Services Assistant, Human Services Technician, or a nurse licensed pursuant to Title 45 of the Revised Statutes.

C.30:4-3.13 Staff member not to supervise immediate family member.

2. A clinical treatment staff or nursing direct care staff member of a State psychiatric hospital listed in R.S.30:1-7 shall not have direct supervisory responsibilities over any immediate family member.

C.30:4-3.14 Notification of outside employment of staff member.

3. A clinical treatment staff or nursing direct care staff member of a State psychiatric hospital listed in R.S.30:1-7 shall promptly notify the chief executive officer of the hospital if the staff member also is employed outside of the State psychiatric hospital. The notification shall include the name of the employer and the number of hours per day or week, as applicable, that the staff member is so employed. The information shall be updated at least annually, but as often as necessary to reflect any change in outside employment. The notification to the chief executive officer shall be confidential, and the information shall only be used for the purpose of ensuring that the outside employment does not create a conflict or interfere with the staff member's duties and responsibilities at the State psychiatric hospital.

Subject to the provisions of Title 11A of the New Jersey Statutes, if a staff member fails to notify the chief executive officer as required in this section, the staff member shall be subject to salary and promotion limitations or demotion, and in the case of deliberate noncompliance with the notification requirement, removal from employment.

4. This act shall take effect 60 days after enactment.

Approved April 16, 1997.

CHAPTER 70

AN ACT establishing a system for reporting patient abuse and professional misconduct at State psychiatric hospitals and supplementing Title 30 of the Revised Statutes.

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

C.30:4-3.15 Definitions relative to reporting patient abuse, professional misconduct.

1. For the purposes of this act:

"Clinical treatment staff" means a physician, psychiatrist, psychologist, physical therapist or social worker licensed pursuant to Title 45 of the Revised Statutes, an occupational, recreation, art or music therapist or a substance abuse counselor.

"Employee" means a person employed by the State to work at a State psychiatric hospital or a person employed by a private entity under contract with the State to provide contracted services at a State psychiatric hospital.

"Nursing direct care staff" means a Human Services Assistant, Human Services Technician, or a nurse licensed pursuant to Title 45 of the Revised Statutes.

"State psychiatric hospital" means a psychiatric hospital listed in R.S.30:1-7.

C.30:4-3.16 Report of abuse of patient.

2. a. Any employee of a State psychiatric hospital, who, as a result of information obtained in the course of his employment, has reasonable cause to suspect or believe that a patient is being or has been abused by any other employee of the hospital, by another patient in the hospital or by any other person, shall report the information in a timely manner to the person designated by the Commissioner of Human Services pursuant to this act to receive the report.

b. Any other person having reasonable cause to suspect or believe that a patient is being or has been abused may report the information to the person designated by the Commissioner of Human Services pursuant to this act to receive the report.

c. The report shall contain the name of the patient, the name of the psychiatric hospital and the unit to which the patient is assigned, if known, information regarding the nature of the suspected abuse and any other information which might be helpful in an investigation of the case and the protection of the patient.

C.30:4-3.17 Report of professional misconduct.

3. Any employee of a State psychiatric hospital who, as a result of information obtained in the course of his employment, has reasonable cause to suspect or believe that a clinical treatment staff or nursing direct care staff member working at the hospital has or is engaging in professional misconduct shall report the information to the person designated by the Commissioner of Human Services pursuant to this act to receive the report.

The report shall contain the name of the staff member, the name of the psychiatric hospital and the unit to which the staff member is assigned, information regarding the nature of the suspected professional misconduct and any other information which might be helpful in an investigation of the case.

C.30:4-3.18 Patient abuse, professional misconduct reporting program.

4. The Commissioner of Human Services shall establish a patient abuse and professional misconduct reporting program for the State psychiatric hospitals.

a. The program shall provide, at a minimum, that State psychiatric hospital employees are:

(1) trained in recognizing probable incidents of or behavior that constitutes patient abuse or professional misconduct and other abuse prevention activities pursuant to P.L. , c. (C.)(pending before the Legislature as Senate Bill No.1543 or Assembly Bill No. 2427 of 1996);

(2) informed of the duty to report the suspected patient abuse or professional misconduct pursuant to this act; and

(3) provided with the name and phone number of the person designated by the commissioner who shall be notified of any suspected patient abuse or professional misconduct.

b. The commissioner shall designate one or more employees of the Department of Human Services who are not employees of any of the State psychiatric hospitals to serve as a contact person for employees of State psychiatric hospitals to notify in the event an employee has reasonable cause to suspect that a patient is being or has been abused by any other employee of the hospital, by another patient in the hospital or by any other person, or has any information concerning suspected professional misconduct by a clinical treatment staff or nursing direct care staff member working at the hospital.

c. The designated contact person shall report all reported incidents or allegations of patient abuse and professional misconduct to the Director of the Division of Mental Health Services, the Commissioner of Human Services, or their designees. The director shall cause a prompt investigation of any report of patient abuse or professional misconduct and notify the Commissioner of Human Services of the results of the investigation.

d. The Director of the Division of Mental Health Services, in a case in which professional misconduct is suspected, shall promptly notify the appropriate State licensing or certifying authority or professional board, if any, having jurisdiction over the person who has been reported, of the report by the hospital employee and the results of the director's investigation of the report.

e. The Director of the Division of Mental Health Services shall promptly report all instances of suspected patient abuse, as determined by the director's investigation of a report by an employee of a State psychiatric hospital, to the county prosecutor of the county in which the hospital is located. The report to the county prosecutor shall be in accordance with

regulations adopted by the Commissioner of Human Services in consultation with the County Prosecutors Association of New Jersey and the Attorney General.

f. Upon receipt of a report pursuant to subsection e. of this section, the county prosecutor may conduct his own review of the suspected patient abuse and take any appropriate action.

g. Nothing in this section shall preclude the Human Services police officers from conducting an investigation.

C.30:4-3.19 Disclosure of name of person reporting patient abuse, professional misconduct; prohibited; immunity.

5. a. The name of any person who reports suspected patient abuse or professional misconduct pursuant to this act shall not be disclosed, unless the person who reported the abuse or misconduct specifically requests the disclosure or a judicial proceeding results from the report.

b. A person who reports suspected abuse or professional misconduct pursuant to this act or who testifies in any administrative or judicial proceeding arising from the report or testimony shall have immunity from any civil or criminal liability on account of the report or testimony, unless the person has acted in bad faith or with malicious purpose.

C.30:4-3.20 Failure to report, penalty.

6. Any person required to report suspected patient abuse or professional misconduct pursuant to this act who fails to make the report shall be liable to a penalty of not more than $5,000, after that person has completed the abuse prevention program pursuant to paragraph (2) of subsection c. of section 2 of P.L. , c. (C.)(pending before the Legislature as Senate Bill No. 1543 or Assembly Bill No. 2427 of 1996. The penalty shall be collected and enforced pursuant to Title 11A of the New Jersey Statutes. Each violation of this act shall constitute a separate offense.

C.30:4-3.21 Regulations.

7. The Commissioner of Human Services shall adopt 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 60 days after the date of enactment.

Approved April 16, 1997.

CHAPTER 71

AN ACT concerning employees at certain State facilities and amending P.L.1988, c.45.

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

1. Section 2 of P.L.1988, c.45 (C.30:4-3.5) is amended to read as follows:

C.30:4-3.5 Criminal history record checks.

2. a. A facility shall not employ any individual unless the Commissioner of the Department of Human Services has first determined, consistent with the requirements and standards of this act, that no criminal history record information exists on file in the Federal Bureau of Investigation, Identification Division, or in the State Bureau of Identification in the Division of State Police, which would disqualify that individual from being employed at the facility. A criminal history record background check shall be conducted at least once every two years for an individual employed at the facility. An individual shall be disqualified from employment under this act if that individual's criminal history record check reveals a record of conviction of any of the following crimes and offenses:

(1) In New Jersey, any crime or disorderly persons offense:

(a) Involving danger to the person, meaning those crimes and disorderly persons offenses set forth in N.J.S.2C:11-1 et seq., N.J.S.2C:12-1 et seq., N.J.S.2C:13-1 et seq., N.J.S.2C:14-1 et seq. or N.J.S.2C:15-1 et seq.; or

(b) Against the family, children or incompetents, meaning those crimes and disorderly persons offenses set forth in N.J.S.2C:24-1 et seq.; or

(2) In any other state or jurisdiction, of conduct which, if committed in New Jersey, would constitute any of the crimes or disorderly persons offenses described in paragraph (1) of this subsection.

b. Notwithstanding the provisions of subsection a. of this section, no individual shall be disqualified from employment under this act on the basis of any conviction disclosed by a criminal history record check performed pursuant to this act if the individual has affirmatively demonstrated to the Commissioner of Human Services clear and convincing evidence of his rehabilitation. In determining whether an individual has affirmatively demonstrated rehabilitation, the following factors shall be considered:

(1) The nature and responsibility of the position which the convicted individual would hold;

(2) The nature and seriousness of the offense;

(3) The circumstances under which the offense occurred;

(4) The date of the offense;

(5) The age of the individual when the offense was committed;

(6) Whether the offense was an isolated or repeated incident;

(7) Any social conditions which may have contributed to the offense; and

(8) Any evidence of rehabilitation, including good conduct in prison or in the community, counseling or psychiatric treatment received, acquisition of additional academic or vocational schooling, successful participation in correctional work-release programs, or the recommendation of persons who have had the individual under their supervision.

c. If a prospective employee of a facility refuses to consent to, or cooperate in, the securing of a criminal history record background check, the commissioner shall direct the principal administrator not to consider the person for employment at the facility. The prospective employee shall, however, retain any available right of review by the Merit System Board in the Department of Personnel.

d. If a current employee of a facility refuses to consent to, or cooperate in, the securing of a criminal history record background check, the commissioner shall direct the principal administrator to immediately remove the person from his position at the facility and to terminate the person's employment at the facility. The employee shall, however, retain any available right of review by the Merit System Board in the Department of Personnel.

e. Notwithstanding the provisions of subsection a. of this section to the contrary, a facility may provisionally employ an individual for a period not to exceed six months if that individual's State Bureau of Identification criminal history record background check does not contain any information that would disqualify the individual from employment at the facility and if the individual submits to the commissioner a sworn statement attesting that the individual has not been convicted of any crime or disorderly persons offense as described in this act, pending a determination that no criminal history record background information which would disqualify the individual exists on file in the Federal Bureau of Investigation, Identification Division. An individual who is provisionally employed pursuant to this subsection shall perform his duties at the facility under the direct supervision of a superior who acts in a supervisory capacity over that individual until the determination concerning the federal information is complete.

2. This act shall take effect immediately.

Approved April 16, 1997.

CHAPTER 72

AN ACT concerning Human Services police officers and amending P.L.1995, c.273.

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

1. Section 4 of P.L.1995, c.273 (C.30:4-14.2) is amended to read as follows:

C.30:4-14.2 Training requirements for Human Services police officers.

4. Human Services police officers appointed pursuant to R.S.30:4-14 shall satisfy the training requirements established by the Police Training Commission, at schools approved by the commission, as follows:

a. All officers appointed pursuant to this section after the effective date of P.L.1995, c.273 (C.30:4-14.1 et al.), shall successfully complete, within one year of the date of their appointment, a training course approved by the Police Training Commission.

All officers appointed pursuant to this section after the effective date of P.L.1997, c.72, shall successfully complete, within one year of the date of their appointment, a training course approved by the Police Training Commission, which shall include training designed to prepare officers to handle patients with violent criminal backgrounds and sensitivity training to prepare officers to handle abusive situations between employees and patients, and among patients;

b. All officers appointed and in employment on the effective date of P.L.1995, c.273 (C.30:4-14.1 et al.), may continue in employment if, within 18 months of the effective date of P.L.1995, c.273 (C.30:4-14.1 et al.), they have satisfied the training requirements of the Police Training Commission;

All officers appointed and in employment on the effective date of P.L.1997, c.72, may continue in employment if, within 18 months of the effective date of P.L.1997, c.72, they have successfully completed a training course approved by the Police Training Commission, which shall include training designed to prepare officers to handle patients with violent criminal backgrounds and sensitivity training to prepare officers to handle abusive situations between employees and patients, and among patients; and

c. The Commissioner of Human Services may request from the Police Training Commission an exemption from all or part of the training requirements of this section on behalf of a current or prospective officer who demonstrates successful completion of a police training course conducted by any federal, state or other public or private agency, the requirements of which are substantially equivalent to the requirements of

the Police Training Commission, and which include training officers to handle patients with violent criminal backgrounds and sensitivity training pursuant to this section.

2. This act shall take effect 60 days after enactment.

Approved April 16, 1997.

CHAPTER 73

AN ACT to establish a senior citizens crime prevention program, 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-77.4 Senior citizens crime prevention program.

1. The Attorney General, in consultation with the Crime Prevention Advisory Committee established under the provisions of P.L.1985, c.1 (C.52:17B-77.1 et seq.), the county prosecutors of this State, and the American Association of Retired Persons, shall develop and establish a senior citizens crime prevention program. The program shall include, but not be limited to:

a. Informational services and educational awareness programs specifically designed to address the needs of senior citizens in the areas of personal safety, home security, and those types of non-violent property crimes to which senior citizens are especially susceptible, such as scams and swindles;

b. Information and training programs relating to the organization and operation of specialized neighborhood watch and crime prevention programs; and

c. Informational services and educational awareness programs for county and municipal law enforcement departments to assist them in meeting the specialized needs of the senior citizens in their communities and which may include an outline of suggested programs and services a county and municipal law enforcement department may initiate to address those special needs, such as the establishment of a senior citizens bureau within the department to provide and coordinate the community's senior citizens crime prevention programs and activities.

C.52:17B-77.5 Conduct of senior citizens crime prevention program at county level.

2. The Attorney General shall transmit a copy of the senior citizens crime prevention program developed pursuant to section 1 of this act to each

county and municipal law enforcement department situated within the State. Each county prosecutor may conduct such informational and training seminars for county and municipal law enforcement officers as shall be deemed appropriate and necessary to effectively implement the senior citizens crime prevention program in the county.

3. This act shall take effect immediately.

Approved April 16, 1997.

CHAPTER 74

AN ACT providing for the issuance of certain license plates for the purpose of supporting certain maritime history or marine life preservation projects for the coastal area of the State and supplementing chapter 3 of Title 39 of the Revised Statutes.

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

1. The Legislature finds and declares that:

a. Maritime history and marine life are important parts of the State's heritage and the enjoyment of its prized resource, the New Jersey shore and coastline;

b. The Barnegat Bay Decoy and Baymen's Museum is a unique and valuable resource for recording and preserving the history and artifacts of coastal bay life, such as sea-faring vessels and boating memorabilia dating from at least the last century, including schooners, brigantines and sloops built in bay ports like Tuckerton, New Jersey, home-built sneakboxes, and skillfully hand carved duck decoys;

c. The Barnegat Bay Decoy and Baymen's Museum serves as a centerpiece for the economic revitalization of the Barnegat bay area as a coastal cultural and recreational tourist center from which the entire State can benefit; and

d. The Barnegat Bay Decoy and Baymen's Museum and other important and valuable maritime history and marine life preservation projects merit a stable funding source, particularly if it is provided by those individuals who prize and take pride in these valuable resources.

The Legislature therefore determines that creating special license plates provides an individual with the opportunity to support these resources, advertise their availability and popularity, and provide a stable source of

funding paid for through a voluntary but administratively efficient system sponsored by the State.

C.13:11A-1 Definitions relative to maritime history, marine life preservation projects.

2. As used in this act:

"Accounts" means the "Barnegat Bay Decoy and Baymen's Museum Account" and the "Maritime History and Marine Life Preservation Project Account" created pursuant to section 6 of this act;

"Commissioner" means the Commissioner of Environmental Protection;

"Department" means the Department of Environmental Protection;

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

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

C.39:3-27.86 Issuance of Barnegat Bay Decoy, Baymen's Museum license plates.

3. The Director of the Division of Motor Vehicles shall, upon proper application therefor, issue Barnegat Bay Decoy and Baymen's Museum license plates or such other maritime history or marine life preservation project license plates as the Department of Environmental Protection selects pursuant to section 4 of this act for any motor vehicle owned or leased and registered in the State. In addition to the registration number and other markings or identification otherwise prescribed by law, the license plate shall display words or a slogan and an emblem indicating support for, or an interest in, the Barnegat Bay Decoy and Baymen's Museum or a maritime history or marine life preservation project selected by the department pursuant to section 4 of this act. The words or slogan and emblem shall be chosen by the director, who shall solicit, in conjunction with the Legislature, input from the general public on the design of the plate and shall review the submissions prior to choosing the design. Issuance of special license plates in accordance with this section shall be subject to the provisions of chapter 3 of Title 39 of the Revised Statutes, except as hereinafter otherwise specifically provided.

C.13:11A-2 Criteria for selection of maritime history, marine life preservation projects, grants.

4. a. The department shall, pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), establish the criteria and process for selection of maritime history or marine life preservation projects to be supported by special license plates issued pursuant to section 3 of this act, the procedures for awarding of grants, and the limitation on the amount of individual grants from the Maritime History and Marine Life Preservation Project Account created pursuant to section 6 of this act.

b. Following adoption of these rules and regulations, the department shall select the project or projects to be selected for special license plates issued pursuant to section 3 of this act, after consultation with the director regarding the estimated costs of issuing those special license plates and the potential revenues therefrom, and include the selection and grant allocation in the department's budget request.

C.39:3-27.87 Application for license plate; fee.

5. a. Application for issuance of a license plate authorized pursuant to section 3 of this act shall be made to the division on forms and in a manner as may be prescribed by the director. In order to be deemed complete, an application shall be accompanied by a fee of $50 payable to the division, which fee shall be in addition to all fees otherwise required by law for the registration of the motor vehicle.

b. The annual fee for the registration certificate of a motor vehicle that has been issued a license plate authorized in section 3 of this act, pursuant to the provisions of this act, shall include in each year subsequent to the year of issuance a Barnegat Bay Decoy and Baymen's Museum license plate fee or a maritime history or marine life preservation project license plate fee in the amount of $10, which fee shall be in addition to all fees otherwise required by law for the renewal of the registration of the motor vehicle and shall be collected by the division and, as provided in section 6 of this act, deposited into the respective accounts created pursuant to section 6 of this act.

C.13:11A-3 Creation of "Barnegat Bay Decoy and Baymen's Museum Account," "Maritime History and Marine Life Preservation Project Account."

6. a. There are created in the Department of Environmental Protection two special non-lapsing accounts to be known as the "Barnegat Bay Decoy and Baymen's Museum Account" and the "Maritime History and Marine Life Preservation Project Account." There shall be deposited into each of the accounts, the amounts collected from license plate fees collected pursuant to section 5 of this act, less the amounts necessary to reimburse the division for administrative costs pursuant to section 7 of this act, as follows:

(1) the amount collected from Barnegat Bay Decoy and Baymen's Museum license plate fees shall be deposited in the Barnegat Bay Decoy and Baymen's Museum Account; and

(2) the amount collected from other maritime history or marine life preservation project license plate fees shall be deposited in the Maritime History and Marine Life Preservation Project Account.

b. Monies deposited in the accounts shall be dedicated to the purposes set forth in section 8 of this act. Monies deposited in the accounts shall be held in interest-bearing accounts in public depositories as defined pursuant

to section 1 of P.L.1970, c.236 (C.17:9-41), and may be invested or reinvested in such securities as are approved by the State Treasurer. Interest or other income earned on monies deposited into the accounts, and any monies which may be appropriated or otherwise become available for the purposes of the accounts, shall be credited to and deposited in the accounts for use as set forth in this act.

C.39:3-27.88 Reimbursement to division.

7. a. Prior to the deposit of license plate fees collected pursuant to section 5 of this act into the accounts, amounts thereof as are necessary shall be used to reimburse the division for all costs reasonably and actually incurred, as stipulated by the director, for producing, issuing, renewing, making computer programming changes in connection with and publicizing the availability of Barnegat Bay Decoy and Baymen's Museum and other maritime history or marine life preservation project license plates.

b. The director shall annually certify to the commissioner the average cost per license plate incurred in the immediately preceding year by the division in producing, issuing, renewing, making computer programming changes in connection with and publicizing the availability of Barnegat Bay Decoy and Baymen's Museum and other maritime history or marine life preservation project license plates. The annual certification of the average cost per license plate shall be approved by the Joint Budget Oversight Committee, or its successor.

c. In the event that the average cost per license plate as certified by the director and approved by the Joint Budget Oversight Committee, or its successor, is greater than the $50 application fee established in subsection a. of section 5 of this act in two consecutive fiscal years, the director may discontinue the issuance of Barnegat Bay Decoy and Baymen's Museum and other maritime history or marine life preservation project license plates.

C.13:11A-4 Recommendation for appropriation; purposes.

8. a. The Governor shall include in the annual budget recommendations to the Legislature, pursuant to section 11 of P.L.1944, c.112 (C.52:27B-20), a recommendation for an appropriation from the accounts created pursuant to section 6 of this act for the purposes set forth in this section. The Legislature shall annually appropriate to the department from the first $600,000 in license plate fees collected pursuant to section 5 of this act and deposited in the accounts:

(1) An amount not to exceed $400,000 for a grant to the Barnegat Bay Decoy and Baymen's Museum for the purposes of supporting and maintaining the museum, to be appropriated from the Barnegat Bay Decoy and Baymen's Museum Account created pursuant to section 6 of this act; and

(2) An amount not to exceed $200,000 for a grant to an agency, group, organization or individual responsible for a maritime history or marine life preservation project selected by the department as eligible for a special license plate issued pursuant to section 3 of this act, to be appropriated from the Maritime History and Marine Life Preservation Project Account created pursuant to section 6 of this act and allocated as provided in the rules and regulations adopted pursuant to section 4 of this act.

b. If an amount less than $600,000 is collected from license plate fees pursuant to section 5 of this act in any given year, the amounts provided in paragraphs (1) and (2) of subsection a. of this section shall be reduced proportionately.

C.39:3-27.89 Notification to motorists.

9. The director shall notify eligible motorists of the opportunity to obtain special license plates authorized in section 3 of this act by including a notice with all motor vehicle registration renewals, and by posting appropriate posters or signs in all division facilities and offices, as may be provided by the department. The notices, posters, and signs shall be designed by the commissioner. The designs shall be subject to the approval of the director, and the commissioner shall supply the division with the notices, posters, and signs to be circulated or posted by that division.

C.13:11A-5 Interagency memorandum of agreement.

10. The commissioner, the director, and the State Treasurer shall develop and enter into an interagency memorandum of agreement setting forth the procedures to be followed by the department and the division in carrying out their respective responsibilities under this act.

11. This act shall take effect on the 180th day after enactment, but the Commissioner of Environmental Protection, the State Treasurer and the Director of the Division of Motor Vehicles may take such anticipatory acts in advance of that date as may be necessary for the timely implementation of this act upon the effective date thereof.

Approved April 17, 1997.

CHAPTER 75

AN ACT requiring health insurance coverage for reconstructive breast surgery to restore symmetry, and amending and supplementing 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.1983, c.50 (C.17:48-6b) is amended to read as follows:

C.17:48-6b Benefits for reconstructive breast surgery.

1. Every subscription certificate and group and individual contract providing hospital service benefits delivered, issued, executed or renewed in this State, or approved for issuance or renewal in this State by the Commissioner of Banking and Insurance on or after the effective date of this act, shall provide benefits, following a mastectomy on one breast or both breasts, for reconstructive breast surgery, surgery to restore and achieve symmetry between the two breasts, and the cost of prostheses and, under any contract providing outpatient x-ray or radiation therapy, benefits for outpatient chemotherapy following surgical procedures in connection with the treatment of breast cancer shall be included as a part of the outpatient x-ray or radiation therapy benefit. The provisions of this section shall apply to all contracts in which the hospital service corporation has reserved the right to change the premium. Such benefits shall be provided to the same extent as for any other sickness under the contract.

2. Section 1 of P.L.1983, c.51 (C.17:48A-7b) is amended to read as follows:

C.17:48A-7b Reconstructive breast surgery; benefits.

1. Every subscription certificate and group and individual contract providing medical service benefits delivered, issued, executed or renewed in this State, or approved for issuance or renewal in this State by the Commissioner of Banking and Insurance on or after the effective date of this act, shall provide benefits, following a mastectomy on one breast or both breasts, for reconstructive breast surgery, surgery to restore and achieve symmetry between the two breasts, and the costs of prostheses and, under any contract providing out-of-hospital x-ray or radiation therapy, benefits for out-of-hospital chemotherapy following surgical procedures in connection with the treatment of breast cancer shall be included as a part of the out-of-hospital x-ray or radiation therapy benefit. The provisions of this section shall apply to all contracts in which the medical service corporation has reserved the right to change the premium. Such benefits shall be provided to the same extent as for any other sickness under the contract.

3. Section 35 of P.L.1985, c.236 (C.17:48E-35) is amended to read as follows:

C.17:48E-35 Reconstructive breast surgery benefits.

35. Every subscription certificate and group and individual contract providing health service coverage, delivered, issued, executed or renewed in this State, or approved for issuance or renewal in this State by the commissioner on or after the effective date of this act, shall provide benefits, following a mastectomy on one breast or both breasts, for reconstructive breast surgery, surgery to restore and achieve symmetry between the two breasts, and the cost of prostheses and, under any contract providing outpatient x-ray or radiation therapy, benefits for outpatient chemotherapy following surgical procedures in connection with the treatment of breast cancer, which shall be included as a part of the outpatient x-ray or radiation therapy benefit. The provisions of this section shall apply to all contracts in which the health service corporation has reserved the right to change the premium. These benefits shall be provided to the same extent as for any other sickness under the contract.

4. Section 1 of P.L.1983, c.53 (C.17B:26-2.1a) is amended to read as follows:

C.17B:26-2.1a Reconstructive breast surgery; benefits.

1. Every health insurance policy providing hospital or medical expense benefits delivered, issued, executed or renewed in this State, or approved for issuance or renewal in this State by the Commissioner of Banking and Insurance on or after the effective date of this act, shall provide benefits, following a mastectomy on one breast or both breasts, for reconstructive breast surgery, surgery to restore and achieve symmetry between the two breasts, and the costs of prostheses, and, under any policy providing outpatient x-ray or radiation therapy, the costs of outpatient chemotherapy following surgical procedures in connection with the treatment of breast cancer shall be included as a part of the outpatient x-ray or radiation therapy coverage. The provisions of this section shall apply to all policies in which the insurer has reserved the right to change the premium. Such benefits shall be provided to the same extent as for any other sickness under the policy.

5. Section 1 of P.L.1983, c.52 (C.17B:27-46.1a) is amended to read as follows:

C.17B:27-46.1a Reconstructive breast surgery; benefits.

1. Every group health insurance policy providing hospital or medical expense benefits delivered, issued, executed or renewed in this State, or approved for issuance or renewal in this State by the Commissioner of Banking and Insurance on or after the effective date of this act, shall provide

benefits, following a mastectomy on one breast or both breasts, for reconstructive breast surgery, surgery to restore and achieve symmetry between the two breasts, and the costs of prostheses and, under any policy providing outpatient x-ray or radiation therapy, the costs of outpatient chemotherapy following surgical procedures in connection with the treatment of breast cancer shall be included as a part of the outpatient x-ray or radiation therapy coverage. The provisions of this section shall apply to all policies in which the insurer has reserved the right to change the premium. Such benefits shall be provided to the same extent as for any other sickness under the policy.

C.26:2J-4.14 HMO to provide benefits for reconstructive breast surgery.

6. 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 P.L.1997, c.75 unless the health maintenance organization provides health care services to any enrollee, following a mastectomy on one breast or both breasts, for reconstructive breast surgery, surgery to restore and achieve symmetry between the two breasts, and prostheses and, under any contract for health care services providing outpatient x-ray or radiation therapy, outpatient chemotherapy following surgical procedures in connection with the treatment of breast cancer shall be included as a part of the outpatient x-ray or radiation therapy.

The health care services shall be provided to the same extent as for any other medical condition under the contract for health care services.

The provisions of this section shall apply to all contracts for health care services by health maintenance organizations under which the right to change the schedule of charges for enrollee coverage is reserved.

7. This act shall take effect on the 90th day after enactment.

Approved April 17, 1997.

CHAPTER 76

AN ACT concerning hospital patients, amending P.L.1989, c.170 and supplementing Title 26 of the Revised Statutes.

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

New Jersey State Library

1. Section 2 of P.L.1989, c.170 (C.26:2H-12.8) is amended to read as follows:

C.26:2H-12.8 Rights of persons admitted to a general hospital.

2. Every person admitted to a general hospital as licensed by the State Department of Health and Senior Services pursuant to P.L.1971, c.136 (C.26:2H-1 et al.) shall have the right:

a. To considerate and respectful care consistent with sound nursing and medical practices, which shall include being informed of the name and licensure status of a student nurse or facility staff member who examines, observes or treats the patient;

b. To be informed of the name of the physician responsible for coordinating his care;

c. To obtain from the physician complete, current information concerning his diagnosis, treatment, and prognosis in terms he can reasonably be expected to understand. When it is not medically advisable to give this information to the patient, it shall be made available to another person designated by the patient on his behalf;

d. To receive from the physician information necessary to give informed consent prior to the start of any procedure or treatment and which, except for those emergency situations not requiring an informed consent, shall include as a minimum the specific procedure or treatment, the medically significant risks involved, and the possible duration of incapacitation, if any, as well as an explanation of the significance of the patient's informed consent. The patient shall be advised of any medically significant alternatives for care or treatment, however, this does not include experimental treatments that are not yet accepted by the medical establishment;

e. To refuse treatment to the extent permitted by law and to be informed of the medical consequences of this act;

f. To privacy to the extent consistent with providing adequate medical care to the patient. This shall not preclude discussion of a patient's case or examination of a patient by appropriate health care personnel;

g. To privacy and confidentiality of all records pertaining to his treatment, except as otherwise provided by law or third party payment contract, and to access to those records, including receipt of a copy thereof at reasonable cost, upon request, unless his physician states in writing that access by the patient is not medically advisable;

h. To expect that within its capacity, the hospital will make reasonable response to his request for services, including the services of an interpreter in a language other than English if 10% or more of the population in the hospital's service area speaks that language;

i. To be informed by his physician of any continuing health care requirements which may follow discharge and to receive assistance from the physician and appropriate hospital staff in arranging for required follow-up care after discharge;

j. To be informed by the hospital of the necessity of transfer to another facility prior to the transfer and of any alternatives to it which may exist, which transfer shall not be effected unless it is determined by the physician to be medically necessary;

k. To be informed, upon request, of other health care and educational institutions that the hospital has authorized to participate in his treatment;

l. To be advised if the hospital proposes to engage in or perform human research or experimentation and to refuse to participate in these projects. For the purposes of this subsection "human research" does not include the mere collecting of statistical data;

m. To examine and receive an explanation of his bill, regardless of source of payment, and to receive information or be advised on the availability of sources of financial assistance to help pay for the patient's care, as necessary;

n. To expect reasonable continuity of care;

o. To be advised of the hospital rules and regulations that apply to his conduct as a patient;

p. To treatment without discrimination as to race, age, religion, sex, national origin, or source of payment; and

q. To contract directly with a New Jersey licensed registered professional nurse of the patient's choosing for private professional nursing care during his hospitalization. A registered professional nurse so contracted shall adhere to hospital policies and procedures in regard to treatment protocols and policies and procedures so long as those policies and procedures are the same for private duty and regularly employed nurses. The registered professional nurse shall not be considered an agent or employee of the hospital for purposes of any financial liabilities, including, but not limited to, State or federal employee taxes, worker's compensation payments or coverage for professional liability.

The hospital, upon a patient's or his designee's request for private professional nursing care, shall provide the patient or his designee with a list of local nonprofit professional nurses association registries that refer nurses for private professional nursing care.

C.26:2H-12.9a Revision of written summary, notice.

2. A general hospital shall revise the written summary and written notice required pursuant to section 3 of P.L.1989, c.170 (C.26:2H-12.9)

within 180 days of the effective date of this act to reflect the amendments made to section 2 of P.L.1989, c.170 (C.26:2H-12.8) pursuant to this act.

C.26:2H-12.8a Identification of staff member to patient.

3. A general hospital, licensed pursuant to P.L.1971, c.136 (C.26:2H-1 et al.), shall require a student nurse or facility staff member to wear an identifying badge that includes the person's name and licensure status, and, if appropriate, to verbally identify himself by name and licensure status to the patient and to any guardian or other responsible party when necessary, prior to examining, observing or treating the patient.

4. This act shall take effect immediately.

Approved April 24, 1997.

CHAPTER 77

AN ACT permitting licensed psychologists to perform competency evaluations in certain criminal cases and amending N.J.S.2C:4-5, N.J.S.2C:4-6 and N.J.S.2C:4-10.

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

1. N.J.S.2C:4-5 is amended to read as follows:

Psychiatric or psychological examination of defendant with respect to fitness to proceed.

2C:4-5. Psychiatric or Psychological Examination of Defendant With Respect to Fitness to Proceed.

a. Whenever there is reason to doubt the defendant's fitness to proceed, the court may on motion by the prosecutor, the defendant or on its own motion, appoint at least one qualified psychiatrist or licensed psychologist to examine and report upon the mental condition of the defendant. The psychiatrist or licensed psychologist so appointed shall be either:

(1) From a list agreed to by the court, the prosecutor and the defendant; or

(2) Agreed to by the court, prosecutor and defendant. The court may order the defendant to be committed to a hospital or other suitable facility for the purpose of the examination for a period of not exceeding 30 days. A qualified psychiatrist or licensed psychologist retained by the defendant or by the prosecution shall, if requested, be permitted to examine the defendant. Upon showing of particular need, upon motion, the court may order commitment for an additional period not exceeding 15 days.

b. The report of the examination shall include at least the following: (1) a description of the nature of the examination; (2) a diagnosis of the mental condition of the defendant; (3) an opinion as to the defendant's capacity to understand the proceedings against him and to assist in his own defense. The person or persons conducting the examination may ask questions respecting the crime charged when such questions are necessary to enable formation of an opinion as to a relevant issue, however, the evidentiary character of any inculpatory statement shall be limited expressly to the question of competency and shall not be admissible on the issue of guilt.

c. If the examination cannot be conducted by reason of the unwillingness of the defendant to participate therein, the report shall so state and shall include, if possible, an opinion as to whether such unwillingness of the defendant was the result of mental incompetence. Upon the filing of such a report, the court may permit examination without cooperation, may appoint a different psychiatrist or licensed psychologist, or may commit the defendant for observation for a period not exceeding 30 days except on good cause shown, or exclude or limit testimony by the defense psychiatrist or licensed psychologist.

d. The report of the examination shall be sent by the psychiatrist or licensed psychologist to the court, the prosecutor and counsel for the defendant.

2. N.J.S.2C:4-6 is amended to read as follows:

Determination of fitness to proceed; effect of finding of unfitness; proceedings if fitness is regained; post-commitment hearing.

2C:4-6. Determination of Fitness to Proceed; Effect of Finding of Unfitness; Proceedings if Fitness is Regained; Post-Commitment Hearing.

a. When the issue of the defendant's fitness to proceed is raised, the issue shall be determined by the court. If neither the prosecutor nor counsel for the defendant contests the finding of the report filed pursuant to section 2C:4-5, the court may make the determination on the basis of such report. If the finding is contested or if there is no report, the court shall hold a hearing on the issue. If the report is received in evidence upon such hearing, either party shall have the right to summon and examine the psychiatrists or licensed psychologists who joined in the report and to offer evidence upon the issue.

b. If the court determines that the defendant lacks fitness to proceed, the proceeding against him shall be suspended, except as provided in subsection c. of this section. At this time, the court may commit him to the custody of the Commissioner of Human Services to be placed in an appropriate

institution if it is found that the defendant is so dangerous to himself or others as to require institutionalization, or it shall proceed to determine whether placement in an out-patient setting or release is appropriate; provided, however, that no commitment to any institution shall be in excess of such period of time during which it can be determined whether it is substantially probable that the defendant could regain his competence within the foreseeable future.

c. If the defendant has not regained his fitness to proceed within three months, the court shall hold a hearing on the issue of whether the charges against him shall be dismissed with prejudice or held in abeyance.

The hearing shall be held only upon notice to the prosecutor and with an opportunity for the prosecutor to be heard. When the charges are not dismissed, each defendant's case shall be specifically reviewed by the court at six-month intervals upon notice to the prosecutor and with an opportunity for the prosecutor to be heard until an order is made by the court that the defendant stand trial or that the charges be dismissed.

There shall be a presumption that charges against a defendant who is not competent to proceed shall be held in abeyance. The presumption can be overcome only if the court determines, using the factors set forth in this subsection, that continuing the criminal prosecution under the particular circumstances of the case would constitute a constitutionally significant injury to the defendant attributable to undue delay in being brought to trial.

In determining whether the charges shall be held in abeyance or dismissed, the court shall weigh the following factors: the defendant's prospects for regaining competency; the period of time during which the defendant has remained incompetent; the nature and extent of the defendant's institutionalization; the nature and gravity of the crimes charged; the effects of delay on the prosecution; the effects of delay on the defendant, including any likelihood of prejudice to the defendant in the trial arising out of the delay; and the public interest in prosecuting the charges.

d. When the court, on its own motion or upon application of the commissioner, his designee or either party, determines after a hearing, if a hearing is requested, that the defendant has regained fitness to proceed, the proceedings shall be resumed.

e. (Deleted by amendment, P.L.1996, c.133).

f. The fact that the defendant is unfit to proceed does not preclude determination of any legal objection to the prosecution which is susceptible of fair determination prior to trial and without the personal participation of the defendant.

3. N.J.S.2C:4-10 is amended to read as follows:

Statements for purposes of examination or treatment inadmissible except on issue of mental condition.

2C:4-10. Statements for Purposes of Examination or Treatment Inadmissible Except on Issue of Mental Condition.

A statement made by a person subjected to psychiatric or psychological examination or treatment pursuant to section 2C:4-5, 2C:4-6 or 2C:4-9 for the purposes of such examination or treatment shall not be admissible in evidence against him in any criminal proceeding on any issue other than that of his mental condition but it shall be admissible upon that issue, whether or not it would otherwise be deemed a privileged communication. When such a statement constitutes an admission of guilt of the crime charged or of an element thereof, it shall only be admissible where it appears at trial that conversations with the examining psychiatrist or licensed psychologist were necessary to enable him to form an opinion as to a matter in issue.

4. This act shall take effect immediately.

Approved April 24, 1997.

CHAPTER 78

AN ACT concerning the licensure of hospices 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-79 Definitions relative to hospices.

1. As used in this act, "hospice care program" means a coordinated program of home, outpatient, and inpatient care and services that is operated by a public agency or private organization, or subdivision of either of these entities, and that provides care and services to hospice patients and to hospice patients' families, through a medically directed interdisciplinary team, under interdisciplinary plans of care in order to meet the physical, psychological, social, spiritual, and other special needs that are experienced during the final stages of illness, dying, and bereavement. A hospice care program shall provide the following care and services:

a. Nursing care by or under the supervision of a registered professional nurse;

b. Physical, occupational, or speech or language therapy;

c. Medical social services by a certified or licensed social worker under the direction of a physician;

d. Services of a certified home health aide;

e. Medical supplies, including drugs and biologicals, and the use of medical appliances related to terminal diagnosis;

f. Physician's services;

g. Short-term inpatient care, including both palliative and respite care and procedures;

h. Spiritual and other counseling for hospice patients and hospice patients' families;

i. Services of volunteers under the direction of the provider of the hospice care program; and

j. Bereavement services for hospice patients' families.

C.26:2H-80 Licensing of hospice care program.

2. a. A hospice care program shall not operate in this State unless it possesses a valid license issued by the Department of Health and Senior Services pursuant to this act.

No public agency or private organization shall assume, represent itself as or use the word "hospice" or any modification or derivative thereof, unless the agency or organization is licensed pursuant to this act.

b. Application for a license for a hospice care program shall be made upon forms prescribed by the department. The department shall charge such nonrefundable fees for the filing of an application for a license and any renewal thereof, as it shall from time to time fix in regulations, except the amount of this fee shall not exceed $2,000. The application shall contain the name of the hospice care program and such other information as the department may require.

c. The department shall only issue a license to a hospice care program that provides written documentation that it is certified for participation in the federal Medicare program established pursuant to the federal Social Security Act, Pub. L. 89-97 (42 U.S.C. s.1395 et seq.).

d. A nursing home licensed pursuant to the "Health Care Facilities Planning Act," P.L.1971, c.136 (C.26:2H-1 et al.) that does not hold itself out to be a hospice, does not hold itself out as providing a hospice care program, does not use the term hospice to describe or refer to its activities or facilities, and does not provide all of the services enumerated in section 1 of this act is not subject to the licensing provisions of this act.

e. A hospice care program licensed pursuant to this act shall not be subject to the certificate of need requirements of P.L.1971, c.136 (C.26:2H-1 et al.).

C.26:2H-81 Rules, regulations.

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

4. This act shall take effect on the 180th day after the date of enactment.

Approved April 24, 1997.

CHAPTER 79

AN ACT concerning certain mutual police and fire aid agreements and amending P.L.1976, c.45.

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

1. Section 1 of P.L.1976, c.45 (C.40A:14-156.1) is amended to read as follows:

C.40A:14-156.1 Mutual police, fire aid in emergency, agreements between municipalities; interstate authority.

1. The governing bodies of two or more municipalities may by reciprocal ordinances enter into agreements with each other for mutual police or fire aid in case of emergency. Such agreements may provide for:

a. The reimbursement of the municipality or municipalities rendering such aid, for any damage to police or fire equipment or other property, and for payment to any member of a police force or fire department and force or volunteer fire company for injuries sustained while serving pursuant to such agreements or to a surviving spouse or other dependent if death results;

b. A joint meeting of the municipalities entering into such agreements, for the selection of necessary officers or personnel, or for such other matters as are mutually deemed necessary; and

c. The acquisition of lands, and the establishment and maintenance of a central office. Real and personal property so acquired shall be held by such municipalities as tenants in common.

The governing body of a municipality may enter into an agreement with any authority created pursuant to an interstate compact for mutual police or fire aid in case of emergency. The agreement may contain provisions similar to the provisions in agreements between municipalities as provided above.

2. Section 2 of P.L.1976, c.45 (C.40A:14-156.2) is amended to read as follows:

C.40A:14-156.2 Members of police, fire department, volunteer fire company; powers, authority, immunity.

2. Members of a police force or fire department and force or volunteer fire company in any municipality entering into any agreement hereunder, while on duty rendering assistance to any other municipality or interstate authority created pursuant to an interstate compact entering into said agreement, shall have the same powers, authority and immunities as have the members of the police force or fire department and force or volunteer fire company, as the case may be, of the municipality in which such assistance is being rendered or of the authority for which such assistance is being rendered.

3. This act shall take effect immediately.

Approved April 24, 1997.

CHAPTER 80

AN ACT authorizing a "Charity Racing Day for the Horse Park of New Jersey and for the Care of Retired Horses," amending various parts of the statutory law, and repealing P.L.1992, c.113.

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

C.5:5-44.9 "Charity Racing Day for the Horse Park of New Jersey and for the Care of Retired Horses," designated.

1. a. The New Jersey Racing Commission shall designate one of the racing days authorized each year to a holder of a permit to hold or conduct a horse race meeting pursuant to P.L.1940, c.17 (C.5:5-22 et seq.) as "Charity Racing Day for the Horse Park of New Jersey and for the Care of Retired Horses" or shall allot to each such permit holder one additional racing day to be known as "Charity Racing Day for the Horse Park of New Jersey and for the Care of Retired Horses."

b. All moneys received by the commission as its share of the total contributions to all parimutuel pools conducted or made on the racing day designated or allotted pursuant to subsection a. of this section shall be deposited in a separate fund to be known as the Horse Park of New Jersey and the Care of Retired Horses Fund, which is hereby created in the Department of the Treasury. Fifty percent of the moneys in the fund shall be appropriated to the Department of Agriculture to be used as a grant to the

Horse Park of New Jersey, and 50% shall be appropriated to the Department of Agriculture for grants to organizations which care for retired racehorses.

2. Section 46 of P.L.1940, c.17 (C.5:5-66) is amended to read as follows:

C.5:5-66 Disposition of undistributed deposits.

46. Every permitholder engaged in the business of conducting horse race meetings under this act, except the New Jersey Sports and Exposition Authority established pursuant to P.L.1971, c.137 (C.5:10-1 et seq.) and the Garden State Racetrack as provided in section 5 of P.L.1982, c.201 (C.5:5-98), shall make disposition of the deposits remaining undistributed pursuant to section 44 as follows:

a. In the case of harness races:

(1) On a racing day designated or allotted as a charity racing day pursuant to P.L.1977, c.200 (C.5:5-44.2 et seq.), P.L.1993, c.15 (C.5:5-44.8), or section 1 of P.L.1997, c.80 (C.5:5-44.9), pay to the commission, at the time and in the manner prescribed by the commission, 1.25% of so much of the total contributions to all parimutuel pools conducted or made on any and every horse race, except that for pools where the patron is required to select two horses, the permitholder shall pay 2.25% of the total contributions and for pools where the patron is required to select three or more horses, the permitholder shall pay 5.25% of the total contributions;

(2) Hold and set aside in an account designated as a special trust account 1.15% of such total contributions in all pools, to be used and distributed as hereinafter provided and as provided in section 5 of P.L.1967, c.40, for the following purposes and no other:

(a) 37% thereof to increase purses and grant awards for starting horses, as provided or as may be provided by rules of the New Jersey Racing Commission, with payment to be made in the same manner as payment of other purses and awards;

(b) 55% thereof for the establishment of a Sire Stakes Program for standardbred horses, with payment to be made to the Department of Agriculture for administration as hereinbefore provided;

(c) 5% thereof for contributions and awards designed to improve and promote the standardbred breeding industry in New Jersey through payment of awards to owners and breeders of New Jersey bred horses which are registered with the Standardbred Breeders' and Owners' Association of New Jersey and which earn portions of purses in open events on New Jersey tracks, and to owners of stallions posted on the official stallion roster of the Standardbred Breeders' and Owners' Association of New Jersey, which sire such registered New Jersey bred money earners;

(d) 3% thereof for other New Jersey horse breeding and promotion conducted by the New Jersey Department of Agriculture.

(3) Retain 7.7875%, or in the case of races on a charity racing day 7.20%, of so much of such total contributions for his own uses and purposes. Notwithstanding the foregoing, for pools where the patron is required to select two horses, the permitholder shall retain 8.7575%, or in the case of races on a charity racing day 7.70%, of the total contributions and for pools where the patron is required to select three or more horses, the permitholder shall retain 11.6675%, or in the case of races on a charity racing day 9.20%, of the total contributions. Each permitholder shall contribute out of its 11.6675% or 9.20% share of pools, where the patron is required to select three or more horses, a sum deemed necessary by the racing commission, to finance a prerace blood testing program, and such other testing programs which the commission shall deem proper and necessary and which shall be subject to the regulation and control of said commission.

(4) Distribute as purse money and for programs designed to aid the horsemen and the Standardbred Breeders' and Owners' Association of New Jersey 7.69375%, or in the case of races on a charity racing day 7.40%, of such total contributions. Expenditures for programs designed to aid the horsemen and the Standardbred Breeders' and Owners' Association of New Jersey shall not exceed 3.2% of the sum available for distribution as purse money. The formula for distribution of the purse money as either overnight purses or special stakes shall be determined by an agreement between the Standardbred Breeders' and Owners' Association of New Jersey and the tracks. Notwithstanding the foregoing, for pools where the patron is required to select two or more horses, the permitholder shall distribute as purse money 8.42875%, or in the case of races on a charity racing day 7.90%, of the total contributions and for pools where the patron is required to select three or more horses, the permitholder shall distribute as purse money 10.63375%, or in the case of races on a charity racing day 9.40%, of the total contributions. Notwithstanding the foregoing, for pools where a patron is required to select three or more horses, each permitholder shall retain out of the 10.63375% or 9.40% to be distributed as purse money a sum deemed necessary by the racing commission, for use by the commission to finance a prerace blood testing program, and such other testing programs which the commission shall deem proper and necessary and which shall be subject to the regulation and control of said commission.

(5) In the case of races on a racing day other than a charity racing day, distribute to the Standardbred Breeders' and Owners' Association of New Jersey for the administration of a health benefits program for horsemen .29375% of such total contributions, except that for pools where the patron

is required to select two or more horses, the amount shall be .52875%, and for pools where the patron is required to select three or more horses, the amount shall be 1.23375%.

(6) In the case of races on a racing day other than a charity racing day, distribute to the Sire Stakes Program for standardbred horses .05% of such total contributions, except that for pools where the patron is required to select two or more horses, the amount shall be .09%, and for pools where the patron is required to select three or more horses, the amount shall be .21%.

(7) In the case of races on a racing day other than a charity racing day, distribute to the Backstretch Benevolency Programs Fund created pursuant to P.L.1993, c.15 (C.5:5-44.8) .025% of such total contributions, except that for pools where the patron is required to select two or more horses, the amount shall be .045%, and for pools where the patron is required to select three or more horses, the amount shall be .105%.

Except as otherwise provided by law, no admission or amusement tax, excise tax, license or horse racing fee of any kind shall be assessed or collected from any permitholder by the State of New Jersey, or by any county or municipality, or by any other body having power to assess or collect license fees or taxes.

b. In the case of running races:

(1) Where the amount derived from the parimutuel handle, excluding the handle derived from intertrack wagering, does not exceed $1 million per day based on such contributions accumulated and averaged during the calendar year, the permitholder shall:

(a) On a racing day designated or allotted as a charity racing day pursuant to P.L.1977, c.200 (C.5:5-44.2 et seq.), P.L.1993, c.15 (C.5:5-44.8), or section 1 of P.L.1997, c.80 (C.5:5-44.9), pay to the commission, at the time and in the manner prescribed by the commission, .30% of so much of the total contributions to all parimutuel pools conducted or made on any and every horse race, except that for pools where the patron is required to select three or more horses, the permitholder shall pay 1.30% of the total contributions.

(b) Hold and set aside in an account designated as a special trust account 5% of 1% of such total contributions to be used and distributed for State horse breeding and development programs, research, fairs, horse shows, youth activities, promotion and administration, as provided in section 5 of P.L.1967, c.40 (C.5:5-88).

(c) Retain 9.991%, or in the case of races on a charity racing day 9.85%, of such total contributions for his own uses and purposes. For pools where the patron is required to select two horses, the permitholder shall retain 11.061%, or in the case of races on a charity racing day 10.92%, of the total

contributions and for pools where the patron is required to select three or more horses, the permitholder shall retain 13.941%, or in the case of races on a charity racing day 13.33%, of the total contributions. Each permitholder shall contribute out of its 13.941% or 13.33% share of pools, where the patron is required to select three or more horses, a sum deemed necessary by the racing commission, to finance a prerace blood testing program, and such other testing programs which the commission shall deem proper and necessary and which shall be subject to the regulation and control of the commission.

(d) Distribute as purse money and for programs designed to aid the horsemen and the New Jersey Thoroughbred Horseman's Benevolent Association 6.141%, or in the case of races on a charity racing day 6.00%, of such contributions. Notwithstanding the foregoing, for pools where the patron is required to select two horses, the permitholder shall distribute as purse money 7.071%, or in the case of races on a charity racing day 6.93%, of such contributions and for pools where the patron is required to select three or more horses, the permitholder shall distribute as purse money 9.631%, or in the case of races on a charity racing day 9.02%, of the total contributions. Expenditures for programs designed to aid the horsemen and the New Jersey Thoroughbred Horseman's Benevolent Association shall not exceed 2.5% of the sum available for distribution as purse money from all parimutuel pools. The formula for distribution of the purse money as either overnight purses or special stakes shall be determined by an agreement between the New Jersey Thoroughbred Horseman's Benevolent Association and the permitholder. Notwithstanding the foregoing, for pools where a patron is required to select three or more horses, each permitholder shall retain out of the 9.631% or 9.02% to be distributed as purse money a sum deemed necessary by the racing commission, for use by the commission to finance a prerace blood testing program, and such other testing programs which the commission shall deem proper and necessary and which shall be subject to the regulation and control of the commission.

(e) 80% of 1% of all pools shall be deducted and set aside in a special trust account for the establishment and support by the commission of the thoroughbred breeding industry in New Jersey; to improve purses for closed races; to provide awards for owners and breeders of registered New Jersey bred horses who earn portions of purses in open and closed races at New Jersey race tracks and to owners of stallions posted on the official stallion roster of the Thoroughbred Breeders' Association of New Jersey, which sire such New Jersey bred money earners and awards to the New Jersey Thoroughbred Breeders' Association for programs beneficial to thoroughbred breeding in this State. The New Jersey thoroughbred award program shall be administered and disbursed by the Thoroughbred Breeders'

Association of New Jersey subject to the approval of the commission. The special trust account to be established pursuant to this paragraph shall be separate and apart from the special trust account established and maintained pursuant to subparagraph (b) of this paragraph.

(f) (Deleted by amendment, P.L.1986, c.19.)

(g) In the case of races on a racing day other than a charity racing day, distribute to the Thoroughbred Breeders' Association of New Jersey .012% of such total contributions, except that for pools where the patron is required to select three or more horses, the amount shall be .052%.

(h) In the case of races on a racing day other than a charity racing day, distribute to the Backstretch Benevolency Programs Fund created pursuant to P.L.1993, c.15 (C.5:5-44.8) .006% of such total contributions, except that for pools where the patron is required to select three or more horses, the amount shall be .026%.

(i) Notwithstanding the foregoing, for pools where a patron is required to select three or more horses, 50% of 1% of the total contributions shall be held and set aside in the special trust account referred to in subparagraph (e) of this paragraph.

(j) Except as otherwise provided by law, no admission or amusement tax, excise tax, license or horse racing fee of any kind shall be assessed or collected from any permitholder by the State of New Jersey, or by any county or municipality, or by any other body having power to assess or collect license fees or taxes.

(2) Where the amount derived from the parimutuel handle, excluding the handle derived from intertrack wagering, exceeds $1 million per day based on such contributions accumulated and averaged during the calendar year, the permitholder shall:

(a) On a racing day designated or allotted as a charity racing day pursuant to P.L.1977, c.200 (C.5:5-44.2 et seq.), P.L.1993, c.15 (C.5:5-44.8), or section 1 of P.L.1997, c.80 (C.5:5-44.9), pay to the commission, at the time and in the manner prescribed by the commission, .50% of so much of the total contributions to all parimutuel pools conducted or made on any and every horse race.

(b) Hold and set aside in an account designated as a special trust account 5% of 1% of such total contributions to be used and distributed for State horse breeding and development programs, research, fairs, horse shows, youth activities, promotion and administration, as provided in section 5 of P.L.1967, c.40 (C.5:5-88).

(c) Retain 9.305%, or in the case of races on a charity racing day 9.07%, of such total contributions for his own uses and purposes. For pools where the patron is required to select two horses, the permitholder shall retain 10.375%, or in the case of races on a charity racing day 10.14%, of the total

contributions and for pools where the patron is required to select three or more horses, the permitholder shall retain 13.545%, or in the case of races on a charity racing day 13.31%, of the total contributions. Each permitholder shall contribute out of its 13.545% or 13.31% share of pools, where the patron is required to select three or more horses, a sum deemed necessary by the racing commission, to finance a prerace blood testing program, and such other testing programs which the commission shall deem proper and necessary and which shall be subject to the regulation and control of the commission.

(d) Distribute as purse money and for programs designed to aid the horsemen and the New Jersey Thoroughbred Horseman's Benevolent Association 6.815%, or in the case of races on a charity racing day 6.58%, of such contributions. Notwithstanding the foregoing, for pools where the patron is required to select two horses, the permitholder shall distribute as purse money 7.745%, or in the case of races on a charity racing day 7.51%, of such contributions and for pools where the patron is required to select three or more horses, the permitholder shall distribute as purse money 10.085%, or in the case of races on a charity racing day 9.85%, of the total contributions. Expenditures for programs designed to aid the horsemen and the New Jersey Thoroughbred Horseman's Benevolent Association shall not exceed 2.5% of the sum available for distribution as purse money from all parimutuel pools. The formula for distribution of the purse money as either overnight purses or special stakes shall be determined by an agreement between the New Jersey Thoroughbred Horseman's Benevolent Association and the permitholder. Notwithstanding the foregoing, for pools where a patron is required to select three or more horses, each permitholder shall retain out of the 10.085% or 9.85% to be distributed as purse money a sum deemed necessary by the racing commission, for use by the commission to finance a prerace blood testing program, and such other testing programs which the commission shall deem proper and necessary and which shall be subject to the regulation and control of the commission.

(e) 80% of 1% of all pools shall be deducted and set aside in a special trust account for the establishment and support by the commission of the thoroughbred breeding industry in New Jersey; to improve purses for closed races; to provide awards for owners and breeders of registered New Jersey bred horses who earn portions of purses in open and closed races at New Jersey race tracks and to owners of stallions posted on the official stallion roster of the Thoroughbred Breeders' Association of New Jersey, which sire such New Jersey bred money earners and awards to New Jersey thoroughbred breeders' associations for programs beneficial to thoroughbred breeding in this State. The New Jersey thoroughbred award program shall be administered and disbursed by the Thoroughbred Breeders' Association

of New Jersey subject to the approval of the commission. The special trust account to be established pursuant to this paragraph shall be separate and apart from the special trust account established and maintained pursuant to subparagraph (b) of this paragraph.

(f) (Deleted by amendment, P.L.1986, c.19.)

(g) In the case of races on a racing day other than a charity racing day, distribute to the Thoroughbred Breeders' Association of New Jersey .02% of such total contributions.

(h) In the case of races on a racing day other than a charity racing day, distribute to the Backstretch Benevolency Programs Fund created pursuant to P.L.1993, c.15 (C.5:5-44.8) .01% of such total contributions.

(i) Notwithstanding the foregoing, for pools where a patron is required to select three or more horses, 49% of 1% of the total contributions shall be held and set aside in the special trust account referred to in subparagraph (e) of this paragraph.

(j) Except as otherwise provided by law, no admission or amusement tax, excise tax, license or horse racing fee of any kind shall be assessed or collected from any permitholder by the State of New Jersey, or by any county or municipality, or by any other body having power to assess or collect license fees or taxes.

3. Section 2 of P.L.1984, c.236 (C.5:5-66.1) is amended to read as follows:

C.5:5-66.1 Undistributed deposits.

2. Notwithstanding the provisions of section 46 of P.L.1940, c.17 (C.5:5-66) or any other law to the contrary, a holder of a permit to conduct harness race meetings who operates a racetrack at which harness race meetings were conducted during calendar year 1984 but which were suspended for 30 days or more during that calendar year because of fire, and a holder of a permit to conduct harness race meetings who conducted harness race meetings at the aforementioned racetrack during 1984 and who continues to conduct harness race meetings at that racetrack, shall make disposition of the deposits remaining undistributed pursuant to section 1 of this act as follows:

a. On a racing day designated or allotted as a charity racing day pursuant to P.L.1977, c.200 (C.5:5-44.2 et seq.), P.L.1993, c.15 (C.5:5-44.8), or section 1 of P.L.1997, c.80 (C.5:5-44.9), pay to the commission, at the time and in the manner prescribed by the commission, .50% of so much of the total contributions to all parimutuel pools conducted or made on any and every horse race;

b. Hold and set aside in an account designated as a special trust account 1.15% of such total contributions in all pools to be used and distributed as

hereinafter provided and as provided in section 5 of P.L.1967, c.40, for the following purposes and no other:

(1) 37% thereof to increase purses and grant awards for starting horses as provided or as may be provided by rules of the New Jersey Racing Commission with payment to be made in the same manner as payment of other purses and awards;

(2) 55% thereof for the establishment of a Sire Stakes Program for standardbred horses with payment to be made to the Department of Agriculture for administration as hereinbefore provided;

(3) 5% thereof for contributions and awards designed to improve and promote the standardbred breeding industry in New Jersey through payment of awards to owners and breeders of New Jersey bred horses which are registered with the Standardbred Breeders' and Owners' Association of New Jersey and which earn portions of purses in open events on New Jersey tracks, and to owners of stallions posted on the official stallions roster of the Standardbred Breeders' and Owners' Association of New Jersey which sire such registered New Jersey bred money earners;

(4) 3% thereof for other New Jersey horse breeding and promotion conducted by the New Jersey Department of Agriculture.

c. Retain 7.935%, or in the case of races on a charity racing day 7.70%, of so much of such total contributions for his own uses and purposes. Notwithstanding the foregoing, for pools where the patron is required to select two horses, the permitholder shall retain 8.935%, or in the case of races on a charity racing day 8.70%, of the total contributions and for pools where the patron is required to select three or more horses, the permitholder shall retain 11.935%, or in the case of races on a charity racing day 11.70%, of the total contributions. The permitholder shall contribute out of its 11.935% or 11.70% share of pools, where the patron is required to select three or more horses, a sum deemed necessary by the Racing Commission, to finance a prerace blood testing program, and such other testing programs which the commission shall deem proper and necessary and which shall be subject to the regulation and control of the commission.

d. Distribute as purse money and for programs designed to aid the horsemen and the Standardbred Breeders' and Owners' Association of New Jersey 7.7675%, or in the case of races on a charity racing day 7.65%, of such total contributions. Expenditures for programs designed to aid the horsemen and the Standardbred Breeders' and Owners' Association of New Jersey shall not exceed 3.2% of the sum available for distribution as purse money. The formula for distribution of the purse money as either overnight purses or special stakes shall be determined by an agreement between the Standardbred Breeders' and Owners' Association of New Jersey and the tracks. Notwithstanding the foregoing, for pools where the patron is

required to select two or more horses, the permitholder shall distribute as purse money 8.7675%, or in the case of races on a charity racing day 8.65%, of the total contributions and for pools where the patron is required to select three or more horses, the permitholder shall distribute as purse money 11.7675%, or in the case of races on a charity racing day 11.65%, of the total contributions. Notwithstanding the foregoing, for pools where a patron is required to select three or more horses, the permitholder shall retain out of the 11.7675% or 11.65% to be distributed as purse money, a sum deemed necessary by the racing commission, for use by the commission to finance a prerace blood testing program, and such other testing programs which the commission shall deem proper and necessary and which shall be subject to the regulation and control of the commission.

e. In the case of races on a racing day other than a charity racing day, distribute to the Standardbred Breeders' and Owners' Association of New Jersey for the administration of a health benefits program for horsemen .1175% of such total contributions.

f. In the case of races on a racing day other than a charity racing day, distribute to the Sire Stakes Program for standardbred horses .02% of such total contributions.

g. In the case of races on a racing day other than a charity racing day, distribute to the Backstretch Benevolency Programs Fund created pursuant to P.L.1993, c.15 (C.5:5-44.8) .01% of such total contributions.

Except as otherwise provided by law, no admission or amusement tax, excise tax, license or horse racing fee of any kind shall be assessed or collected from the permitholder by the State of New Jersey, or by any county or municipality, or by any other body having power to assess or collect license fees or taxes.

4. Section 5 of P.L.1982, c.201 (C.5:5-98) is amended to read as follows:

C.5:5-98 Garden State Racetrack.

5. The permitholder shall distribute the sums deposited in parimutuel pools to winners thereof in accordance with section 44 of P.L.1940, c.17 (C.5:5-64) and shall dispose of the deposits remaining undistributed as follows:

a. In the case of harness races:

(1) Hold and set aside in an account designated as a special trust account 1% of such total contributions in all pools, to be used and distributed as hereinafter provided and as provided in section 5 of P.L.1967, c.40 (C.5:5-88), for the following purposes and no other:

(a) 42 1/2% thereof to increase purses and grant awards for starting horses, as provided or as may be provided by rules of the New Jersey

Racing Commission, with payment to be made in the same manner as payment of other purses and awards;

(b) 49% thereof for the establishment of a Sire Stakes Program for standardbred horses, with payment to be made to the Department of Agriculture for administration as provided;

(c) 5 1/2% thereof for contributions and awards designed to improve and promote the standardbred breeding industry in New Jersey through payment of awards to owners and breeders of New Jersey bred horses, which are registered with the Standardbred Breeders' and Owners' Association of New Jersey and which earn portions of purses in open events on New Jersey tracks, and to owners of stallions posted on the official stallion roster of the Standardbred Breeders' and Owners' Association of New Jersey, which sire such registered New Jersey bred money earners;

(d) 3% thereof for other New Jersey horse breeding and promotion conducted by the New Jersey Department of Agriculture.

Payment of the sums held and set aside pursuant to subparagraphs (c) and (d) shall be made to the commission every seventh day of any and every race meeting in the amount then due, as determined in the manner provided above, and shall be accompanied by a report under oath showing the total of all such contributions, together with such other information as the commission may require.

(2) Distribute as purse money and for programs designed to aid the horsemen and the Standardbred Breeders' and Owners' Association of New Jersey 5.1175%, or in the case of races on a charity racing day 5%, of such total contributions. Expenditures for programs designed to aid the horsemen and the Standardbred Breeders' and Owners' Association of New Jersey shall not exceed 3.5% of the sum available for distribution as purse money. The formula for distribution of the purse money as either overnight purses or special stakes shall be determined by an agreement between the Standardbred Breeders' and Owners' Association of New Jersey and the permitholder. Notwithstanding the foregoing, for pools where the patron is required to select two or more horses, the permitholder shall distribute as purse money 5.6175%, or in the case of races on a charity racing day 5.5%, of the total contributions and for pools where the patron is required to select three or more horses, the permitholder shall distribute as purse money 7.1175%, or in the case of races on a charity racing day 7%, of the total contributions. Notwithstanding the foregoing, for pools where a patron is required to select three or more horses, the permitholder shall retain out of the 7.1175% or 7% to be distributed as purse money a sum deemed necessary by the racing commission, for use by the commission to finance a prerace blood testing program, and such other testing programs which the

commission shall deem proper and necessary and which shall be subject to the regulation and control of the commission.

(3) In the case of races on a racing day other than a charity racing day, distribute to the Standardbred Breeders' and Owners' Association of New Jersey for the administration of a health benefits program for horsemen .1175% of such total contributions.

(4) In the case of races on a racing day other than a charity racing day, distribute to the Sire Stakes Program for standardbred horses .02% of such total contributions.

(5) In the case of races on a racing day other than a charity racing day, distribute to the Backstretch Benevolency Programs Fund created pursuant to P.L.1993, c.15 (C.5:5-44.8) .01% of such total contributions.

b. In the case of running races:

(1) Hold and set aside in an account designated as a special trust account 5% of 1% of such total contributions, to be used and distributed for State horse breeding and development programs, research, fairs, horse shows, youth activities, promotion and administration, as provided in section 5 of P.L.1967, c.40 (C.5:5-88).

(2) Distribute as purse money and for programs designed to aid the horsemen and the New Jersey Thoroughbred Horseman's Benevolent Association 4.475%, or in the case of races on a charity racing day 4.24%, of such total contributions. Expenditures for programs designed to aid the horsemen and the New Jersey Thoroughbred Horseman's Benevolent Association shall not exceed 2.9% of the sum available for distribution as purse money. The formula for distribution of the purse money as either overnight purses or special stakes shall be determined by an agreement between the New Jersey Thoroughbred Horseman's Benevolent Association and the permitholder. Notwithstanding the foregoing, for pools where the patron is required to select three or more horses, the permitholder shall distribute as purse money 7.475%, or in the case of races on a charity racing day 7.24%, of the total contributions.

(3) 60% of 1% of all pools shall be deducted and set aside in the special trust account established pursuant to section 46b.(1)(e) and 46b.(2)(e) of P.L.1940, c.17 (C.5:5-66). The commission may, however, reduce this amount for a period of time to be determined by the commission upon a request by the permitholder and a determination by the commission that the payment of that amount would cause extreme financial hardship for the permitholder. In no event shall the commission reduce the amount to less than 10% of 1% of total contributions to all parimutuel pools at running race meetings at the racetrack. The permitholder may request an extension of the period of reduction or a further reduction or, subsequent to any restoration of the amount specified above, another reduction.

(4) In the case of races on a racing day other than a charity racing day, distribute to the Thoroughbred Breeders' Association of New Jersey .02% of such total contributions.

(5) In the case of races on a racing day other than a charity racing day, distribute to the Backstretch Benevolency Programs Fund created pursuant to P.L.1993, c.15 (C.5:5-44.8) .01% of such total contributions.

For pools where a patron is required to select three or more horses, 50% of 1% of the total contributions shall be held and set aside in the special trust account established pursuant to section 46b.(1)(e) and 46b.(2)(e) of P.L.1940, c.17 (C.5:5-66).

Payment of the sums held and set aside pursuant to paragraphs (1) and (3) of this subsection shall be made to the commission every seventh day of any and every race meeting in the amount then due, as determined in the manner provided above, and shall be accompanied by a report under oath showing the total of all such contributions, together with such other information as the commission may require.

In addition to the amounts above, in the case of races on a racing day designated or allotted as a charity racing day pursuant to P.L.1977, c.200 (C.5:5-44.2 et seq.), P.L.1993, c.15 (C.5:5-44.8), or section 1 of P.L.1997, c.80 (C.5:5-44.9), an amount equal to 1/2 of 1% of all parimutuel pools shall be paid to the commission at the time and in the manner prescribed by the commission.

All amounts remaining in parimutuel pools, including the breaks, after the distribution and payments required by this section shall constitute revenues of the permitholder. Except as otherwise provided in this section, the permitholder shall not be required to make any payments to the commission or others in connection with contributions to parimutuel pools.

5. Section 7 of P.L.1971, c.137 (C.5:10-7) is amended to read as follows:

C.5:10-7 Authority race permit.

7. a. The authority is hereby authorized, licensed and empowered to apply to the Racing Commission for a permit or permits to hold and conduct, at any of the projects set forth in paragraphs (1) and (5) of subsection a. of section 6 of P.L.1971, c.137 (C.5:10-6), horse race meetings for stake, purse or reward, and to provide a place or places on the race meeting grounds or enclosure for wagering by patrons on the results of such horse races by the parimutuel system, and to receive charges and collect all revenues, receipts and other sums from the ownership and operation thereof; provided that only the authority through its employees shall conduct such horse race meetings and wagering and the authority is

expressly prohibited from placing in the control of any other person, firm or corporation the conduct of such horse race meetings, or wagering.

b. Except as otherwise provided in this section, such horse race meetings and parimutuel wagering shall be conducted by the authority in the manner and subject to compliance with the standards set forth in P.L.1940, c.17 (C.5:5-22 et seq.) and the rules, regulations and conditions prescribed by the Racing Commission thereunder for the conduct of horse race meetings and for parimutuel betting at such meetings.

c. Application for said permit or permits shall be on such forms and shall include such accompanying data as the Racing Commission shall prescribe for other applicants. The Racing Commission shall proceed to review and act on any such application within 30 days after its filing and the Racing Commission is authorized in its sole discretion to determine whether a permit shall be granted to the authority. If, after such review, the Racing Commission acts favorably on such application, a permit shall be granted to the authority without any further approval and shall remain in force and effect so long as any bonds or notes of the authority remain outstanding, the provisions of any other law to the contrary notwithstanding. In granting a permit to the authority to conduct a horse race meeting, the Racing Commission shall not be subject to any limitation as to the number of tracks authorized for the conduct of horse race meetings pursuant to any provision of P.L.1940, c.17 (C.5:5-22 et seq.). Said permit shall set forth the dates to be allotted to the authority for its initial horse race meetings. Thereafter application for dates for horse race meetings by the authority and the allotment thereof by the Racing Commission, including the renewal of the same dates theretofore allotted, shall be governed by the applicable provisions of P.L.1940, c.17 (C.5:5-22 et seq.). Notwithstanding the provisions of any other law to the contrary, the Racing Commission shall allot annually to the authority (1) for the Meadowlands Complex, in the case of harness racing, not less than 100 racing days, and in the case of running racing, not less than 56 racing days, if and to the extent that application is made therefor, and (2) for any other project which is set forth in paragraph (5) of subsection a. of section 6 of P.L.1971, c.137 (C.5:10-6), and which was previously operated by a permitholder other than the authority, racing days shall be limited, in type of racing and amount of days, to those allotted by the Racing Commission to the prior permitholder for the year 1985, as of December 13, 1984; except that the authority may apply to the Racing Commission for an extension of the number and type of racing days pursuant to section 2 of P.L.1984, c.247 (C.5:5-43.1).

d. No hearing, referendum or other election or proceeding, and no payment, surety or cash bond or other deposit, shall be required for the

authority to hold or conduct the horse race meetings with parimutuel wagering herein authorized.

e. The authority shall determine the amount of the admission fee for the races and all matters relating to the collection thereof.

f. Distribution of sums deposited in parimutuel pools to winners thereof shall be in accordance with the provisions of section 44 of P.L.1940, c.17 (C.5:5-64) pertaining thereto. The authority shall make disposition of the deposits remaining undistributed as follows:

(1) In the case of harness races:

(a) Hold and set aside in an account designated as a special trust account 1% of such total contributions in all pools, to be used and distributed as hereinafter provided and as provided in section 5 of P.L.1967, c.40, for the following purposes and no other:

(i) 42 1/2% thereof to increase purses and grant awards for starting horses, as provided or as may be provided by rules of the New Jersey Racing Commission, with payment to be made in the same manner as payment of other purses and awards;

(ii) 49% thereof for the establishment of a Sire Stakes Program for standardbred horses, with payment to be made to the Department of Agriculture for administration as hereinbefore provided;

(iii) 5 1/2% thereof for contributions and awards designed to improve and promote the standardbred breeding industry in New Jersey through payment of awards to owners and breeders of New Jersey bred horses, which are registered with the Standardbred Breeders' and Owners' Association of New Jersey and which earn portions of purses in open events on New Jersey tracks, and to owners of stallions posted on the official stallion roster of the Standardbred Breeders' and Owners' Association of New Jersey, which sire such registered New Jersey bred money earners;

(iv) 3% thereof for other New Jersey horse breeding and promotion conducted by the New Jersey Department of Agriculture.

Payment of the sums held and set aside pursuant to subparagraphs (iii) and (iv) shall be made to the commission every seventh day of any and every race meeting in the amount then due, as determined in the manner provided above, and shall be accompanied by a report under oath showing the total of all such contributions, together with such other information as the commission may require.

(b) Distribute as purse money and for programs designed to aid the horsemen and the Standardbred Breeders' and Owners' Association of New Jersey 5.1175%, or in the case of races on a charity racing day 5%, of such total contributions. Expenditures for programs designed to aid the horsemen and the Standardbred Breeders' and Owners' Association of New Jersey shall not exceed 3.5% of the sum available for distribution as purse

money. The formula for distribution of the purse money as either overnight purses or special stakes shall be determined by an agreement between the Standardbred Breeders' and Owners' Association of New Jersey and the authority. Notwithstanding the foregoing, for pools where the patron is required to select two or more horses, the authority shall distribute as purse money 5.6175%, or in the case of races on a charity racing day 5.5%, of the total contributions and for pools where the patron is required to select three or more horses, the authority shall distribute as purse money 7.1175%, or in the case of races on a charity racing day 7%, of the total contributions. Notwithstanding the foregoing, for pools where a patron is required to select three or more horses, the authority shall retain out of the 7.1175% or 7% to be distributed as purse money a sum deemed necessary by the racing commission, for use by the commission to finance a prerace blood testing program, and such other testing programs which the commission shall deem proper and necessary and which shall be subject to the regulation and control of said commission.

(c) In the case of races on a racing day other than a charity racing day, distribute to the Standardbred Breeders' and Owners' Association of New Jersey for the administration of a health benefits program for horsemen .1175% of such total contributions.

(d) In the case of races on a racing day other than a charity racing day, distribute to the Sire Stakes Program for standardbred horses .02% of such total contributions.

(e) In the case of races on a racing day other than a charity racing day, distribute to the Backstretch Benevolency Programs Fund created pursuant to P.L.1993, c.15 (C.5:5-44.8) .01% of such total contributions.

(2) In the case of running races:

(a) Hold and set aside in an account designated as a special trust account 5% of 1% of such total contributions, to be used and distributed for State horse breeding and development programs, research, fairs, horse shows, youth activities, promotion and administration, as provided in section 5 of P.L.1967, c.40 (C.5:5-88).

(b) Distribute as purse money and for programs designed to aid the horsemen and the New Jersey Thoroughbred Horseman's Benevolent Association 4.475%, or in the case of races on a charity racing day 4.24%, of such total contributions. Expenditures for programs designed to aid the horsemen and the New Jersey Thoroughbred Horseman's Benevolent Association shall not exceed 2.9% of the sum available for distribution as purse money. The formula for distribution of the purse money as either overnight purses or special stakes shall be determined by an agreement between the New Jersey Thoroughbred Horseman's Benevolent Association and the authority. Notwithstanding the foregoing, for pools where the

patron is required to select three or more horses, the authority shall distribute as purse money 7.475%, or in the case of races on a charity racing day 7.24%, of the total contributions.

(c) 10% of 1% of all pools shall be deducted and set aside in the special trust account established pursuant to section 46b.(1)(e) and 46b.(2)(e) of P.L.1940, c.17 (C.5:5-66).

(d) In the case of races on a racing day other than a charity racing day, distribute to the Thoroughbred Breeders' Association of New Jersey .02% of such total contributions.

(e) In the case of races on a racing day other than a charity racing day, distribute to the Backstretch Benevolency Programs Fund created pursuant to P.L.1993, c.15 (C.5:5-44.8) .01% of such total contributions.

For pools where a patron is required to select three or more horses, 50% of 1% of the total contributions shall be held and set aside in that special trust account.

Payment of the sums held and set aside pursuant to subparagraphs (a) and (c) of this subsection shall be made to the commission every seventh day of any and every race meeting in the amount then due, as determined in the manner provided above, and shall be accompanied by a report under oath showing the total of all such contributions, together with such other information as the commission may require.

In addition to the amounts above, in the case of races on a racing day designated or allotted as a charity racing day pursuant to P.L.1977, c.200 (C.5:5-44.2 et seq.), P.L.1993, c.15 (C.5:5-44.8), or section 1 of P.L.1997, c.80 (C.5:5-44.9), an amount equal to 1/2 of 1% of all parimutuel pools shall be paid to the commission at the time and in the manner prescribed by the commission.

All amounts remaining in parimutuel pools, including the breaks, after such distribution and payments shall constitute revenues of the authority. Except as otherwise expressly provided in this section 7, the authority shall not be required to make any payments to the Racing Commission or others in connection with contributions to parimutuel pools.

In the event that a written agreement between the authority and the respective horsemen's associations shall require the distribution of additional sums of money to increase purses or contributions to the special trust accounts hereinabove provided, or both, any such distribution to be made in the year 1981 shall be made by the authority only from, and to the extent of, available moneys from the preceding year set aside for such purpose, after application of the authority's revenues, moneys or other funds as provided in subsection c.(1), (2), (3), (4), (5), (6) and (7) of section 6 of P.L.1971, c.137 (C.5:10-6).

g. All sums held by the authority for payment of outstanding parimutuel tickets not claimed by the person or persons entitled thereto within the time provided by law shall be paid upon the expiration of such time, without further obligation to such ticketholder, as follows:

(1) In the case of running and harness races, beginning July 1, 1997 50% of those sums shall be paid to the Racing Commission for deposit in the general fund of the State and disposition in accordance with section 4 of P.L.1997, c.29 (C.5:5-68.1);

(2) In the case of running races, 50% of those sums shall be paid to the commission and set aside in the special trust account established pursuant to section 46b.(1)(e) and section 46b.(2)(e) of P.L.1940, c.17 (C.5:5-66); and

(3) In the case of harness races, 25% of those sums shall be retained by the permitholder to supplement purses for sire stakes races on which there is parimutuel wagering, and 25% shall be retained by the permitholder to supplement overnight purses.

h. No admission or amusement tax, excise tax, license or horse racing fee of any kind shall be assessed or collected from the authority by the State of New Jersey, or by any county or municipality, or by any other body having power to assess or collect license fees or taxes.

i. Any horse race meeting and the parimutuel system of wagering upon the results of horse races held at such race meeting shall not under any circumstances, if conducted as provided in the act and in conformity thereto, be held or construed to be unlawful, other statutes of the State to the contrary notwithstanding.

j. Each employee of the authority engaged in the conducting of horse race meetings shall obtain the appropriate license from the Racing Commission, subject to the same terms and conditions as is required of similar employees of other permitholders. The Racing Commission may suspend any member of the authority upon approval of the Governor and the license of any employee of the authority in connection with the conducting of horse race meetings, pending a hearing by the Racing Commission, for any violation of the New Jersey laws regulating horse racing or any rule or regulation of the commission. Such hearing shall be held and conducted in the manner provided in said laws.

Repealer.

6. P.L.1992, c.113 (C.5:5-44.7) is repealed.

7. This act shall take effect on July 1, 1998.

Approved April 24, 1997.

CHAPTER 81

AN ACT concerning the establishing of specialized county rehabilitative programs for certain juvenile offenders, supplementing chapter 8 of Title 30 of the Revised Statutes and P.L.1970, c.13 (C.5:9-1 et seq.), and amending P.L.1982, c.77.

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

C.30:8-61 Short title.

1. This act shall be known and may be cited as the "Juvenile Offender Rehabilitation Act."

C.30:8-62 Findings, declarations relative to county rehabilitative programs for juvenile offenders.

2. The Legislature finds that specialized rehabilitation programs which utilize proven military techniques of regimentation and structured discipline have been shown to develop positive attitudes and behavior traits in juvenile offenders; such programs foster self-control, self-respect, and dramatically improve a juvenile offender's potential for rehabilitation and re-integration into the community; and, by complementing that regimen and structure with education, vocational training, counseling, and aftercare services, such a program can significantly reduce recidivism among juvenile offenders.

The Legislature, therefore, declares that the counties of this State should be authorized to establish and maintain specialized rehabilitation programs for juvenile offenders; these specialized programs should be designed as short-term incarcerations during which the juvenile offender is exposed to a highly structured routine of discipline, intensive regimentation, exercise and work therapy, together with substance abuse treatment, self-improvement counseling, and educational and vocational training; and following the term of incarceration, the program should provide a period of intensive aftercare supervision or mentoring for the juvenile offender.

C.30:8-63 Definitions relative to juvenile offender rehabilitation programs.

3. As used in this act:

"Commission" means the Juvenile Justice Commission established pursuant to section 2 of P.L.1995, c.284 (C.52:17B-170).

"Juvenile offender" means a person under the age of 18 who has been adjudicated delinquent for an act which, if committed by an adult, would constitute a crime of the third or fourth degree, excluding an adjudication for any act which would constitute a crime under chapter 14 of Title 2C of the New Jersey Statutes.

C.30:8-64 Establishment, maintenance of juvenile offender rehabilitation program by counties.

4. a. The governing body of any county, by resolution or ordinance, as appropriate, may establish and maintain a juvenile offender rehabilitation program.

b. The governing bodies of two or more counties, in accordance with the provisions of the "Interlocal Services Act," P.L.1973, c.208 (C.40:8A-1 et seq.), may establish and maintain a joint juvenile offender rehabilitation program.

C.30:8-65 Components of juvenile offender rehabilitation program.

5. A juvenile offender rehabilitation program established and maintained pursuant to this act shall consist of the following components:

a. A comprehensive, residential program for a minimum period of four weeks consisting of:

(1) Highly structured routines of discipline;

(2) Physical exercise;

(3) Work;

(4) Substance abuse counseling;

(5) Educational and vocational counseling; and

(6) Self-improvement and personal growth counseling stressing moral values and cognitive reasoning.

b. A six to nine month aftercare or mentoring program. The program, which may include a residential period, shall consist of counseling services and assistance, including, but not limited to: educational and vocational counseling and assistance; psychological counseling; substance abuse counseling and assistance; personal development and self-improvement counseling; and counseling and assistance relating to the juvenile's reintegration into his family and the community.

C.30:8-66 Admission to juvenile offender program.

6. Any juvenile offender who is serving a term of incarceration at a facility operated by the commission may:

a. request admission to the juvenile offender program maintained by the county wherein the juvenile offender resides; or

b. be offered admission to the juvenile offender program by the commission, if, following its assessment of the juvenile offender's record, the commission determines that the offender is an appropriate candidate for the program.

C.30:8-67 Noncompliance by juvenile offender.

7. If an offender fails to comply with the requirements of the juvenile offender program, the offender shall be placed in the custody of the commission to serve the remainder of the sentence originally imposed and

shall be eligible for parole pursuant to the provisions of P.L.1979, c.441 (C.30:4-123.45 et seq.). The offender shall not subsequently be eligible for re-admission at any time to any program established and maintained pursuant to the provisions of this act.

C.30:8-68 Determination of parole after program completion.

8. Notwithstanding any other provisions of law to the contrary concerning primary parole eligibility dates and parole release dates of juvenile inmates, whenever a person successfully completes a juvenile offender rehabilitation program established and maintained pursuant to this act, the sentencing judge shall determine whether that person shall be required to serve parole.

C.30:8-69 Juvenile not relieved from other penalties.

9. Nothing in this act shall be construed to exempt any person who is admitted to a juvenile offender program established and maintained pursuant to the provisions of this act from the payment of any fine, penalty, restitution or other financial obligation imposed by law or the court as a result of any adjudication.

C.5:9-22.3 County juvenile offender rehabilitation programs eligible for State aid.

10. For the purposes of P.L.1970, c.13 (C.5:9-1 et seq.), a juvenile offender rehabilitation program established and maintained pursuant to the provisions of P.L.1997, c.81 (C.30:8-61 et al.) shall be considered an education program eligible for State aid, to the extent permitted by law, from the net proceeds of any State lottery; provided, however, no such program, regardless of whether that program is established and maintained by one county or by two or more counties, shall receive in any fiscal year an amount of State aid under the provisions of this section more than either the actual cost of the program or $1,000,000, whichever is less.

11. Section 24 of P.L.1982, c.77 (C.2A:4A-43) is amended to read as follows:

C.2A:4A-43 Disposition of delinquency cases.

24. Disposition of delinquency cases. a. In determining the appropriate disposition for a juvenile adjudicated delinquent the court shall weigh the following factors:

(1) The nature and circumstances of the offense;

(2) The degree of injury to persons or damage to property caused by the juvenile's offense;

(3) The juvenile's age, previous record, prior social service received and out-of-home placement history;

(4) Whether the disposition supports family strength, responsibility and unity and the well-being and physical safety of the juvenile;

(5) Whether the disposition provides for reasonable participation by the child's parent, guardian, or custodian, provided, however, that the failure of a parent or parents to cooperate in the disposition shall not be weighed against the juvenile in arriving at an appropriate disposition;

(6) Whether the disposition recognizes and treats the unique physical, psychological and social characteristics and needs of the child;

(7) Whether the disposition contributes to the developmental needs of the child, including the academic and social needs of the child where the child has mental retardation or learning disabilities; and

(8) Any other circumstances related to the offense and the juvenile's social history as deemed appropriate by the court.

b. If a juvenile is adjudged delinquent, and except to the extent that an additional specific disposition is required pursuant to subsection e. or f. of this section, the court may order incarceration pursuant to section 25 of P.L.1982, c.77 (C.2A:4A-44) or any one or more of the following dispositions:

(1) Adjourn formal entry of disposition of the case for a period not to exceed 12 months for the purpose of determining whether the juvenile makes a satisfactory adjustment, and if during the period of continuance the juvenile makes such an adjustment, dismiss the complaint; provided that if the court adjourns formal entry of disposition of delinquency for a violation of an offense defined in chapter 35 or 36 of Title 2C of the New Jersey Statutes the court shall assess the mandatory penalty set forth in N.J.S.2C:35-15 but may waive imposition of the penalty set forth in N.J.S.2C:35-16 for juveniles adjudicated delinquent;

(2) Release the juvenile to the supervision of the juvenile's parent or guardian;

(3) Place the juvenile on probation to the chief probation officer of the county or to any other suitable person who agrees to accept the duty of probation supervision for a period not to exceed three years upon such written conditions as the court deems will aid rehabilitation of the juvenile;

(4) Transfer custody of the juvenile to any relative or other person determined by the court to be qualified to care for the juvenile;

(5) Place the juvenile under the care of the Department of Human Services under the responsibility of the Division of Youth and Family Services pursuant to P.L.1951, c.138 (C.30:4C-1 et seq.) for the purpose of providing services in or out of the home. Within 14 days, unless for good cause shown, but not later than 30 days, the Department of Human Services shall submit to the court a service plan, which shall be presumed valid, detailing the specifics of any disposition order. The plan shall be developed

within the limits of fiscal and other resources available to the department. If the court determines that the service plan is inappropriate, given existing resources, the department may request a hearing on that determination;

(6) Place the juvenile under the care and custody of the Commissioner of the Department of Human Services for the purpose of receiving the services of the Division of Developmental Disabilities of that department, provided that the juvenile has been determined to be eligible for those services under P.L.1965, c.59, s.16 (C.30:4-25.4);

(7) Commit the juvenile, pursuant to applicable laws and the Rules of Court governing civil commitment, to the Department of Human Services under the responsibility of the Division of Mental Health Services for the purpose of placement in a suitable public or private hospital or other residential facility for the treatment of persons who are mentally ill, on the ground that the juvenile is in need of involuntary commitment;

(8) Fine the juvenile an amount not to exceed the maximum provided by law for such a crime or offense if committed by an adult and which is consistent with the juvenile's income or ability to pay and financial responsibility to the juvenile's family, provided that the fine is specially adapted to the rehabilitation of the juvenile or to the deterrence of the type of crime or offense. If the fine is not paid due to financial limitations, the fine may be satisfied by requiring the juvenile to submit to any other appropriate disposition provided for in this section;

(9) Order the juvenile to make restitution to a person or entity who has suffered loss resulting from personal injuries or damage to property as a result of the offense for which the juvenile has been adjudicated delinquent. The court may determine the reasonable amount, terms and conditions of restitution. If the juvenile participated in the offense with other persons, the participants shall be jointly and severally responsible for the payment of restitution. The court shall not require a juvenile to make full or partial restitution if the juvenile reasonably satisfies the court that the juvenile does not have the means to make restitution and could not reasonably acquire the means to pay restitution;

(10) Order that the juvenile perform community services under the supervision of a probation division or other agency or individual deemed appropriate by the court. Such services shall be compulsory and reasonable in terms of nature and duration. Such services may be performed without compensation, provided that any money earned by the juvenile from the performance of community services may be applied towards any payment of restitution or fine which the court has ordered the juvenile to pay;

(11) Order that the juvenile participate in work programs which are designed to provide job skills and specific employment training to enhance the employability of job participants. Such programs may be without

compensation, provided that any money earned by the juvenile from participation in a work program may be applied towards any payment of restitution or fine which the court has ordered the juvenile to pay;

(12) Order that the juvenile participate in programs emphasizing self-reliance, such as intensive outdoor programs teaching survival skills, including but not limited to camping, hiking and other appropriate activities;

(13) Order that the juvenile participate in a program of academic or vocational education or counseling, such as a youth service bureau, requiring attendance at sessions designed to afford access to opportunities for normal growth and development. This may require attendance after school, evenings and weekends;

(14) Place the juvenile in a suitable residential or nonresidential program for the treatment of alcohol or narcotic abuse, provided that the juvenile has been determined to be in need of such services;

(15) Order the parent or guardian of the juvenile to participate in appropriate programs or services when the court has found either that such person's omission or conduct was a significant contributing factor towards the commission of the delinquent act, or, under its authority to enforce litigant's rights, that such person's omission or conduct has been a significant contributing factor towards the ineffective implementation of a court order previously entered in relation to the juvenile;

(16) (a) Place the juvenile in a nonresidential program operated by a public or private agency, providing intensive services to juveniles for specified hours, which may include education, counseling to the juvenile and the juvenile's family if appropriate, vocational training, employment counseling, work or other services;

(b) Place the juvenile under the custody of the Juvenile Justice Commission established pursuant to section 2 of P.L.1995, c.284 (C.52:17B-170) for placement with any private group home or private residential facility with which the commission has entered into a purchase of service contract;

(17) Instead of or in addition to any disposition made according to this section, the court may postpone, suspend, or revoke for a period not to exceed two years the driver's license, registration certificate, or both of any juvenile who used a motor vehicle in the course of committing an act for which the juvenile was adjudicated delinquent. In imposing this disposition and in deciding the duration of the postponement, suspension, or revocation, the court shall consider the severity of the delinquent act and the potential effect of the loss of driving privileges on the juvenile's ability to be rehabilitated. Any postponement, suspension, or revocation shall be imposed consecutively with any custodial commitment;

(18) Order that the juvenile satisfy any other conditions reasonably related to the rehabilitation of the juvenile;

(19) Order a parent or guardian who has failed or neglected to exercise reasonable supervision or control of a juvenile who has been adjudicated delinquent to make restitution to any person or entity who has suffered a loss as a result of that offense. The court may determine the reasonable amount, terms and conditions of restitution; or

(20) Place the juvenile, if eligible, in an appropriate juvenile offender program established pursuant to P.L.1997, c.81 (C.30:8-61 et al.).

c. (1) Except as otherwise provided in subsections e. and f. of this section, if the county in which the juvenile has been adjudicated delinquent has a juvenile detention facility meeting the physical and program standards established pursuant to this subsection by the Juvenile Justice Commission, the court may, in addition to any of the dispositions not involving placement out of the home enumerated in this section, incarcerate the juvenile in the youth detention facility in that county for a term not to exceed 60 consecutive days. Counties which do not operate their own juvenile detention facilities may contract for the use of approved commitment programs with counties with which they have established agreements for the use of pre-disposition juvenile detention facilities. The Juvenile Justice Commission shall promulgate such rules and regulations from time to time as deemed necessary to establish minimum physical facility and program standards for the use of juvenile detention facilities pursuant to this subsection.

(2) No juvenile may be incarcerated in any county detention facility unless the county has entered into an agreement with the Juvenile Justice Commission concerning the use of the facility for sentenced juveniles. Upon agreement with the county, the Juvenile Justice Commission shall certify detention facilities which may receive juveniles sentenced pursuant to this subsection and shall specify the capacity of the facility that may be made available to receive such juveniles; provided, however, that in no event shall the number of juveniles incarcerated pursuant to this subsection exceed 50% of the maximum capacity of the facility.

(3) The court may fix a term of incarceration under this subsection where:

(a) The act for which the juvenile was adjudicated delinquent, if committed by an adult, would have constituted a crime or repetitive disorderly persons offense;

(b) Incarceration of the juvenile is consistent with the goals of public safety, accountability and rehabilitation and the court is clearly convinced that the aggravating factors substantially outweigh the mitigating factors as set forth in section 25 of P.L.1982, c.77 (C.2A:4A-44); and

(c) The detention facility has been certified for admission of adjudicated juveniles pursuant to paragraph (2).

(4) If as a result of incarceration of adjudicated juveniles pursuant to this subsection, a county is required to transport a predisposition juvenile to a juvenile detention facility in another county, the costs of such transportation shall be borne by the Juvenile Justice Commission.

d. Whenever the court imposes a disposition upon an adjudicated delinquent which requires the juvenile to perform a community service, restitution, or to participate in any other program provided for in this section other than subsection c., the duration of the juvenile's mandatory participation in such alternative programs shall extend for a period consistent with the program goal for the juvenile and shall in no event exceed one year beyond the maximum duration permissible for the delinquent if the juvenile had been committed to a term of incarceration.

e. In addition to any disposition the court may impose pursuant to this section or section 25 of P.L.1982, c.77 (C.2A:4A-44), the following orders shall be included in dispositions of the adjudications set forth below:

(1) An order of incarceration for a term of the duration authorized pursuant to this section or section 25 of P.L.1982, c.77 (C.2A:4A-44) or an order to perform community service pursuant to paragraph (10) of subsection b. of this section for a period of at least 60 days, if the juvenile has been adjudicated delinquent for an act which, if committed by an adult, would constitute the crime of theft of a motor vehicle, or the crime of unlawful taking of a motor vehicle in violation of subsection c. of N.J.S.2C:20-10, or the third degree crime of eluding in violation of subsection b. of N.J.S.2C:29-2;

(2) An order of incarceration for a term of the duration authorized pursuant to this section or section 25 of P.L.1982, c.77 (C.2A:4A-44) which shall include a minimum term of 60 days during which the juvenile shall be ineligible for parole, if the juvenile has been adjudicated delinquent for an act which, if committed by an adult, would constitute the crime of aggravated assault in violation of paragraph (6) of subsection b. of N.J.S.2C:12-1, the second degree crime of eluding in violation of subsection b. of N.J.S.2C:29-2, or theft of a motor vehicle, in a case in which the juvenile has previously been adjudicated delinquent for an act, which if committed by an adult, would constitute unlawful taking of a motor vehicle or theft of a motor vehicle;

(3) An order to perform community service pursuant to paragraph (10) of subsection b. of this section for a period of at least 30 days, if the juvenile has been adjudicated delinquent for an act which, if committed by an adult, would constitute the fourth degree crime of unlawful taking of a motor vehicle in violation of subsection b. of N.J.S.2C:20-10;

(4) An order of incarceration for a term of the duration authorized pursuant to this section or section 25 of P.L.1982, c.77 (C.2A:4A-44) which shall include a minimum term of 30 days during which the juvenile shall be ineligible for parole, if the juvenile has been adjudicated delinquent for an act which, if committed by an adult, would constitute the crime of unlawful taking of a motor vehicle in violation of N.J.S.2C:20-10 or the third degree crime of eluding in violation of subsection b. of N.J.S.2C:29-2, and if the juvenile has previously been adjudicated delinquent for an act which, if committed by an adult, would constitute either theft of a motor vehicle, the unlawful taking of a motor vehicle or eluding.

f. (1) The minimum terms of incarceration required pursuant to subsection e. of this section shall be imposed regardless of the weight or balance of factors set forth in this section or in section 25 of P.L.1982, c.77 (C.2A:4A-44), but the weight and balance of those factors shall determine the length of the term of incarceration appropriate, if any, beyond any mandatory minimum term required pursuant to subsection e. of this section.

(2) When a court in a county that does not have a juvenile detention facility or a contractual relationship permitting incarceration pursuant to subsection c. of this section is required to impose a term of incarceration pursuant to subsection e. of this section, the court may, subject to limitations on commitment to State correctional facilities of juveniles who are under the age of 11 or developmentally disabled, set a term of incarceration consistent with subsection c. which shall be served in a State correctional facility. When a juvenile who because of age or developmental disability cannot be committed to a State correctional facility or cannot be incarcerated in a county facility, the court shall order a disposition appropriate as an alternative to any incarceration required pursuant to subsection e.

(3) For purposes of subsection e. of this section, in the event that a "boot camp" program for juvenile offenders should be developed and is available, a term of commitment to such a program shall be considered a term of incarceration.

12. This act shall take effect on the first day of the sixth month following enactment, except that section 9 shall take effect immediately.

Approved April 24, 1997.

CHAPTER 82

AN ACT concerning the solicitation of motorists and amending R.S.39:4-60 and supplementing Title 40 of the Revised Statutes.

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

1. R.S.39:4-60 is amended to read as follows:

Soliciting trade or contributions permitted, certain; designation of particular highway as hazardous for such purposes; signs; penalty.

39:4-60. Except as provided herein, no person shall stand in the roadway of a highway to stop, impede, hinder or delay the progress of a vehicle for the purpose of soliciting the purchase of goods, merchandise or tickets, or for the purpose of soliciting contributions for any cause, and the only question of law and fact in determining guilt under this section shall be whether goods, merchandise or tickets were tendered or offered for sale, or whether a contribution was solicited.

A municipal governing body by ordinance may authorize charitable organizations as defined in section 3 of P.L.1994, c. 16 (C.45:17A-20) to solicit contributions in the roadway of a highway, other than interstate highways or toll roads maintained pursuant to P.L.1962, c.10 (C.27:12C-1 et seq.) or P.L.1991, c.252 (C.27:25A-1 et seq.), P.L.1952, c.16 (C.27:12B-1 et seq.), or P.L.1948, c.454 (C.27:23-1 et seq.), subject to regulations promulgated pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), by the Department of Transportation in consultation with the Division of Highway Traffic Safety.

A municipality shall not authorize charitable organizations to solicit on any county highway or intersection of a county highway without the approval of the board of chosen freeholders. A municipality shall not authorize charitable organizations to solicit on any State highway or intersection of a State highway without the approval of the Commissioner of Transportation. The board of chosen freeholders and the Commissioner of Transportation shall not unreasonably withhold approval.

In addition to the prohibition contained in the first paragraph of this section, whenever in his judgment the public safety so requires, the Commissioner of Transportation may, by regulation, designate any highway or sections of any highway as a location wherein the standing of any person or the parking of any vehicle for the purpose of soliciting the purchase of goods, merchandise or tickets, or for the purpose of soliciting contributions for any cause, is deemed hazardous or inimical to the proper flow of traffic, and shall be prohibited. Each highway or section thereof so designated shall be clearly marked by appropriate signs which shall be erected and maintained by the authority having the responsibility for the maintenance of such highway, upon receipt by such authority of written notice from the director of the adoption of such regulation. No person shall stand in, and no operator

shall allow a vehicle to stand in, any section of a highway so designated and marked to stop, impede, hinder or delay the progress of a vehicle for the purpose of soliciting the purchase of goods, merchandise or tickets, or for the purpose of soliciting contributions for any cause, and the only question of law and fact in determining guilt under this section shall be whether goods, merchandise or tickets were tendered or offered for sale, or whether a contribution was solicited. Whenever in his judgment the public safety so requires the Commissioner of Transportation may, by regulation, amend or alter any designation made by him pursuant to the provisions of this paragraph. Nothing contained in this paragraph shall be construed to authorize or permit any person to stand in or to allow a vehicle to stand in any highway where the same is or shall be prohibited by any other provision of this Title or by any amendment thereof or supplement thereto, or by any ordinance, resolution, regulation or order duly adopted pursuant to authority thereunder.

Any person who shall violate any of the provisions of this section shall pay, upon conviction, a penalty not to exceed $100.

C.59:2-1.1 Immunity from liability for certain civil actions arising from roadway solicitations.

2. Notwithstanding any provisions of law to the contrary, a municipality, a county or the State shall not be liable in any civil action for damages for property damage or personal injury resulting from a motor vehicle accident arising out of or in the course of roadway solicitations for the purpose of soliciting contributions, conducted by charitable organizations, as defined pursuant to section 3 of P.L.1994, c.16 (C.45:17A-20), pursuant to R.S.39:4-60.

3. This act shall take effect on the first day of the fourth month after enactment.

Approved April 30, 1997.

CHAPTER 83

AN ACT concerning tips for dealers at casinos and amending P.L.1977, c.110.

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

1. Section 100 of P.L.1977, c.110 (C.5:12-100) is amended to read as follows:

C.5:12-100 Games and gaming equipment.

100. Games and Gaming Equipment.

a. This act shall not be construed to permit any gaming except the conduct of authorized games in a casino room in accordance with this act and the regulations promulgated hereunder and in a simulcasting facility to the extent provided by the "Casino Simulcasting Act," P.L.1992, c.19 (C.5:12-191 et al.). Notwithstanding the foregoing, if the commission approves the game of keno as an authorized game pursuant to section 5 of P.L.1977, c.110 (C.5:12-5), as amended, keno tickets may be sold or redeemed in accordance with commission regulations at any location in a casino hotel approved by the commission for such activity.

b. Gaming equipment shall not be possessed, maintained or exhibited by any person on the premises of a casino hotel except in a casino room, in the simulcasting facility, or in restricted casino areas used for the inspection, repair or storage of such equipment and specifically designated for that purpose by the casino licensee with the approval of the commission. Gaming equipment which supports the conduct of gaming in a casino or simulcasting facility but does not permit or require patron access, such as computers, may be possessed and maintained by a casino licensee in restricted casino areas specifically designated for that purpose by the casino licensee with the approval of the commission. No gaming equipment shall be possessed, maintained, exhibited, brought into or removed from a casino room or simulcasting facility by any person unless such equipment is necessary to the conduct of an authorized game, has permanently affixed, imprinted, impressed or engraved thereon an identification number or symbol authorized by the commission, is under the exclusive control of a casino licensee or his employees, and is brought into or removed from the casino room or simulcasting facility following 24-hour prior notice given to an authorized agent of the commission.

Notwithstanding the foregoing, a person may, with the prior approval of the commission and under such terms and conditions as may be required by the commission, possess, maintain or exhibit gaming equipment in any other area of the casino hotel; provided such equipment is used for nongaming purposes.

c. Each casino hotel shall contain a count room and such other secure facilities as may be required by the commission for the counting and storage of cash, coins, tokens and checks received in the conduct of gaming and for the inspection, counting and storage of dice, cards, chips and other representatives of value. All drop boxes and other devices wherein cash, coins, or tokens are deposited at the gaming tables or in slot machines, and all areas wherein such boxes and devices are kept while in use, shall be

equipped with two locking devices, one key to which shall be under the exclusive control of the commission and the other under the exclusive control of the casino licensee, and said drop boxes and other devices shall not be brought into or removed from a casino room or simulcasting facility, or locked or unlocked, except at such times, in such places, and according to such procedures as the commission may require.

d. All chips used in gaming shall be of such size and uniform color by denomination as the commission shall require by regulation.

e. All gaming shall be conducted according to rules promulgated by the commission. All wagers and pay-offs of winning wagers shall be made according to rules promulgated by the commission, which shall establish such limitations as may be necessary to assure the vitality of casino operations and fair odds to patrons. Each slot machine shall have a minimum payout of 83%.

f. Each casino licensee shall make available in printed form to any patron upon request the complete text of the rules of the commission regarding games and the conduct of gaming, pay-offs of winning wagers, an approximation of the odds of winning for each wager, and such other advice to the player as the commission shall require. Each casino licensee shall prominently post within a casino room and simulcasting facility, as appropriate, according to regulations of the commission such information about gaming rules, pay-offs of winning wagers, the odds of winning for each wager, and such other advice to the player as the commission shall require.

g. Each gaming table shall be equipped with a sign indicating the permissible minimum and maximum wagers pertaining thereto. It shall be unlawful for a casino licensee to require any wager to be greater than the stated minimum or less than the stated maximum; provided, however, that any wager actually made by a patron and not rejected by a casino licensee prior to the commencement of play shall be treated as a valid wager.

h. (1) No slot machine shall be used to conduct gaming unless it is identical in all electrical, mechanical and other aspects to a model thereof which has been specifically tested by the division and licensed for use by the commission. The division may, in its discretion, and for the purpose of expediting the approval process, refer testing to any testing laboratory with a plenary license as a casino service industry pursuant to subsection a. of section 92 of P.L.1977, c.110 (C.5:12-92). The division shall give priority to the testing of slot machines which a casino licensee has certified it will use in its casino in this State. The commission shall, by regulation, establish such technical standards for licensure of slot machines, including mechanical and electrical reliability, security against tampering, the comprehensibility of wagering, and noise and light levels, as it may deem

necessary to protect the player from fraud or deception and to insure the integrity of gaming. The denominations of such machines shall be set by the licensee; the licensee shall simultaneously notify the commission of the settings.

(2) The commission shall, by regulation, determine the permissible number and density of slot machines in a licensed casino so as to:

(a) promote optimum security for casino operations;

(b) avoid deception or frequent distraction to players at gaming tables;

(c) promote the comfort of patrons;

(d) create and maintain a gracious playing environment in the casino; and

(e) encourage and preserve competition in casino operations by assuring that a variety of gaming opportunities is offered to the public.

Any such regulation promulgated by the commission which determines the permissible number and density of slot machines in a licensed casino shall provide that all casino floor space and all space within a casino licensee's casino simulcasting facility shall be included in any calculation of the permissible number and density of slot machines in a licensed casino.

i. (Deleted by amendment, P.L.1991, c.182).

j. (Deleted by amendment, P.L.1991, c.182).

k. It shall be unlawful for any person to exchange or redeem chips for anything whatsoever, except for currency, negotiable personal checks, negotiable counter checks, other chips, coupons or complimentary vouchers distributed by the casino licensee, or, if authorized by regulation of the commission, a valid charge to a credit or debit card account. A casino licensee shall, upon the request of any person, redeem that licensee's gaming chips surrendered by that person in any amount over $100 with a check drawn upon the licensee's account at any banking institution in this State and made payable to that person.

l. It shall be unlawful for any casino licensee or its agents or employees to employ, contract with, or use any shill or barker to induce any person to enter a casino or simulcasting facility or play at any game or for any purpose whatsoever.

m. It shall be unlawful for a dealer in any authorized game in which cards are dealt to deal cards by hand or other than from a device specifically designed for that purpose, unless otherwise permitted by the rules of the commission.

n. It shall be unlawful for any casino key employee or any person who is required to hold a casino key employee license as a condition of employment or qualification to wager in any casino or simulcasting facility in this State, or any casino employee, other than a junket representative, bartender, waiter, waitress, or other casino employee who, in the judgment

of the commission, is not directly involved with the conduct of gaming operations, to wager in a casino or simulcasting facility in the casino hotel in which the employee is employed or in any other casino or simulcasting facility in this State which is owned or operated by the same casino licensee. Any casino employee, other than a junket representative, bartender, waiter, waitress, or other casino employee who, in the judgment of the commission, is not directly involved with the conduct of gaming operations, must wait at least 30 days following the date that the employee either leaves employment with a casino licensee or is terminated from employment with a casino licensee before the employee may gamble in a casino or simulcasting facility in the casino hotel in which the employee was formerly employed or in any other casino or simulcasting facility in this State which is owned or operated by the same casino licensee.

o. (1) It shall be unlawful for any casino key employee or boxman, floorman, or any other casino employee who shall serve in a supervisory position to solicit or accept, and for any other casino employee to solicit, any tip or gratuity from any player or patron at the casino hotel or simulcasting facility where he is employed.

(2) A dealer may accept tips or gratuities from a patron at the table at which such dealer is conducting play, subject to the provisions of this subsection. All such tips or gratuities shall be immediately deposited in a lockbox reserved for that purpose, accounted for, and placed in a pool for distribution pro rata among the dealers, with the distribution based upon the number of hours each dealer has worked, except that the commission may permit a separate pool to be established for dealers in the game of poker.

2. This act shall take effect immediately.

Approved April 30, 1997.

CHAPTER 84

AN ACT concerning financing of home repairs and amending P.L.1960, c.41.

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

1. Section 1 of P.L.1960, c.41 (C.17:16C-62) is amended to read as follows:

C.17:16C-62 Definitions.

1. Unless the context otherwise indicates:

(a) "Goods" means all chattels personal which are furnished or used in the modernization, rehabilitation, repair, alteration or improvement of real property except those furnished or used for a commercial or business purpose or for resale, and except stoves, freezers, refrigerators, air conditioners other than those connected with a central heating system, hot water heaters and other appliances furnished for use in a home and designed to be removable therefrom without material injury to the structure, and except chattels personal under a contract in which the cash price is $300.00 or less and which is subject to the "Retail Installment Sales Act of 1960," P.L.1960, c.40 (C.17:16C-1 et seq.);

(b) "Services" means labor, equipment and facilities furnished or used in connection with the installation or application of goods in the modernization, rehabilitation, repair, alteration or improvement of real property;

(c) "Home repair contract" means an agreement, whether contained in one or more documents, between a home repair contractor and an owner to pay the time sales price of goods or services in installments over a period of time greater than 90 days;

(d) "Home repair contractor" means any person engaged in the business of selling goods or services pursuant to a home repair contract;

(e) "Commissioner" means the Commissioner of Banking and Insurance of New Jersey and includes any deputies or employees of the department designated by him to administer and enforce this act;

(f) "Official fees" means the fees to be paid to a public officer for obtaining any permit or filing any lien or mortgage taken or reserved as security pursuant to a home repair contract;

(g) "Cash price" means the cash sales price for which the home repair contractor would sell the goods or services which are the subject matter of a home repair contract if the sale were a sale for cash rather than an installment sale;

(h) "Down payment" means all payments made in cash to the home repair contractor and all allowances given by the home repair contractor to the owner prior to or substantially contemporaneous with the execution of the home repair contract;

(i) "Credit service charge" means that amount by which the time sales price exceeds the aggregate of the cash price and the amounts specifically included for official fees and, if a separate charge is made therefor, the amount included for insurance and other benefits as provided in paragraph (4) of subsection (a) of section 6 of P.L.1960, c.41 (C.17:16C-67);

(j) "Time sales price" means the total amount to be paid pursuant to the contract excluding default charges authorized under this act;

(k) "Owner" means a person, including a tenant, who buys goods or services pursuant to a home repair contract;

(l) "Home financing agency" means any person, other than a home repair contractor, engaged, directly or indirectly, in the business of purchasing, acquiring, soliciting or arranging for the acquisition of home repair contracts or any obligation in connection therewith by purchase, discount, pledge or otherwise;

(m) "Holder" means any person who is entitled to the rights of a home repair contractor under a home repair contract;

(n) "Home repair salesman" means any individual who obtains a bona fide home repair contract;

(o) "Payment-period" means the period of time scheduled by a home repair contract to elapse between the days upon which installment payments are scheduled to be made on such contract; except that, where installment payments are scheduled by the home repair contract to be omitted, "payment-period" means the period of time scheduled by the contract to elapse between the days upon which installment payments are scheduled to be made during that portion of the contract period in which no installment payment is scheduled to be omitted;

(p) "Contract period" means the period beginning on the date of a home repair contract and ending on the date scheduled by the contract for the payment of the final installment;

(q) "Actuarial method" means the method of applying payments made on a home repair contract between principal and credit service charge pursuant to which a payment is applied first to accumulated credit service charge and the remainder is applied to the unpaid principal balance of the home repair contract in reduction thereof;

(r) "Precomputed credit service charge" means an amount equal to the whole amount of credit service charge payable on a home repair contract for the period from the making of the contract to the date scheduled by the terms of the contract for the payment of the final installment;

(s) "Precomputed contract" means a home repair contract in which the face amount of the payment due consists of the balance so evidenced and the credit service charge thereon; and

(t) "Nonprecomputed contract" means a home repair contract in which the face amount of the payment due consists solely of the balance due on the contract, or a home repair contract in which the credit service charge is imposed on the outstanding balance from month to month.

2. Section 6 of P.L.1960, c.41 (C.17:16C-67) is amended to read as follows:

C.17:16C-67 Separate disclosure statements in contract.

6. (a) Every home repair contract shall state separately:

(1) the cash price of the goods or services to be furnished;

(2) the down payment;

(3) the unpaid cash balance which is the difference between paragraphs (1) and (2) of this subsection (a);

(4) the amount, if any, if a separate charge is made therefor, included for credit life insurance and other benefits pursuant to N.J.S.17B:29-1 et seq., specifying the coverages and benefits;

(5) the official fees;

(6) the principal balance, which is the sum of paragraphs (3), (4) and (5) of this subsection (a);

(7) the credit service charge;

(8) the time balance, which is the sum of paragraphs (6) and (7) of this subsection (a), the number of installments required, the amount of each installment and the due dates thereof;

(b) In lieu of the disclosures specified in paragraphs (1) through (8) of subsection (a) of this section, a precomputed or a nonprecomputed home repair contract shall be deemed to be in compliance with the requirements of this section if the home repair contract provides the disclosures required by the federal "Truth in Lending Act," 15 U.S.C. s.1601 et seq. and the regulations implementing that act, 12 C.F.R. s.226 et seq., for open-end or closed-end loans, as applicable.

3. Section 8 of P.L.1960, c.41 (C.17:16C-69) is amended to read as follows:

C.17:16C-69 Credit service charge.

8. a. A home repair contractor may impose and receive a credit service charge in an amount or amounts agreed to by the home repair contractor and the owner on the amount owing on the unpaid principal balance of the contract. This section shall not limit or restrict the manner of contracting for the credit service charge, whether by way of add-on, discount, periodic rate or otherwise, so long as the charge does not exceed that permitted by this section. In the case of a precomputed contract, the charge may be computed on the assumption that all scheduled payments will be made when due, and all scheduled installment payments made on a precomputed contract may be applied as if they were received on their scheduled due dates. In the case of nonprecomputed loans, all installment payments shall be applied no later than the date of receipt, and a day shall be counted as 1/365 of a year.

b. Notwithstanding the provisions of section 12 of P.L.1960, c.41 (C.17:16C-73), when the unpaid balance owing upon a contract is paid in full or the maturity of the unpaid balance of such contract is accelerated, before the date scheduled for the payment of the final installment, the holder of a precomputed contract shall allow a credit on account of the credit service charge, calculated according to the actuarial refund method, as if all payments were made as scheduled, or if deferred, as deferred; provided, however, that if the contract is prepaid within 12 months after the first payment is due, a holder may charge a prepayment penalty of not more than (1) $20.00 on any contract up to and including $2,000.00; (2) an amount equal to 1% of the loan on any contract greater than $2,000.00 and up to and including $5,000.00; and (3) $100.00 on any contract exceeding $5,000.00.

c. With respect to nonprecomputed contracts, the regularly scheduled minimum monthly payments of principal and credit service charges, irrespective of any other charges permitted under P.L.1960, c.41 (C.17:16C-62 et seq.), for any debt incurred for the purchase of a home improvement shall result in positive amortization of the debt and shall not increase the amount of debt outstanding.

4. This act shall take effect immediately and shall apply to home repair contracts entered into on and after the effective date of this act.

Approved April 30, 1997.

CHAPTER 85

AN ACT authorizing municipalities to require address registration by certain property owners and supplementing chapter 48 of Title 40 of the New Jersey Statutes.

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

C.40:48-2.53 Address registration by certain property owners required; "real property" defined.

1. a. A municipality is hereby authorized and empowered to enact an ordinance requiring an owner of real property situated within the municipality to register with the clerk of the municipality the street address of his residence whenever that owner does not reside at his property, in the case of residential premises, or does not operate a business at the property, in the

case of commercial property. An ordinance so enacted shall provide for the assessment of reasonable penalties in the case of noncompliance.

b. The clerk of the municipality may forward a copy of any address registration made pursuant to subsection a. of this section to the clerk of the county in which the municipality is situated. The county registrar shall maintain a file and index any address registrations received pursuant to this subsection.

c. For the purposes of this act, "real property" shall mean any type of real estate including commercial or residential, improved or unimproved lots, single family homes, multiple dwellings, and property held in any manner, including fee simple, condominium or cooperative forms of ownership. "Street address" shall mean the address at which the person actually resides, and shall include a street name or rural delivery route in addition to any postal office box number which may be included.

2. This act shall take effect immediately.

Approved May 5, 1997.

CHAPTER 86

AN ACT concerning Sunday sales and amending P.L.1955, c.254.

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

1. Section 2 of P.L.1955, c.254 (C.2A:171-1.2) is amended to read as follows:

C.2A:171-1.2 Definitions realtive to Sunday car sales.

2. The following definitions shall apply for the words or terms used in this act unless other meaning is clearly apparent from the language or context:

"Motor vehicle" means and includes all vehicles propelled otherwise than by muscular power, excepting such vehicles as run only upon rails or tracks and manufactured homes as defined in section 3 of P.L.1983, c.400 (C.54:4-1.4).

"New motor vehicle" means only newly manufactured motor vehicles and includes but is not limited to motorcycles, trailers, trucks, passenger cars and tractors.

"Used motor vehicle" means every motor vehicle, title to, or possession of, which has been transferred from the person who first acquired it from the manufacturer or dealer and has been so used as to become or is commonly known as secondhand within the ordinary meaning thereof, and includes every motor vehicle other than a new motor vehicle, including but not limited to motorcycles, trailers, tractors, trucks and passenger cars.

"Person" includes natural persons, firms, partnerships, corporations, associations or other artificial bodies, trustees, receiver and officers, employees, agents, and others acting for or on behalf of any person.

2. This act shall take effect immediately.

Approved May 5, 1997.

CHAPTER 87

AN ACT concerning undocumented aliens and supplementing Title 34 of the Revised Statutes.

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

C.34:1A-81 Council on Undocumented Aliens established.

1. There is established within the Department of Labor a Council on Undocumented Aliens which shall consist of 14 public members and the commissioner, ex officio, or his designee, as chair, not more than eight of whom shall be of the same political affiliation. Of the 14 public members, two shall be appointed by the President of the Senate and two shall be appointed by the Speaker of the General Assembly, two shall be representatives of nonprofit agencies providing services to immigrants, two shall be representatives of organized labor, two shall be representatives of employers, two shall be representatives of regulated professions, two shall be representatives of minority group organizations, and two shall be representatives of urban cities. With the exception of those public members appointed by the President of the Senate and the Speaker of the General Assembly, each public member of the council shall be appointed by the Governor, with the advice and consent of the Senate, and shall serve until the council ceases to exist as provided in section 4 of this act.

Any vacancies in the membership of the council occurring prior to the dissolution of the council 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.

C.34:1A-82 Responsibilities of council.

2. The council shall be responsible for:

a. Making a study of the undocumented alien population in this State, including, but not limited to:

(1) An estimate of whether the number of undocumented aliens in this State is increasing, decreasing or relatively stable;

(2) A determination of the source countries from which undocumented aliens have come and paths of entry into and exit from the State, including a finding as to whether there is a one-way stream or a back and forth flow from the source countries;

(3) Factors which are considered attractors for undocumented aliens;

(4) Factors which maintain the presence of undocumented aliens once in this State; and

(5) A determination of the impact of the presence of undocumented aliens on the employment opportunities of persons legally resident in this State.

b. Providing advice and recommendations to the department and the Legislature for remedial action or legislation, or both, as appropriate, with respect to the impact of undocumented aliens on employment opportunities for those legally resident within this State.

c. Reviewing any relevant matters submitted to it by other persons or entities.

C.34:1A-83 Powers of council.

3. The council may:

a. Hold public meetings or hearings within the State on any matter or matters related to the provisions of this act.

b. Call to its assistance and avail itself of the services of such employees of any State, county or municipal department, board, commission, or agency as may be required and made available for its purposes.

C.34:1A-84 Report to commissioner, Legislature.

4. Three years from the date the council first meets, the council shall submit to the commissioner and the Legislature a report summarizing its activities, findings and recommendations. Upon the transmittal of this report, the council shall cease to exist, unless otherwise determined by enactment of subsequent legislation.

5. This act shall take effect immediately.

Approved May 8, 1997.

CHAPTER 88

AN ACT concerning the animal cruelty laws and the killing of certain types of rats and mice, and amending R.S.4:22-16.

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

1. R.S.4:22-16 is amended to read as follows:

Permitted activities.

4:22-16. Nothing contained in this article shall be construed to prohibit or interfere with:

a. Properly conducted scientific experiments performed under the authority of the Department of Health and Senior Services or the United States Department of Agriculture. Those departments may authorize the conduct of such experiments or investigations by agricultural stations and schools maintained by the State or federal government, or by medical societies, universities, colleges and institutions incorporated or authorized to do business in this State and having among their corporate purposes investigation into the causes, nature, prevention and cure of diseases in men and animals; and may for cause revoke such authority;

b. The killing or disposing of an animal or creature by virtue of the order of a constituted authority of the State;

c. The shooting or taking of game or game fish in such manner and at such times as is allowed or provided by the laws of this State;

d. The training or engaging of a dog to accomplish a task or participate in an activity or exhibition designed to develop the physical or mental characteristics of that dog. These activities shall be carried out in accordance with the practices, guidelines or rules established by an organization founded for the purpose of promoting and enhancing working dog activities or exhibitions; in a manner which does not adversely affect the health or safety of the dog; and may include avalanche warning, guide work, obedience work, carting, dispatching, freight racing, packing, sled dog racing, sledding, tracking, and weight pull demonstrations;

e. The raising, keeping, care, treatment, marketing, and sale of domestic livestock in accordance with the standards developed and adopted therefor pursuant to subsection a. of section 1 of P.L.1995, c.311 (C.4:22-16.1); and

f. The killing or disposing, by a reasonable or commercially acceptable method or means, of a Norway or brown rat (Rattus norvegicus), black rat (Rattus rattus), or house mouse (Mus musculus) by any person, or with the permission or at the direction of that person, while the animal is on property either owned or leased by, or otherwise under the control of, that person, provided that the animal is not a pet.

2. This act shall take effect immediately.

Approved May 8, 1997.

CHAPTER 89

AN ACT concerning membership in the Police and Firemen's Retirement System of New Jersey and supplementing P.L.1944, c.255 (C.43:16A-1 et seq.).

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

1. Notwithstanding any law, rule or regulation to the contrary, any member of the Public Employees' Retirement System of New Jersey holding the title of criminal investigator in the Division of Criminal Justice in the Department of Law and Public Safety shall be permitted to transfer membership in the Public Employees' Retirement System to the Police and Firemen's Retirement System by waiving all rights and benefits which would otherwise be provided by the Public Employees' Retirement System. Any such employee shall likewise be permitted to continue membership in the Public Employees' Retirement System by waiving all rights and benefits which would otherwise be provided by the Police and Firemen's Retirement System. Such waivers shall be accomplished by filing forms satisfactory to the Division of Pensions and Benefits in the Department of the Treasury within 90 days of the effective date of this act. In the absence of the filing of a timely waiver by any eligible employee, the pension status of that employee shall remain unchanged and the membership of the employee shall not be transferred to the Police and Firemen's Retirement System. A transferring employee under this section shall be liable for payment to the Police and Firemen's Retirement System of the amount of the difference

between the contribution that the employee paid to the Public Employees' Retirement System as a member thereof and the contribution that would have been required if the employee had been a member of the Police and Firemen's Retirement System since the date on which the person's appointment as a criminal investigator in the Division of Criminal Justice became effective, plus regular interest at the rate applicable on the date of the transfer. This payment may be made in a lump sum or in regular monthly installments equal to at least 1/2 the employee's normal contribution to the retirement system over a maximum period of 10 years, as the employee may elect, and pursuant to rules and regulations as may be promulgated by the Division of Pensions and Benefits.

2. The Public Employees' Retirement System shall, within 120 days of the effective date of any transfer pursuant to this act, remit to the Police and Firemen's Retirement System all accumulated deductions standing to the credit of each transferred employee and, within 180 days of that effective date, remit the pro-rata part of the reserve fund constituting the employer's obligations under the former system applicable to each employee's account. The retirement system shall enter the respective sums so remitted to it to the credit of the employee in the annuity savings fund and to the credit of the employer in the pension accumulation fund.

3. The transferred member shall have the same obligations, rights and benefits as other members of the Police and Firemen's Retirement System. Deductions from the member's salary and contributions on the member's behalf shall be made as required by the retirement system and shall be the same as deductions and contributions payable by or for other members of the retirement system.

4. All outstanding obligations, such as loans, purchases and other arrearages, shall be satisfied by the transferred employee as previously scheduled for payment to the Public Employees' Retirement System.

5. This act shall take effect immediately.

Approved May 8, 1997.

CHAPTER 90

AN ACT concerning joint and several liability and amending P.L.1995, c.140.

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

1. Section 3 of P.L.1995, c.140 is amended to read as follows:

3. This act shall take effect immediately, shall apply to medical malpractice causes of action filed on or after June 29, 1995, and shall apply to causes of action, other than medical malpractice causes of action, filed on or after the 90th day following June 29, 1995.

2. This act shall take effect immediately, shall be retroactive to June 29, 1995 and shall only apply to pending actions in which no final judgment has been rendered.

Approved May 8, 1997.

CHAPTER 91

AN ACT concerning certain used dry cell batteries, and amending P.L.1991, c.521.

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

1. Section 3 of P.L.1991, c.521 (C.13:1E-99.61) is amended to read as follows:

C.13:1E-99.61 Definitions relative to dry cell batteries.

3. As used in sections 1 through 23 of this act:

"Commissioner" means the Commissioner of the Department of Environmental Protection;

"Consumer mercuric oxide battery" means any button or coin shaped mercuric oxide battery which is purchased at retail by a consumer for personal or household use;

"Department" means the Department of Environmental Protection;

"Distributor" means a person who sells dry cell batteries at wholesale to retailers in this State, including any manufacturer who engages in these sales, except that a "distributor" shall not include any wholesaler or distributor owned cooperatively by retailers;

"Dry cell battery" means any type of button, coin, cylindrical, rectangular or other shaped, enclosed device or sealed container consisting of a combination of two or more voltaic or galvanic cells, electrically connected

to produce electric energy, composed of lead, lithium, manganese, mercury, mercuric oxide, silver oxide, cadmium, zinc, copper or other metals, or any combination thereof, and designed for commercial, industrial, medical, institutional or household use, including any alkaline manganese, lithium, mercuric oxide, silver oxide, zinc-air or zinc-carbon battery, nickel-cadmium rechargeable battery or sealed lead rechargeable battery;

"Institutional generator" means the owner or operator of any public or private, commercial or industrial establishment or facility, including any establishment owned or operated by, or on behalf of, a governmental agency, health care facility or hospital, licensed or other authorized hearing aid dispenser, research laboratory or facility, who routinely uses large quantities of mercuric oxide batteries or nickel-cadmium or sealed lead rechargeable batteries; or the owner or operator of any public or private facility identified by the department that generates at least 220 pounds of these types of used dry cell batteries per month, or the owner or operator of any public or private facility that accumulates 220 pounds of these types of used dry cell batteries at any time;

"Lithium battery" means any button, coin, cylindrical, rectangular or other shaped dry cell battery consisting of lithium and other chemicals commonly used in pocket calculators, wrist watches and other electrical appliances;

"Manufacturer" means a person producing dry cell batteries for sale to institutional generators, distributors, retailers, small quantity generators or consumers;

"Mercuric oxide battery" means any button, coin, cylindrical, rectangular or other shaped dry cell battery consisting of zinc, potassium and mercury oxide which is designed or sold for commercial, industrial, medical or institutional use;

"Nickel-cadmium rechargeable battery" means any button, coin, cylindrical, rectangular or other shaped dry cell battery composed of cadmium and nickel which is designed for reuse and is capable of being recharged after repeated uses, and which has a useful life of at least 12 months, except that "nickel-cadmium rechargeable battery" shall not include any dry cell battery used as a backup power source for memory or program instruction storage, timekeeping, or any similar purpose that requires uninterrupted electrical power in order to operate if the primary energy supply fails or fluctuates momentarily;

"Rechargeable battery" means any nickel-cadmium rechargeable battery or sealed lead rechargeable battery;

"Rechargeable consumer product" means any product, including, but not limited to, a cordless electrical tool or appliance, containing a nickel-cadmium rechargeable battery or a sealed lead rechargeable battery,

which is purchased at retail and commonly used for personal or household purposes;

"Retailer" means a person engaged in the sale of rechargeable batteries to any consumer at retail;

"Sealed lead rechargeable battery" means any button, coin, cylindrical, rectangular or other shaped dry cell battery composed of lead and other chemicals which is designed for reuse and is capable of being recharged after repeated uses, and which has a useful life of at least 12 months;

"Silver oxide battery" means any button, coin, cylindrical, rectangular or other shaped dry cell battery consisting of silver oxide, potassium hydroxide or sodium hydroxide and zinc, and mercury commonly used in wrist watches and other electrical appliances;

"Solid waste container" means a receptacle, container or bag suitable for the depositing of solid waste;

"Solid waste facilities" mean and include the plants, structures and other real and personal property acquired, constructed or operated or to be acquired, constructed or operated by any person pursuant to the provisions of P.L.1970, c.39 (C.13:1E-1 et seq.), P.L.1970, c.40 (C.48:13A-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;

"Small quantity generator" means the owner or operator of any public or private, commercial or industrial establishment or facility, including any establishment owned or operated by, or on behalf of, a governmental agency, health care facility or hospital, licensed or other authorized hearing aid dispenser, research laboratory or facility, who routinely uses small quantities of mercuric oxide batteries or nickel-cadmium or sealed lead rechargeable batteries; or the owner or operator of any public or private facility identified by the department that generates less than 220 pounds of these types of used dry cell batteries per month, or the owner or operator of any public or private facility that accumulates over 20 pounds but less than 220 pounds of these types of used dry cell batteries at any time;

"Zinc-air battery" means any button, coin, cylindrical, rectangular or other shaped dry cell battery consisting of zinc, potassium hydroxide and commonly used in hearing aids, photographic equipment and electrical appliances.

2. This act shall take effect immediately.

Approved May 8, 1997.

CHAPTER 92

AN ACT authorizing "Conquer Cancer" license plates and supplementing chapter 3 of Title 39 of the Revised Statutes.

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

C.39:3-27.90 Issuance of "Conquer Cancer" license plates; fees; distribution.

1. a. The Director of the Division of Motor Vehicles may issue for a motor vehicle owned or leased and registered in the State special license plates bearing, in addition to the registration number and other markings or identification otherwise prescribed by law, the slogan "Conquer Cancer." These plates may include an emblem, to be designed by the Commissioner of Health and Senior Services and approved by the Director of the Division of Motor Vehicles, indicating support for, or an interest in, finding new methods of treating and preventing cancer.

b. Application for issuance of a "Conquer Cancer" license plate shall be made to the director on such forms and in such manner as may be prescribed by the director. The director shall collect for each set of plates issued an application fee of $50, and an annual renewal fee of $10, in addition to the fees otherwise prescribed by law for the registration of motor vehicles.

c. Monies collected from all fees for "Conquer Cancer" license plates shall be deposited in the Cancer Research Fund, established in the Department of Health and Senior Services pursuant to section 5 of P.L.1982, c.40 (C.54:40A-37.1). Any monetary donation made available to the State to support the provisions of this bill shall be deposited in the Cancer Research Fund for use as set forth in this section. Interest or other income earned on monies deposited under this act into the Cancer Research Fund shall be credited to the fund for use as set forth in this section.

Funds shall be utilized by the New Jersey State Commission on Cancer Research: (1) first to reimburse the Division of Motor Vehicles for all costs, including those costs associated with computer programing changes, incurred in producing, issuing, renewing and publicizing the availability of "Conquer Cancer" license plates; (2) to reimburse the Department of Health and Senior Services for the design and printing of notices, posters and signs to be utilized by the Division of Motor Vehicles; and (3) for approved research projects as defined in section 3 of P.L.1983, c.6 (C.52:9U-3).

d. The director shall annually certify to the Commissioner of Health and Senior Services the average cost per license plate incurred in the immediately preceding year by the Division of Motor Vehicles in producing, issuing, renewing and publicizing the availability of "Conquer Cancer"

license plates. The commissioner shall annually report the Department of Health and Senior Services's costs and the division's costs to the Office of Management and Budget.

e. The director shall notify eligible motorists of the opportunity to obtain "Conquer Cancer" license plates by including a notice with all motor vehicle registration renewals, and by posting appropriate posters or signs in all division facilities and offices, as may be provided by the Department of Health and Senior Services. The notices, posters and signs shall be designed by the Commissioner of Health and Senior Services after consulting with the New Jersey State Commission on Cancer Research. The designs shall be subject to the approval of the director. The Department of Health and Senior Services shall supply the division with the notices, posters and signs to be circulated or posted by the division.

f. The Commissioner of Health and Senior Services, the New Jersey State Commission on Cancer Research, and the director shall develop and enter into an interagency memorandum of agreement setting forth the procedures to be followed by the Department of Health and Senior Services, the commission and the division in carrying out their respective responsibilities under this act.

g. In the event that the average cost per license plate, as certified by the director and approved by the Joint Budget Oversight Committee, or its successor, is greater than the $50 application fee established in subsection b. of this section in two consecutive fiscal years, the director may discontinue the issuance of the "Conquer Cancer" license plate.

2. This act shall take effect on the first day of the seventh month after enactment; except the Commissioner of Health and Senior Services, the State Treasurer and the Director of the Division of Motor Vehicles may take such action in advance of the effective date as may be necessary for he timely implementation of this act.

Approved May 8, 1997.

CHAPTER 93

AN ACT concerning prostitution, amending N.J.S.2C:34-1 and R.S.53:1-15 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:34-1 is amended to read as follows:

Prostitution and related offenses.

2C:34-1. Prostitution and Related Offenses.

a. As used in this section:

(1) "Prostitution" is sexual activity with another person in exchange for something of economic value, or the offer or acceptance of an offer to engage in sexual activity in exchange for something of economic value.

(2) "Sexual activity" includes, but is not limited to, sexual intercourse, including genital-genital, oral-genital, anal-genital, and oral-anal contact, whether between persons of the same or opposite sex; masturbation; touching of the genitals, buttocks, or female breasts; sadistic or masochistic abuse and other deviate sexual relations.

(3) "House of prostitution" is any place where prostitution or promotion of prostitution is regularly carried on by one person under the control, management or supervision of another.

(4) "Promoting prostitution" is:

(a) Owning, controlling, managing, supervising or otherwise keeping, alone or in association with another, a house of prostitution or a prostitution business;

(b) Procuring an inmate for a house of prostitution or place in a house of prostitution for one who would be an inmate;

(c) Encouraging, inducing, or otherwise purposely causing another to become or remain a prostitute;

(d) Soliciting a person to patronize a prostitute;

(e) Procuring a prostitute for a patron;

(f) Transporting a person into or within this State with purpose to promote that person's engaging in prostitution, or procuring or paying for transportation with that purpose; or

(g) Leasing or otherwise permitting a place controlled by the actor, alone or in association with others, to be regularly used for prostitution or promotion of prostitution, or failure to make a reasonable effort to abate such use by ejecting the tenant, notifying law enforcement authorities, or other legally available means.

b. A person commits an offense if:

(1) The actor engages in prostitution;

(2) The actor promotes prostitution;

(3) The actor knowingly promotes prostitution of a child under 18 whether or not the actor mistakenly believed that the child was 18 years of age or older, even if such mistaken belief was reasonable;

(4) The actor knowingly promotes prostitution of the actor's child, ward, or any other person for whose care the actor is responsible;

(5) The actor compels another to engage in or promote prostitution;

(6) The actor promotes prostitution of the actor's spouse; or

(7) The actor knowingly engages in prostitution with a person under the age of 18, or if the actor enters into or remains in a house of prostitution for the purpose of engaging in sexual activity with a child under the age of 18, or if the actor solicits or requests a child under the age of 18 to engage in sexual activity. It shall be no defense to a prosecution under this paragraph that the actor mistakenly believed that the child was 18 years of age or older, even if such mistaken belief was reasonable.

c. Grading of offenses under subsection b.

(1) An offense under subsection b. constitutes a crime of the second degree if the offense falls within paragraph (3) or (4) of that subsection.

(2) An offense under subsection b. constitutes a crime of the third degree if the offense falls within paragraph (5), (6) or (7) of that subsection.

(3) An offense under paragraph (2) of subsection b. constitutes a crime of the third degree if the conduct falls within subparagraph (a), (b), or (c) of paragraph (4) of subsection a. Otherwise the offense is a crime of the fourth degree.

(4) An offense under subsection b. constitutes a disorderly persons offense if the offense falls within paragraph (1) of that subsection.

d. Presumption from living off prostitutes. A person, other than the prostitute or the prostitute's minor child or other legal dependent incapable of self-support, who is supported in whole or substantial part by the proceeds of prostitution is presumed to be knowingly promoting prostitution.

2. R.S.53:1-15 is amended to read as follows:

Fingerprinting of suspects.

53:1-15. The sheriffs, chiefs of police, members of the State Police and any other law enforcement agencies and officers shall, immediately upon the arrest of any person for an indictable offense, or of any person believed to be wanted for an indictable offense, or believed to be an habitual criminal, or within a reasonable time after the filing of a complaint by a law enforcement officer charging any person with an indictable offense, or upon the arrest of any person for shoplifting, pursuant to N.J.S.2C:20-11, or upon the arrest of any person for prostitution, pursuant to N.J.S.2C:34-1, or the conviction of any other person charged with a nonindictable offense, where the identity of the person charged is in question, take the fingerprints of such person, according to the fingerprint system of identification established by the Superintendent of State Police and on the forms prescribed, and forward without delay two copies or more of the same, together with photographs

and such other descriptions as may be required and with a history of the offense committed, to the State Bureau of Identification.

Such sheriffs, chiefs of police, members of the State Police and any other law enforcement agencies and officers shall also take the fingerprints, descriptions and such other information as may be required of unknown dead persons and as required by section 2 of P.L.1982, c.79 (C.2A:4A-61) of juveniles adjudicated delinquent and shall forward same to the State Bureau of Identification.

Any person charged in a complaint filed by a law enforcement officer with an indictable offense, who has not been arrested, or any person charged in an indictment, who has not been arrested, shall submit himself to the identification procedures provided herein either on the date of any court appearance or upon written request of the appropriate law enforcement agency within a reasonable time after the filing of the complaint. Any person who refuses to submit to such identification procedures shall be a disorderly person.

C.2C:34-1.1 Loitering for the purpose of engaging in prostitution.

3. Loitering for the purpose of engaging in prostitution. a. As used in this section, "public place" means any place to which the public has access, including but not limited to any public street, sidewalk, bridge, alley, plaza, park, boardwalk, driveway, parking lot or transportation facility, public library or the doorways and entrance ways to any building which fronts on any of the aforesaid places, or a motor vehicle in or on any such place.

b. A person commits a disorderly persons offense if he:

(1) wanders, remains or prowls in a public place with the purpose of engaging in prostitution or promoting prostitution as defined in N.J.S.2C:34-1; and

(2) engages in conduct that, under the circumstances, manifests a purpose to engage in prostitution or promoting prostitution as defined in N.J.S.2C:34-1.

c. Conduct that may, where warranted under the circumstances, be deemed adequate to manifest a purpose to engage in prostitution or promoting prostitution includes, but is not limited to, conduct such as the following:

(1) Repeatedly beckoning to or stopping pedestrians or motorists in a public place;

(2) Repeatedly attempting to stop, or repeatedly attempting to engage passers-by in conversation;

(3) Repeatedly stopping or attempting to stop motor vehicles.

d. The element described in paragraph (1) of subsection b. of this section may not be established solely by proof that the actor engaged in the

conduct that is used to satisfy the element described in paragraph (2) of subsection b. of this section.

4. This act shall take effect immediately.

Approved May 8, 1997.

CHAPTER 94

AN ACT concerning benefits related to mastectomies in the State Health Benefits Program and supplementing P.L.1961, c.49 (C.52:14-17.25).

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

C.52:14-17.29b Provision of inpatient care following mastectomy.

1. 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 coverage for a minimum of 72 hours of inpatient care following a modified radical mastectomy and a minimum of 48 hours of inpatient care following a simple mastectomy. The contract shall also provide that a carrier shall not require a health care provider to obtain authorization from the carrier for prescribing 72 or 48 hours, as appropriate, of inpatient care as provided for in this section.

The provisions of this section shall not be construed: to require a patient to receive inpatient care for 72 or 48 hours, as appropriate, if the patient in consultation with the patient's physician determines that a shorter length of stay is medically appropriate; or to relieve a patient or a patient's physician, if appropriate, of any notification requirements to the carrier under the contract.

2. This act shall take effect immediately.

Approved May 8, 1997.

CHAPTER 95

AN ACT concerning continuing education requirements for architects and supplementing chapter 3 of Title 45 of the Revised Statutes.

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

C.45:3-24 Declaration.

1. It is hereby declared to be in the interest of the citizens of this State to encourage the maintenance of continuing proficiency for licensed architects to the end that the utilization and application of new techniques and advances will be in the public interest.

C.45:3-25 Biennial license renewal; continuing education.

2. The New Jersey State Board of Architects shall require each architect, as a condition of 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 section 3 of this act.

C.45:3-26 Duties of State Board of Architects relative to continuing education.

3. The board shall:

a. Promulgate rules and regulations for implementing continuing education requirements as a condition of license renewal for licenses issued under its jurisdiction.

b. Establish standards for continuing education, including the subject matter and content of courses of study, and the number and type of continuing education credits required of a licensee as a condition of biennial license renewal.

c. Recognize the American Institute of Architects and the National Council of Architecture Registration Boards as certified record keeping services and recognize the American Institute of Architects, the National Council of Architecture Registration Boards and the School of Architecture at the New Jersey Institute of Technology as certified providers of continuing education, and accredit other equivalent educational programs, including, but not limited to, meetings of constituents and components of architect professional associations recognized by the board, examinations, papers, publications, scientific presentations, teaching and research appointments, table clinics and scientific exhibits, and shall establish procedures for the issuance of credit upon satisfactory proof of the completion of these programs. In the case of education courses or programs, each hour of instruction shall be equivalent to one credit.

d. Approve only such continuing education programs as are available to all architects in this State on a reasonable nondiscriminatory basis.

C.45:3-27 Completion of continuing education; proof submission.

4. The licensee shall submit as proof of completion of continuing education program credits, and the board shall accept as proof, documenta-

tion submitted by the licensee or by any entity offering a continuing education program pursuant to this act.

C.45:3-28 Waiver of continuing education requirements.

5. The board may, in its discretion, waive requirements for continuing education under this act on an individual basis for reasons of hardship, such as health or other good cause.

C.45:3-29 Fees.

6. The board may by rule or regulation establish fees for the administration of continuing education requirements.

C.45:3-30 Continuing education requirement; conditions.

7. The board shall not require completion of continuing education credits for initial registrations. The board shall not require completion of continuing education credits for any registration periods commencing within 12 months of the effective date of this act. The board shall require completion of continuing education credits on a pro rata basis for any registration periods commencing more than 12 but less than 24 months following the effective date of this act.

8. This act shall take effect immediately.

Approved May 8, 1997.

CHAPTER 96

AN ACT concerning foreign country money-judgments 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:49A-16 Short title.

1. This act shall be known and may be cited as the "Foreign Country Money-Judgments Recognition Act."

C.2A:49A-17 Definitions relative to foreign country money judgments.

2. As used in this act:

"Foreign state" means any governmental unit other than the United States, or any state, district, commonwealth, territory or insular possession thereof;

"Foreign country money-judgment" means any judgment of a foreign state granting or denying recovery of a sum of money, other than a judgment for taxes, a fine or other penalty, or a judgment for support in matrimonial or family matters.

C.2A:49A-18 Application of act.

3. This act applies to any foreign country money-judgment that is final and conclusive and enforceable where rendered even though an appeal from it is pending or it is subject to appeal.

C.2A:49A-19 Conclusiveness of judgments under the act.

4. Except as provided in section 5 of this act, a foreign country money-judgment meeting the requirements of section 3 of this act is conclusive between the parties to the extent that it grants or denies recovery of a sum of money. The foreign country money-judgment is enforceable in the same manner as the judgment of a sister state which is entitled to full faith and credit.

C.2A:49A-20 Nonconclusiveness of judgments, conditions.

5. a. A foreign country money-judgment is not conclusive if:

(1) the judgment was rendered under a system which does not provide impartial tribunals or procedures compatible with the requirements of due process of law;

(2) the foreign country court did not have personal jurisdiction over the judgment debtor; or

(3) the foreign country court did not have jurisdiction over the subject matter.

b. A foreign country money-judgment need not be recognized if:

(1) the judgment debtor in the proceedings in the foreign country court did not receive notice of the proceedings in sufficient time to enable the judgment debtor to defend;

(2) the judgment was obtained by fraud;

(3) the cause of action on which the foreign judgment is based is contrary to the public policy of this State;

(4) the judgment conflicts with a prior final and conclusive judgment;

(5) the proceedings in the foreign country court were contrary to an agreement between the parties under which the dispute in question was to be settled, other than by proceedings in that court; or

(6) in the case of jurisdiction based only on personal service, the foreign country court was a seriously inconvenient forum for the trial of the action.

C.2A:49A-21 Recognition of judgments, conditions.

6. a. The foreign country money-judgment shall not be refused recognition for lack of personal jurisdiction if:

(1) the judgment debtor was served personally in the foreign state;

(2) the judgment debtor voluntarily appeared in the proceedings, other than for the purpose of protecting property seized or threatened with seizure in the proceedings or of contesting the jurisdiction of the court over the judgment debtor;

(3) the judgment debtor prior to the commencement of the proceedings had agreed expressly in writing to submit to the jurisdiction of the foreign country court with respect to the subject matter involved;

(4) the judgment debtor was domiciled in the foreign state when the proceedings were instituted, or being a body corporate, had its principal place of business or had otherwise acquired corporate status in the foreign state;

(5) the judgment debtor had a business office in the foreign state and the proceedings in the foreign country court involved a cause of action arising out of business done by the judgment debtor through that office in the foreign state; or

(6) the judgment debtor operated a motor vehicle or airplane in the foreign state and the proceedings involved a cause of action arising out of that operation.

b. The courts of this State may recognize other bases of personal jurisdiction.

C.2A:49A-22 Stay of proceedings; conditions.

7. If the judgment debtor satisfies the court that an appeal from the foreign country money- judgment is pending or that the judgment debtor is entitled and intends to appeal from the foreign country money-judgment, or that a stay of execution has been granted, the court may stay the proceedings until the appeal has been determined or until the expiration of a period of time sufficient to enable the judgment debtor to prosecute the appeal.

C.2A:49A-23 Other recognition of judgment not prohibited.

8. This act does not prevent the recognition of a foreign country money-judgment in situations not covered by this act.

C.2A:49A-24 Uniformity of other states' laws.

9. This act shall be so construed as to effectuate its general purpose to make uniform the law of those states which enact it.

10. This act shall take effect immediately.

Approved May 8, 1997.

CHAPTER 97

AN ACT concerning dredging and dredged material disposal, providing for the expenditure of monies made available pursuant to P.L.1996, c.70, supplementing Title 12 and Title 34 of the Revised Statutes, and making an appropriation.

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

C.12:6B-1 Findings, declarations relative to dredging, dredged material disposal.

1. The Legislature finds and declares that the existence of deep water ports in both the northern and southern sections of the State have been of critical importance to the economy and growth of the region since the colonial era; that the combination of the natural silting of New Jersey's harbor areas and the building of larger oceangoing vessels that require greater water depth has resulted in a reduction of the volume of maritime commerce in the region, resulting in a loss of jobs and the potential elimination of the Port of New York and New Jersey's present status as the primary port on the Eastern seaboard; that many of these port waters contain harmful contaminants that upset the ecological balance and threaten the environment, and that must be disposed of in the most cost-efficient manner possible, using the most up-to-date technology including the possible creation of a usable end product; and that the voters, in November 1996, overwhelmingly approved a bond issue for the dredging of New Jersey's navigation channels.

The Legislature therefore determines that it is in the public interest that the port dredging and dredged material disposal projects proceed as expeditiously and efficiently as possible, and that the monies approved by the voters for this purpose be used effectively; that it is necessary for the State to establish an administrative procedure to set priorities for dredging projects in accordance with their economic benefit to the State, and their relative potential to bring about economic growth through enhanced maritime commerce, to retain existing jobs and create new ones, and to support the continuing viability of the State's recreation and tourism industries; and that it is essential that the priorities for the dredging and dredged material disposal projects be established with the participation of the affected sectors of the State's economy, including representatives of the maritime industry, business and commercial interests, labor, and recreation and tourism industries, so that a consensus is reached on the most effective use of the available funds.

C.12:6B-2 Definitions relative to dredging, dredged material disposal.

2. As used in this act:

"Containment facility" means an upland or in-water confined disposal facility which shall consist of an artificially constructed island, a diked extension of an existing island, or a diked extension attached to land, and which is used solely for the disposal of dredged materials;

"Decontamination" means a process by which contaminants are removed or reduced from dredged materials, or by which dredged materials are otherwise made acceptable for use;

"Dredge" or "dredging" means the removal of sand, silt, mud, and other materials from the bottom of a waterway in order to deepen navigation channels and ship berths;

"Dredged material" means material removed by dredging that is, in the determination of the federal Environmental Protection Agency, either unsuitable for ocean disposal or suitable for ocean disposal only with capping;

"Port region" means the geographic area created by Article II of the Compact of April 30, 1921, creating the bi-state agency, now known as the Port Authority of New York and New Jersey, and which is commonly referred to as the Port of New York District ;

"Project" means any work relating to the construction of a containment facility or facilities and subaqueous pits for the disposal of dredged material from the port region; the decontamination of dredged material; the dredging of the Kill Van Kull, the Arthur Kill and other navigation channels located in the port region; the dredging of navigation channels not located in the port region; or the purchase of real or personal property, equipment, and any building, construction, and miscellaneous site improvements associated with an economic development site; and

"Task force" means the Dredging Project Facilitation Task Force established pursuant to section 3 of this act .

C.12:6B-3 Dredging Project Facilitation Task Force.

3. a. There is established in the Executive Branch of the State Government a Dredging Project Facilitation Task Force. For the purpose of complying with the provisions of Article V, Section IV, paragraph 1 of the New Jersey Constitution, the task force is allocated within the Department of Commerce and Economic Development, but, notwithstanding that allocation, the task force shall be independent of any supervision or control by the department or by the commissioner or any officer or employee thereof. The task force shall constitute an instrumentality of the State exercising public and essential governmental functions, and the exercise by

the task force of the powers conferred by this or any other act shall be deemed and held to be an essential governmental function of the State.

b. (1) The task force shall consist of 12 members, and shall include the following three ex-officio members: the Commissioner of the Department of Environmental Protection, or his designee; the Commissioner of the Department of Commerce and Economic Development, or his designee; and the State Treasurer, or his designee. The task force shall also include three public members appointed by the Governor; three public members appointed by the President of the Senate, one of whom the President of the Senate shall designate as chair of the task force; and three public members appointed by the Speaker of the General Assembly.

(2) The public members shall serve for terms of two years, except that of the public members first appointed by each appointing authority, one shall serve a term of three years, one shall serve a term of two years, and one shall serve a term of one year. Not more than two public members appointed by the same appointing authority shall be members of the same political party.

(3) The appointment of the members shall be made within 45 days of the effective date of this act. The appointee of the President of the Senate designated as chair of the task force shall serve a term of two years and shall convene an organizational meeting of the task force as soon as is practicable following the appointment of at least six public members to the task force.

(4) Each member of the task force shall serve for the term of the appointment and until a successor shall have been appointed and qualified. Task force members shall serve without compensation. Any vacancy shall be filled in the same manner as the original appointment for the unexpired term only. A public member may be reappointed to the task force upon term expiration.

(5) Any member of the task force may be removed by the appointing authority, for cause, after a public hearing.

(6) A majority of the full membership of the task force shall constitute a quorum for the transaction of task force business. Action may be taken and motions and resolutions adopted by the task force at any meeting thereof by the affirmative vote of a majority of the full membership of the task force.

(7) The public members shall, to the maximum extent practicable, represent one or more of the following areas of expertise and specialization: the maritime industry, the business community, the trucking industry, organized labor, marine terminal operations, the tourism and recreation industry, environmental technology, and commercial fishing.

C.12:6B-4 Priority list for dredging projects; appropriations.

4. a. It shall be the duty of the Office of Maritime Resources in the Department of Commerce and Economic Development to establish, from time to time, a project priority list for dredging, dredged material disposal projects and decontamination projects based primarily on the maintenance of the viability of the Port of New Jersey and New York as a deep water port accessible to international commerce, on the maintenance of the viability of navigation channels not located in the port region to promote commerce, recreation and tourism, and on the prospects for the creation and retention of jobs in New Jersey. In developing a project priority list, the office shall consult with the task force and the Department of Environmental Protection, and shall review and consider the plan developed pursuant to subsection a. of section 5 of P.L.1997, c.97 (C.12:6B-5). The office, in consultation with the task force and the Department of Environmental Protection, shall identify in the project priority lists developed pursuant to this subsection, not less than a total of $5 million for decontamination projects. Upon the development of a project priority list, the office shall submit the list to the task force for its approval. The task force is authorized to approve, disapprove, or approve in part, a project priority list.

b. Upon approval of a project priority list for projects authorized to receive funding pursuant to sections 5 and 7 of P.L.1996, c.70, or upon the failure of the task force to approve or disapprove a project priority list within 60 days of receipt of the list from the office, the task force shall submit the list to the President of the Senate and the Speaker of the General Assembly, who shall cause the project priority list to be introduced in each House in the form of legislative appropriations bills.

c. The Legislature shall consider, and may amend or supplement, the appropriations bills containing the project priority list. Any bill introduced pursuant to subsection b. of this section and approved by the Legislature shall appropriate monies from the "1996 Dredging and Containment Facility Fund," established pursuant to section 18 of P.L.1996, c.70, only for the projects authorized pursuant to sections 5 and 7 of P.L.1996, c.70, and shall identify the specific projects, including the individual amounts therefor, for which monies are appropriated.

d. No monies appropriated pursuant to subsection c. of this section shall be expended for any project unless the expenditure is authorized pursuant to the project priority list contained in the legislation approved in accordance with the provisions of subsection c. of this section.

e. Nothing in this section shall preclude the Legislature from developing a project priority list and making appropriations therefor.

C.12:6B-5 Dredging, dredged material, management and disposal plan.

5. a. The Office of Maritime Resources in the Department of Commerce and Economic Development shall, in consultation with the Department of Environmental Protection and the task force established pursuant to section 3 of P.L.1997, c.97 (C.12:6B-3), develop, implement and maintain a comprehensive dredging and dredged material management and disposal plan, including dredged material decontamination, for the navigable waters of the State.

b. The Department of Environmental Protection and the Department of Commerce and Economic Development shall be authorized, in accordance with the rules, regulations and procedures of the General Services Administration, to enter into agreements with public or private entities to establish ownership, lease provisions and other related real and personal property interests. The departments may also, in accordance with the rules, regulations and procedures of the General Services Administration, enter into agreements with regard to:

(1) the development, operation and management of dredging projects including, but not necessarily limited to, any cost sharing, right of way or easement provisions involved;

(2) the development, operation, management, closure and monitoring of dredged material disposal, treatment and processing facilities; and

(3) the development, evaluation, certification and implementation of demonstration dredged material decontamination and treatment technologies that are cost-effective, environmentally sound and that create a usable end product.

c. The departments shall be authorized to acquire by purchase, lease, grant or otherwise, any land, real or personal property which, in the determination of the departments, is reasonably necessary to effectuate the purposes of this act.

d. The departments shall be authorized to solicit proposals and to enter into all contracts and agreements necessary to plan, design, construct, equip, operate, finance, improve or maintain demonstration projects for dredging, dredged material disposal and dredged material decontamination projects.

e. The departments shall be authorized to charge and collect fees or charges for dredging and for the use of a dredged material disposal facility at such rates necessary to compensate for the costs to dredge, and to plan, design, construct, equip, operate, improve, maintain, close or replace the dredged material disposal facility and to ensure continued availability of dredging and dredged material disposal.

C.34:1B-140 Economic Development Site Task Force.

6. a. There is established in the Executive Branch of the State Government an Economic Development Site Task Force. For the purpose of complying with the provisions of Article V, Section IV, paragraph 1 of the New Jersey Constitution, the task force is allocated within the Department of Commerce and Economic Development, but, notwithstanding that allocation, the task force shall be independent of any supervision or control by the department or by the commissioner or any officer or employee thereof. The task force shall constitute an instrumentality of the State exercising public and essential governmental functions, and the exercise by the task force of the powers conferred by this or any other act shall be deemed and held to be an essential governmental function of the State.

b. The task force shall consist of 12 members, and shall include: two representatives of the Department of Commerce and Economic Development, one of whom shall be the commissioner, or his designee, who shall serve ex-officio, and one of whom shall be appointed by the Commissioner of Commerce and Economic Development; the Chairperson of the New Jersey Economic Development Authority, or his designee, who shall serve ex-officio; three public members appointed by the Governor; three public members appointed by the President of the Senate; and three public members appointed by the Speaker of the General Assembly, one of whom the Speaker of the General Assembly shall designate as chair of the task force. The appointment of the members shall be made within 45 days of the effective date of this act. An official making appointments to the task force shall not appoint more than one public member from the same county of residence. The appointee of the Speaker of the General Assembly designated as chair of the task force shall serve a term of two years and shall convene an organizational meeting of the task force as soon as is practicable following the appointment of at least six public members to the task force. The public members shall reside in the Delaware River and Bay Region.

c. The public members shall serve terms of two years, except that of the public members first appointed by each appointing authority, one shall serve a term of three years, one shall serve a term of two years, and one shall serve a term of one year. Not more than two public members appointed by the same appointing authority shall be members of the same political party.

d. Each member of the task force shall serve for the term of the appointment and until a successor shall have been appointed and qualified. Task force members shall serve without compensation. Any vacancy shall be filled in the same manner as the original appointment for the unexpired term only. A public member may be reappointed to the task force upon term expiration.

e. Any member of the task force may be removed by the appointing authority, for cause, after a public hearing.

f. A majority of the full membership of the task force shall constitute a quorum for the transaction of task force business. Action may be taken and motions and resolutions adopted by the task force at any meeting thereof by the affirmative vote of a majority of the full membership of the task force.

C.34:1B-141 Project application procedure; priority list; appropriations.

7. a. The Department of Commerce and Economic Development shall establish a process under which applicants may apply for monies made available from the "1996 Economic Development Site Fund," established pursuant to section 20 of P.L. 1996, c.70.

b. It shall be the duty of the Department of Commerce and Economic Development to review and evaluate applications received pursuant to the process established in subsection a. of this section to determine whether the project is eligible pursuant to the provisions of section 8 of P.L. 1997, c.97 (C.34:1B-142). Of those projects deemed eligible, the Department of Commerce and Economic Development shall include a description of each project and its purpose, impact, cost, and construction schedule and a recommendation for the approval or disapproval by the task force.

c. Upon the development of the project priority list, the Department of Commerce and Economic Development shall submit the list to the task force for its approval. The task force is authorized to approve, disapprove or approve with modifications, a project priority list. Upon approval of a project priority list containing projects eligible pursuant to section 8 of P.L.1997, c.97 (C.34:1B-142), and authorized to receive funding pursuant to section 8 of P.L.1996, c.70, the task force shall submit a project priority list to the President of the Senate and the Speaker of the General Assembly, who shall cause the project priority list to be introduced in each House in the form of legislative appropriations bills.

d. The Legislature shall consider, and may amend or supplement, the appropriations bills containing the project priority list. The monies authorized to be appropriated pursuant to this subsection shall be appropriated from the "1996 Economic Development Site Fund," established pursuant to section 20 of P.L.1996, c.70, to the Department of Commerce and Economic Development for the projects designated in the legislation. The Department of Commerce and Economic Development shall administer the projects designated in the legislation.

e. No monies appropriated pursuant to subsection d. of this section shall be expended for any economic development site related project unless the

expenditure is authorized pursuant to the legislation approved in accordance with the provisions of subsection d. of this section.

f. Nothing in this section shall preclude the Legislature from developing a project priority list and making appropriations therefor.

C.34:1B-142 Eligibility for economic development site funds.

8. a. To be eligible to receive monies from the "1996 Economic Development Site Fund," established pursuant to section 20 of P.L.1996, c.70, an economic development site project must meet at least two of the following criteria:

(1) The project will support or enhance the existing economic base of the region in which it is located, which may include, but need not be limited to, the agricultural, tourism and commercial sectors, or improvements to the region's infrastructure;

(2) The project will result in the rehabilitation or expansion of existing facilities in the region in which it is located;

(3) The project will result in the creation or retention of jobs in the region in which it is located; and

(4) The project will foster the development of business or commercial ventures which will promote long-term economic growth in the region in which it is located.

b. No monies from the "1996 Economic Development Site Fund," established pursuant to section 20 of P.L.1996, c.70, shall be expended for an economic development site outside of the Delaware River and Bay Region.

c. For the purposes of sections 6, 7 and 8 of P.L.1997, c.97 (C.34:1B-140, C.34:1B-141 and C.34:1B-142): "Delaware River and Bay Region" means all the State territory located within the "port district," as defined pursuant to section 1(6) of P.L.1951, c.288 (C.32:3-13.23); and "economic development site" means land, equipment, buildings, appurtenant infrastructure and miscellaneous site improvements designed to promote economic activity and new jobs in the Delaware River and Bay Region.

C.34:1B-143 Appropriation from fund.

9. The Legislature shall, from time to time, appropriate monies from the "1996 Economic Development Site Fund," established pursuant to section 20 of P.L.1996, c.70, to the Department of Commerce and Economic Development for the projects designated in the legislation. Any appropriation from this fund shall specify the projects involved, all of which shall meet the requirements of section 8 of P.L.1997, c.97 (C.34:1B-142).

C.12:6B-6 Criteria for final request for proposals.

10. The Department of Commerce and Economic Development and the Department of Environmental Protection shall establish, in consultation with the Dredging Project Facilitation Task Force, the criteria for the content of final requests for proposals for any studies, assessments, demonstration projects and dredging, and all phases in the development and construction of a dredged material disposal facility. The State may include in a request for proposals developed pursuant to this act, on a case-by-case basis, a provision for the indemnification of the State by the contract holder. The Department of Commerce and Economic Development or the Department of Environmental Protection, as appropriate, in consultation with the task force, shall solicit requests for proposals and negotiate contracts.

C.12:6B-7 Rules, regulations.

11. a. The Department of Environmental Protection shall adopt, pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), any rules or regulations necessary to effectuate the purposes of this act.

b. The Department of Commerce and Economic Development shall adopt, pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), any rules or regulations necessary to effectuate the purposes of this act.

C.12:6B-8 Limitations on administrative costs.

12. The Legislature may, in the annual appropriations act or in any other act, limit the amount of funds appropriated from the "1996 Dredging and Containment Facility Fund," established pursuant to section 18 of P.L.1996, c.70, that may be expended for any direct or indirect program administrative costs of the State, its departments, agencies, or authorities.

13. There is appropriated to the Department of Environmental Protection from the "1996 Dredging and Containment Facility Fund," established pursuant to section 18 of the "Port of New Jersey Revitalization, Dredging, Environmental Cleanup, Lake Restoration, and Delaware Bay Area Economic Development Bond Act of 1996," P.L. 1996, c.70, the sum of $32,000,000 for the following dredging and dredged material disposal projects, including infrastructure investments:

Project Name	**Channel/Reach**
New York and New Jersey Channels	Kill Van Kull
New York and New Jersey Channels	Arthur Kill
Upper New York Harbor	Port Jersey Channel
Upper New York Harbor	Claremont Channel

New York and New Jersey Channels
Port Newark/Elizabeth
Hudson River & Adjacent Channels
New York and New Jersey Channels
Raritan River
New York and New Jersey Channels
Hudson River Channel

Newark Bay, Hackensack and
Passaic Rivers

Wards Point Bend
Reaches A,B,C and D
New Jersey Anchorages
Shooter's Island Reach
Raritan River Channel
Raritan Bay Reach
40 foot channel
(New Jersey side)
Newark Bay Channels

14. This act shall take effect immediately.

Approved May 8, 1997.

CHAPTER 98

AN ACT providing conscientious employee protections to health care professionals and amending P.L.1986, c.105.

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

1. Section 2 of P.L.1986, c.105 (C.34:19-2) is amended to read as follows:

C.34:19-2 Definitions.

2. As used in this act:

a. "Employer" means any individual, partnership, association, corporation or any person or group of persons acting directly or indirectly on behalf of or in the interest of an employer with the employer's consent and shall include all branches of State Government, or the several counties and municipalities thereof, or any other political subdivision of the State, or a school district, or any special district, or any authority, commission, or board or any other agency or instrumentality thereof.

b. "Employee" means any individual who performs services for and under the control and direction of an employer for wages or other remuneration.

c. "Public body" means:

(1) the United States Congress, and State legislature, or any popularly-elected local governmental body, or any member or employee thereof;

(2) any federal, State, or local judiciary, or any member or employee thereof, or any grand or petit jury;

(3) any federal, State, or local regulatory, administrative, or public agency or authority, or instrumentality thereof;

(4) any federal, State, or local law enforcement agency, prosecutorial office, or police or peace officer;

(5) any federal, State or local department of an executive branch of government; or

(6) any division, board, bureau, office, committee or commission of any of the public bodies described in the above paragraphs of this subsection.

d. "Supervisor" means any individual with an employer's organization who has the authority to direct and control the work performance of the affected employee, who has authority to take corrective action regarding the violation of the law, rule or regulation of which the employee complains, or who has been designated by the employer on the notice required under section 7 of this act.

e. "Retaliatory action" means the discharge, suspension or demotion of an employee, or other adverse employment action taken against an employee in the terms and conditions of employment.

f. "Improper quality of patient care" means, with respect to patient care, any practice, procedure, action or failure to act of an employer that is a health care provider which violates any law or any rule, regulation or declaratory ruling adopted pursuant to law, or any professional code of ethics.

2. Section 3 of P.L.1986, c.105 (C.34:19-3) is amended to read as follows:

C.34:19-3 Retaliatory action prohibited.

3. An employer shall not take any retaliatory action against an employee because the employee does any of the following:

a. Discloses, or threatens to disclose to a supervisor or to a public body an activity, policy or practice of the employer or another employer, with whom there is a business relationship, that the employee reasonably believes is in violation of a law, or a rule or regulation promulgated pursuant to law, or, in the case of an employee who is a licensed or certified health care professional, reasonably believes constitutes improper quality of patient care;

b. Provides information to, or testifies before, any public body conducting an investigation, hearing or inquiry into any violation of law, or a rule or regulation promulgated pursuant to law by the employer or another employer, with whom there is a business relationship, or, in the case of an employee who is a licensed or certified health care professional, provides

information to, or testifies before, any public body conducting an investigation, hearing or inquiry into the quality of patient care; or

c. Objects to, or refuses to participate in any activity, policy or practice which the employee reasonably believes:

(1) is in violation of a law, or a rule or regulation promulgated pursuant to law or, if the employee is a licensed or certified health care professional, constitutes improper quality of patient care;

(2) is fraudulent or criminal; or

(3) is incompatible with a clear mandate of public policy concerning the public health, safety or welfare or protection of the environment.

3. This act shall take effect immediately.

Approved May 12, 1997.

CHAPTER 99

AN ACT authorizing the public sale of a total municipal property tax levy to the highest bidder and amending and supplementing various sections of statutory law.

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

1. R.S.54:4-65 is amended to read as follows:

Form and content of property tax bills.

54:4-65. a. The Director of the Division of Local Government Services in the Department of Community Affairs shall approve the form and content of property tax bills.

b. Each tax bill shall have printed thereon a brief tabulation showing the distribution of the amount raised by taxation in the taxing district, in such form as to disclose the rate per $100.00 of assessed valuation or the number of cents in each dollar paid by the taxpayer which is to be used for the payment of State school taxes, other State taxes, county taxes, local school expenditures and other local expenditures. The last named item may be further subdivided so as to show the amount for each of the several departments of the municipal government. In lieu of printing such information on the tax bill, any municipality may furnish the tabulation required hereunder and any other pertinent information in a statement accompanying the mailing or delivery of the tax bill. There shall be

included on or with the tax bill the delinquent interest rate or rates to be charged and any end of year penalty that is authorized.

c. The appropriate tax bill or form mailed with the tax bill shall also contain a statement reporting amounts of State aid and assistance received by the municipality, school districts, special districts and county governments used to offset local tax levies. The director shall provide each tax collector with a certification of the amounts of said State aid and assistance for inclusion in the tax bill.

d. The tax bill or form mailed with the tax bill shall include thereon the date upon which each installment is due.

2. R.S.54:4-66 is amended to read as follows:

When calendar year taxes payable, delinquent.

54:4-66. a. Taxes for municipalities operating under the calendar fiscal year shall be payable the first installment as hereinafter provided on February 1, the second installment on May 1, the third installment on August 1 and the fourth installment on November 1, after which dates if unpaid, they shall become delinquent and remain delinquent until such time as all unpaid taxes, including taxes and other liens subsequently due and unpaid, together with interest have been fully paid and satisfied;

b. From and after the respective dates hereinbefore provided for taxes to become delinquent, the taxpayer or property assessed shall be subject to the interest and penalties hereinafter prescribed;

c. The dates hereinbefore provided for payment of the first and second installments of taxes being before the true amount of the tax will have been determined, the amount to be payable as each of the first two installments shall be one-quarter of the total tax finally levied against the same property or taxpayer for the preceding year or, if directed to do so for the tax year by resolution of the municipal governing body, one-half of the tax levied for the second half of the preceding tax year, as appropriate; and the amount to be payable for the third and fourth installments shall be the full tax as levied for the current year, less the amount charged as the first and second installments; the amount thus found to be payable as the last two installments shall be divided equally for and as each installment. An appropriate adjustment by way of discount shall be made, if it shall appear that the total of the first and second installments exceeded one-half of the total tax as levied for the year;

d. (Deleted by amendment, P.L.1994, c.72).

e. Taxes may be received and credited as payments at any time, even prior to the dates hereinbefore fixed for payment, from the property owners, their agents or lien holders; however, no interest shall accrue until the

delinquency date. Up to and including the payment date for each quarter, priority of payment shall be given to the property owner when third party tax liens exist against the property.

3. Section 2 of P.L.1994, c.72 (C.54:4-66.1) is amended to read as follows:

C.54:4-66.1 Fiscal year taxes payable, delinquent; definitions; formulas.

2. Taxes in municipalities operating under the State fiscal year shall be payable and shall be delinquent pursuant to the following provisions:

a. Taxes shall be payable the first installment as hereinafter provided on February 1, the second installment on May 1, the third installment on August 1 and the fourth installment on November 1, after which dates if unpaid, they shall become delinquent and remain delinquent until such time as all unpaid taxes, including taxes and other liens subsequently due and unpaid, together with interest have been fully paid and satisfied;

b. From and after the respective dates hereinbefore provided for taxes to become delinquent, the taxpayer or property assessed shall be subject to the penalties hereinafter prescribed;

c. The following terms and phrases shall have the meaning defined below when calculating taxes under this section:

"Assessed value" means the net valuation taxable of each parcel of property in a municipality in the current tax year.

"Billing percentage" is used to calculate the amount required to meet municipal and non-municipal fiscal obligations for the first six months of the calendar year.

"Calendar year" means the current calendar year.

"Certification of tax billing levies" is the form and associated procedures promulgated by the director on which the tax collector calculates the appropriate billing amounts for the first and second installments of the calendar year.

"Director" means the director of the Division of Local Government Services.

"Municipal tax levy" means the tax levy set in the municipal budget for the current fiscal year.

"Non-municipal tax levy" means the total of all of the tax levies certified by the county board of taxation for non-municipal purposes for the calendar year.

"Preliminary municipal tax levy" is the amount certified by the governing body for the purposes of third and fourth installment municipal tax levy.

"Prior year" means the calendar year just previous to the quarters being billed.

"Six month required non-municipal tax levy" means the amount necessary to be paid by the municipality to the county and non-municipal taxing districts for the first six months of the calendar year.

"Total adjusted prior year taxes" means the prior year taxes billed after adjustments are made to incorporate changes to tax bills between tax billings.

"Total assessed value" means the total net valuation taxable for the municipality pursuant to the most recent Table of Aggregates promulgated by the County Board of Taxation.

d. The following formulas shall be utilized in calculating the taxes for each parcel or property:

(1) the municipal rate shall be the preliminary municipal tax levy divided by the total assessed value per one hundred dollars of assessed valuation.

(2) the non-municipal rate shall be the non-municipal tax levy divided by the total assessed value per one hundred dollars of assessed value.

(3) "Municipal billing percentage" shall be the municipal tax levy less the sum of the adjusted taxes billed for the prior year third and fourth installments, divided by the total adjusted prior year taxes.

(4) "Non-municipal billing percentage" shall be calculated by dividing the six-month required non-municipal tax levy by the total adjusted prior year taxes.

e. Taxes for each parcel or property shall be calculated as follows:

(1) The tax collector shall prepare the certification of tax billing levies and calculate the first and second installments by computing the municipal portion, which shall be the municipal billing percentage multiplied by the total adjusted prior year taxes; and then the non-municipal portion, which shall be the non-municipal billing percentage multiplied by the total adjusted prior year taxes. The sum of the two shall be divided in half for each installment. A copy of the certification shall be filed with the director and the county board of taxation.

(2) The third and fourth installments shall be calculated by computing the municipal portion, which shall be the product of the municipal rate times the total assessed value per one hundred dollars of assessed value, and subtracting the taxes billed for the previous first and second installments; and then the non-municipal portion which shall be the product of the non-municipal rate times the total assessed value per one hundred dollars of assessed value, and subtracting the taxes billed for the previous first and second installments. The sum of the two shall be divided in half for each installment.

f. Taxes may be received and credited as payments at any time, even prior to the dates hereinabove fixed for payment, from the property owners, their agents or lien holders; however, no interest shall accrue until the

delinquency date. Up to and including the payment date for each quarter, priority of payment shall be given to the property owner when third party tax liens exist against the property.

4. R.S.54:4-67 is amended to read as follows:

Discount for prepayment; interest for delinquency.

54:4-67. a. The governing body of each municipality may by resolution fix the rate of discount to be allowed for the payment of taxes or assessments previous to the date on which they would become delinquent. The rate so fixed shall not exceed 6% per annum, shall be allowed only in case of payment on or before the thirtieth day previous to the date on which the taxes or assessments would become delinquent. No such discount shall apply to the purchaser of a total property tax levy pursuant to section 16 of P.L.1997, c.99 (C.54:5-113.5). The governing body may also fix the rate of interest to be charged for the nonpayment of taxes, assessments, or other municipal liens or charges, unless otherwise provided by law, on or before the date when they would become delinquent, and may provide that no interest shall be charged if payment of any installment is made within the tenth calendar day following the date upon which the same became payable. The rate so fixed shall not exceed 8% per annum on the first $1,500.00 of the delinquency and 18% per annum on any amount in excess of $1,500.00, to be calculated from the date the tax was payable until the date that actual payment to the tax collector is made.

b. In any year when the governing body changes the rate of interest to be charged for delinquent taxes, assessments or other municipal charges, or to be charged for the end of the year penalty, the governing body, after adoption of a resolution changing the rate of interest, shall provide a notice to all taxpayers, prior to the date taxes are next due or with the tax bill, stating the new rate or rates to be charged and the date that the new rate or rates take effect. The notice may be separate from the tax bill. No change in the rate of interest or the end of year penalty shall take effect until the required notice has been provided in accordance with this subsection.

c. In municipalities that have sold their property tax levy pursuant to section 16 of P.L.1997, c.99 (C.54:5-113.5), the rate of interest to be charged for the nonpayment of taxes, assessments or other municipal liens or charges shall be the same interest or delinquency rate or rates otherwise charged by the municipality, to be calculated from the date the tax was payable until the date of actual payment to the tax collector. The purchaser of the total property tax levy shall be paid only those amounts attributable to properties included in the total property tax levy purchase and actually collected by the tax collector and which amounts shall not include any

delinquent interest collected by the municipal tax collector prior to the time that the total property tax levy purchaser makes the levy payment to the municipality.

"Delinquency" means the sum of all taxes and municipal charges due on a given parcel of property covering any number of quarters or years. The property shall remain delinquent, as defined herein, until such time as all unpaid taxes, including subsequent taxes and liens, together with interest thereon shall have been fully paid and satisfied. The delinquency shall remain notwithstanding the issuance of a certificate of sale pursuant to R.S.54:5-32 and R.S.54:5-46, the payment of delinquent tax by the purchaser of the total property tax levy pursuant to section 16 of P.L.1997, c.99 (C.54:5-113.5) and for the purposes of satisfying the requirements for filing any tax appeal with the county board of taxation or the State tax court. The governing body may also fix a penalty to be charged to a taxpayer with a delinquency in excess of $10,000 who fails to pay that delinquency as billed, prior to the end of the fiscal year. If any fiscal year delinquency in excess of $10,000 is paid by the holder of an outstanding tax sale certificate or a total property tax levy purchaser, the holder or purchaser, as appropriate, shall be entitled to receive the amount of the penalty as part of the amount required to redeem such certificate of sale providing the payment is made by the tax lien holder or tax levy purchaser prior to the end of the fiscal year. If the holder of the outstanding tax sale certificate or the levy purchaser, as appropriate, does not make the payment in full prior to the end of the fiscal year, then the holder or purchaser shall be entitled to a pro rata share of the delinquency penalty upon redemption, and the balance of the penalty shall inure to the benefit of the municipality. The penalty so fixed shall not exceed 6% of the amount of the delinquency with respect to each most recent fiscal year only.

5. R.S.54:5-19 is amended to read as follows:

Power of sale; "collector" and "officer" defined.

54:5-19. When unpaid taxes or any municipal lien, or part thereof, on real property, remains in arrears on the 11th day of the eleventh month in the fiscal year when the same became in arrears, the collector or other officer charged by law in the municipality with that duty, shall, subject to the provisions of the next paragraph, enforce the lien by selling the property in the manner set forth in this article, provided that the sale is conducted no earlier than in the last month of the fiscal year.

The term "collector" as hereinafter used includes any such officer, and the term "officer" includes the collector.

The municipality may by resolution direct that when unpaid taxes or other municipal liens or charges, or part thereof, are in arrears as of the 11th day of the eleventh month of the fiscal year, such sale shall include only such unpaid taxes or other municipal liens or charges as were in arrears in the fiscal year designated in such resolution, and may by resolution, either general or special, direct that there shall be omitted from such sale any or all such unpaid taxes, and other municipal liens, or parts thereof, on real property, upon which regular, equal monthly installment payments are being made, in pursuance to such agreement as may be authorized by said resolution between the collector and the owner or person interested in the property upon which such delinquent taxes may be due; provided, that said agreement shall require payment of such installment payments in amounts large enough to pay in full all delinquent taxes, assessments and other municipal liens held by the municipality, in not more than five years from the date of such agreement; provided, that the extension of time for payment of such arrearages herein authorized shall not apply to any parcel of property which prior thereto has been included in any plan theretofore adopted by any municipality of this State under and pursuant to the provisions of any public statute of this State whereunder prior extensions for the payment of delinquent taxes were authorized; provided further, that the right of any person interested in such property to pay such arrears in such installments shall be conditioned on the prompt payment of the installments of taxes for the current year in which such agreement is made, and all subsequent taxes, assessments and other municipal liens imposed or becoming a lien thereafter, including all installments thereafter payable on assessments theretofore levied, and also the prompt payment of all installments of arrears as hereinbefore authorized; and provided further, that in case any such installment of arrears or any new taxes, assessments or other liens are not promptly paid, that is to say, within thirty days after the date when the same is due and payable, then such agreement shall be void, and in any such case the collector, or other officer charged by law with that duty, shall proceed to enforce such lien by selling in the manner in this article provided.

6. R.S.54:5-26 is amended to read as follows:

Notices posted and advertised in newspaper, mail notice.

54:5-26. Copies of the notice of a tax sale shall be set up in five of the most public places in the municipality, and a copy of the notice shall be published in a newspaper circulating in the municipality, once in each of the four calendar weeks preceding the calendar week containing the day appointed for the sale. In lieu of any two publications, notice to the property owner and to any person or entity entitled to notice of foreclosure pursuant

to section 20 of P.L.1948, c.96 (C.54:5-104.48) may be given by regular or certified mail, the costs of which shall be added to the cost of the sale in addition to those provided in R.S.54:5-38, not to exceed $25 for each set of notices for a particular property. Failure of the property owner to receive a notice of a tax sale properly mailed by the tax collector shall not constitute grounds to void the subsequent tax sale. If ordinances of the municipality are required to be published in any special newspaper or newspapers, the notice shall be published therein.

7. R.S.54:5-49 is amended to read as follows:

Certificate; issuance to purchaser.

54:5-49. a. Each certificate shall cover only such property as is assessed as one parcel, and shall be prepared ready for delivery to the purchaser within ten days after the sale, including the date of sale as the first day, or the purchaser, other than a total property tax levy purchaser, may refuse to accept it and be entitled to repayment of the purchase price. Thereupon the lien shall be vested in the municipality and a certificate of sale shall be made to it as if originally struck off to it. The certificate shall not be invalid because delivered after the expiration of that period.

b. Tax sale certificates to be issued to the purchaser of a total property tax levy shall be issued within 10 days following the tax sale and after the final fiscal year total property tax levy payment, or thereafter, according to the contract with the municipality. A resolution of entitlement to a tax sale certificate shall be provided by the municipality on any delinquent properties in bankruptcy. Tax sale certificates shall be issued at the conclusion of the bankruptcy proceedings, or earlier, if permissible in connection with the bankruptcy proceeding, dated as of the next tax sale date upon surrender of the resolution of entitlement to the municipality.

8. Section 1 of P.L.1940, c.90 (C.54:5-52.1) is amended to read as follows:

C.54:5-52.1 Destruction, loss of tax title certificate; issuance of duplicate; fee.

1. In case of the destruction or loss of a tax title certificate which was issued by any municipality in this State at a tax sale held in that municipality, the collector of taxes, the receiver of taxes, or the person lawfully charged with the collection of taxes in said municipality shall issue and execute a new certificate of tax sale in place of the one which has been destroyed or lost; provided, he or she shall have been duly authorized so to do by a resolution of the governing body of the said municipality. There shall appear on the new certificate a statement that it is a duplicate of the original one which was destroyed or lost and the date of said original

certificate and the date of the tax sale upon which it was issued and the name and title of the officer who issued same. The municipality may charge a fee not to exceed $100 for such a duplicate certificate.

9. 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; limitation exceptions.

3. In the preparation of its budget a municipality shall limit any increase in said budget to 5% or the index rate, whichever is less, over the previous year's final appropriations subject to the following exceptions:

a. (Deleted by amendment, P.L.1990, c.89.)

b. Capital expenditures, including appropriations for current capital expenditures, whether in the capital improvement fund or as a component of a line item elsewhere in the budget, provided that any such current capital expenditure would be otherwise bondable under the requirements of N.J.S.40A:2-21 and 40A:2-22;

c. (1) An increase based upon emergency temporary appropriations made pursuant to N.J.S.40A:4-20 to meet an urgent situation or event which immediately endangers the health, safety or property of the residents of the municipality, and over which the governing body had no control and for which it could not plan and emergency appropriations made pursuant to N.J.S.40A:4-46. Emergency temporary appropriations and emergency appropriations shall be approved by at least two-thirds of the governing body and by the Director of the Division of Local Government Services, and shall not exceed in the aggregate 3% of the previous year's final current operating appropriations.

(2) (Deleted by amendment, P.L.1990, c.89.)

The approval procedure in this subsection shall not apply to appropriations adopted for a purpose referred to in subsection d. or j. below;

d. All debt service, including that of a Type I school district;

e. Upon the approval of the Local Finance Board in the Division of Local Government Services, amounts required for funding a preceding year's deficit;

f. Amounts reserved for uncollected taxes;

g. (Deleted by amendment, P.L.1990, c.89.)

h. Expenditure of amounts derived from new or increased construction, housing, health or fire safety inspection or other service fees imposed by State law, rule or regulation or by local ordinance;

i. Any amount approved by any referendum;

j. Amounts required to be paid pursuant to (1) any contract with respect to use, service or provision of any project, facility or public improvement for

water, sewerage, parking, senior citizen housing or any similar purpose, or payments on account of debt service therefor, between a municipality and any other municipality, county, school or other district, agency, authority, commission, instrumentality, public corporation, body corporate and politic or political subdivision of this State; (2) the provisions of article 9 of P.L.1968, c.404 (C.13:17-60 through 13:17-76) by a constituent municipality to the intermunicipal account; (3) any lease of a facility owned by a county improvement authority when the lease payment represents the proportionate amount necessary to amortize the debt incurred by the authority in providing the facility which is leased, in whole or in part; and (4) any repayments under a loan agreement entered into in accordance with the provisions of section 5 of P.L.1992, c.89.

k. (Deleted by amendment, P.L.1987, c.74.)

l. Appropriations of federal, county, independent authority or State funds, or by grants from private parties or nonprofit organizations for a specific purpose, and amounts received or to be received from such sources in reimbursement for local expenditures. If a municipality provides matching funds in order to receive the federal, county, independent authority or State funds, or the grants from private parties or nonprofit organizations for a specific purpose, the amount of the match which is required by law or agreement to be provided by the municipality shall be excepted;

m. (Deleted by amendment, P.L.1987, c.74.)

n. (Deleted by amendment, P.L.1987, c.74.)

o. (Deleted by amendment, P.L.1990, c.89.)

p. (Deleted by amendment, P.L.1987, c.74.)

q. (Deleted by amendment, P.L.1990, c.89.)

r. Amounts expended to fund a free public library established pursuant to the provisions of R.S.40:54-1 through 40:54-29, inclusive;

s. (Deleted by amendment, P.L.1990, c.89.)

t. Amounts expended in preparing and implementing a housing element and fair share plan pursuant to the provisions of P.L.1985, c.222 (C.52:27D-301 et al.) and any amounts received by a municipality under a regional contribution agreement pursuant to section 12 of that act;

u. Amounts expended to meet the standards established pursuant to the "New Jersey Public Employees' Occupational Safety and Health Act," P.L.1983, c.516 (C.34:6A-25 et seq.);

v. (Deleted by amendment, P.L.1990, c.89.)

w. Amounts appropriated for expenditures resulting from the impact of a hazardous waste facility as described in subsection c. of section 32 of P.L.1981, c.279 (C.13:1E-80);

x. Amounts expended to aid privately owned libraries and reading rooms, pursuant to R.S.40:54-35;

y. (Deleted by amendment, P.L.1990, c.89.)

z. (Deleted by amendment, P.L.1990, c.89.)

aa. Extraordinary expenses, approved by the Local Finance Board, required for the implementation of an interlocal services agreement;

bb. Any expenditure mandated as a result of a natural disaster, civil disturbance or other emergency that is specifically authorized pursuant to a declaration of an emergency by the President of the United States or by the Governor;

cc. Expenditures for the cost of services mandated by any order of court, by any federal or State statute, or by administrative rule, directive, order, or other legally binding device issued by a State agency which has identified such cost as mandated expenditures on certification to the Local Finance Board by the State agency;

dd. Expenditures of amounts actually realized in the local budget year from the sale of municipal assets if appropriated for non-recurring purposes or otherwise approved by the director;

ee. Any local unit which is determined to be experiencing fiscal distress pursuant to the provisions of P.L.1987, c.75 (C.52:27D-118.24 et seq.), whether or not a local unit is an "eligible municipality" as defined in section 3 of P.L.1987, c.75 (C.52:27D-118.26), and which has available surplus pursuant to the spending limitations imposed by P.L.1976, c.68 (C.40A:4-45.1 et seq.), may appropriate and expend an amount of that surplus approved by the director and the Local Finance Board as an exception to the spending limitation. Any determination approving the appropriation and expenditure of surplus as an exception to the spending limitations shall be based upon:

1) the local unit's revenue needs for the current local budget year and its revenue raising capacity;

2) the intended actions of the governing body of the local unit to meet the local unit's revenue needs;

3) the intended actions of the governing body of the local unit to expand its revenue generating capacity for subsequent local budget years;

4) the local unit's ability to demonstrate the source and existence of sufficient surplus as would be prudent to appropriate as an exception to the spending limitations to meet the operating expenses for the local unit's current budget year; and

5) the impact of utilization of surplus upon succeeding budgets of the local unit;

ff. Amounts expended for the staffing and operation of the municipal court;

gg. Amounts appropriated for the cost of administering a joint insurance fund established pursuant to subsection b. of section 1 of P.L.1983, c.372

(C.40A:10-36), but not including appropriations for claims payments by local member units;

hh. Amounts appropriated for the cost of implementing an estimated tax billing system and the issuance of tax bills thereunder pursuant to section 3 of P.L.1994, c.72 (C.54:4-66.2);

ii. Expenditures related to the cost of conducting and implementing a total property tax levy sale pursuant to section 16 of P.L.1997, c.99 (C.54:5-113.5).

10. R.S.54:5-58 is amended to read as follows:

Amount required to redeem.

54:5-58. The amount required to redeem within 10 days from and including the date of sale, unless a tax sale certificate has been duly issued during the 10-day period, shall be the sum paid at the sale, with interest from the date of sale at the rate of redemption for which the property was sold. After 10 days from the date of sale including the date of sale as the first day, or after issuance of the tax sale certificate during the 10-day period, the amount required for redemption shall be that amount plus the expenses incurred by the purchaser as hereinafter provided, and subsequent municipal liens, as provided in sections 54:5-59 and 54:5-60 of this Title. Where, because of municipal fiscal restrictions imposed upon the tax collector, the transmission of the redemption sum to the purchaser is dependent upon the approval of the governing body, or other officer, of the municipality, such interest shall be computed to the time when such governing body or officer may next act with respect thereto.

11. R.S.54:5-60 is amended to read as follows:

Amount required if certificate is not held by municipality.

54:5-60. If the certificate of sale is not held by the municipality, the amount required for redemption shall include all sums for subsequent taxes, municipal liens and charges, and interest and costs thereon, actually paid by the holder of the tax title or his predecessor therein, together with interest on the amount so paid at the rate or rates chargeable by the municipality, provided the holder of such title shall have made and filed with the collecting officer an affidavit showing the amount of such payment, which affidavit may be taken before such officer.

C.40A:4-40.1 Reduction of reserve for uncollected taxes by sale of total property tax levy.

12. a. A municipality may reduce its reserve for uncollected taxes by deducting any or all payments anticipated during the fiscal year from the sale of the total property tax levy pursuant to section 16 of P.L.1997, c.99

(C.54:5-113.5), from the reserve for uncollected taxes as calculated pursuant to N.J.S.40A:4-40 and N.J.S.40A:4-41, provided that the obligation to make such payment is entered into prior to adoption of the budget. Any revenues received pursuant to this section shall be excluded from any calculation of the tax collection rate pursuant to N.J.S.40A:4-41 or receipts from delinquent taxes pursuant to N.J.S.40A:4-29.

b. A municipality shall not execute a contract for the sale of the total property tax levy unless the Division of Local Government Services in the Department of Community Affairs has reviewed the fiscal impact of the sale of the total property tax levy. The municipality shall forward a copy of a proposed contract and the fiscal analysis of the impact of the sale required to be provided to the municipal governing body pursuant to section 14 of P.L.1997, c.99 (C.40A:4-40.3), as soon as they are available, to the Division of Local Government Services for review. The division shall review the fiscal impact of the contract within 15 business days after receipt and shall approve or disapprove the contract in writing within that time. The director of the division may condition the approval of the contract on budget actions that the director may determine.

C.40A:4-40.2 Reduction of reserve for uncollected taxes by deduction of receipts for sale of unpaid taxes, liens.

13. A municipality may reduce its reserve for uncollected taxes by deducting any or all receipts anticipated during the fiscal year from the sale of unpaid taxes or municipal liens when concluded in the final month of the fiscal year as allowed pursuant to R.S.54:5-19, provided that such amount be calculated in the same manner as receipts for delinquent taxes are calculated in N.J.S.40A:4-29, and that prior to adoption of the budget, such sale is authorized by resolution of the governing body. Any revenues received pursuant to this section shall be excluded from any calculation of the tax collection rate pursuant to N.J.S.40A:4-41 or receipts from delinquent taxes pursuant to N.J.S.40A:4-29.

C.40A:4-40.3 Fiscal analysis prior to sale of total property tax levy.

14. Prior to the award of a contract for the sale of the total property tax levy pursuant to section 16 of P.L.1997, c.99 (C.54:5-113.5), or when a municipality chooses to reduce its reserve for uncollected taxes by deducting the receipts anticipated during the fiscal year from the sale of unpaid taxes or municipal liens when concluded in the final month of the fiscal year as allowed pursuant to R.S.54:5-19, the chief financial officer or registered municipal accountant shall provide the governing body a fiscal analysis of the impact of the sale on the current budget and the projected budgets for the next two subsequent years. The Director of the Division of Local Government Services in the Department of Community Affairs may

promulgate a standard form to be used for this purpose, which, if promulgated, shall include, but not be limited to, the amount of the reserve for uncollected taxes, receipts for delinquent taxes and the municipal tax rate. The analysis shall be a public record.

C.54:4-67.1 Accounts of unpaid properties deemed delinquent.

15. Notwithstanding the payment of any property taxes, assessments or municipal charges by the purchaser of the total property tax levy pursuant to subsection c. of section 17 of P.L.1997, c.99 (C.54:5-113.6), the accounts of any unpaid properties shall be deemed delinquent for purposes of the creation, assignment, sale, redemption, or foreclosure of tax lien certificates, or for the purpose of filing a tax appeal with the county tax board or the State tax court.

The municipality shall comply with the notice and redemption provisions relating to the creation of tax certificates as hereinafter provided, except that the municipality shall be required to issue, and the levy purchaser shall be required to accept, the tax lien certificates if the contract for the sale of the total property tax levy provides that tax lien certificates shall be issued as partial consideration for the payment of the total property tax levy purchase in connection with the sale of the total property tax levy. The purchaser of the total property tax levy shall be obligated to accept any and all liens or tax sale certificates related thereto which are included within the total property tax levy as to which the levy purchaser has advanced monies to the municipality. Upon the receipt of a duly issued tax sale certificate any tax lien purchaser shall have the right to purchase subsequent property tax delinquencies relating to those properties upon payment of the full amount of the principal and interest due.

C.54:5-113.5 Sale of total property tax levy by municipality.

16. a. Notwithstanding the provisions of any other law, rule or regulation to the contrary, a municipality may, by resolution of the governing body, agree to sell its total property tax levy, which may include the sale of any subsequently created property tax lien certificates relating to delinquent properties, to a third party at a public sale. If the municipality decides to sell its total property tax levy, the sale shall be either by public sale with sealed bids or by public auction, to the highest responsible bidder, subject to the terms and conditions of law and the bid specifications. The sale shall be held after a copy of the public notice of sale stating the manner of submitting and method of receiving the bids and the time and place of sale has been published in a legal newspaper circulating within the municipality at least 14 days in advance of the date fixed for receiving bids.

b. A municipality, by resolution, may determine to conclude its sale of the total property tax levy in the final month of its fiscal year provided that all statutory notice requirements are followed.

C.54:5-113.6 Terms, conditions of bid specifications.

17. Bid specifications for a contract for the sale of the total property tax levy shall be subject to the following minimum terms and conditions:

a. The municipality shall have the right to set a minimum bid price, expressed in dollars, percent of levy, or both, which may include a premium over the total property tax levy amount or a discount from the total property tax levy amount. The municipality shall reserve the right to reject any and all bids if, in the discretion of the municipality, it determines that the bid sale price is inadequate.

b. The municipality shall require the successful bidder to secure its payment obligation with either an irrevocable letter of credit or a bond from a surety or insurance company, the form and sufficiency of which is acceptable to and approved by the municipality, but which initially shall not be less than 105% of the amount of the uncollected taxes levied and payable as of the last day of the prior year or 105% of the amount actually paid by the levy purchaser in the prior year for taxes levied and payable for that year, whichever is greater, or, in the case of a levy sale concluded in the final month of the fiscal year, an amount equal to 105% of the actual tax collection delinquency for the prior fiscal year. The amount of the letter of credit or surety bond may be reduced proportionately throughout the year as the total property tax levy purchaser satisfies its payment obligation. The irrevocable letter of credit or the bond shall be provided prior to the sale of the total property tax levy becoming effective.

c. The purchaser shall pay for the total property tax levy bid amount in quarterly installments or, if there is to be one annual installment, after the last fiscal year quarterly delinquent date as indicated in the contract for the sale of the total property tax levy. These installments shall be due no earlier than 10 days, and no later than 30 days after the appropriate quarterly tax due date. Whether there is one annual installment payment prior to the end of the fiscal year as indicated in the contract for the sale of the total property tax levy or quarterly installments, in either event, the installment shall be due upon the presentation of a certification from the tax collector stating; (1) the total amount of the total property tax levy for the quarter or year, as appropriate, (2) the amount of property taxes that are delinquent for the quarter or year, as appropriate, (3) a list of the amount of the delinquent property taxes for each property, which property shall be identified by block, lot and the name of the owner, and (4) the amount due and payable by the property tax levy purchaser pursuant to its contract with the municipality.

The tax collector shall deliver the certification to the purchaser within five business days following 10 days after the quarterly tax due date. At the time of the quarterly or annual payment, as appropriate, the purchaser shall receive as a credit against the payment due, an amount equal to the taxes paid to the tax collector. If, within five business days of receipt of the certification from the tax collector, payment is not made by the total property tax levy purchaser in accordance with the contract, the municipality may charge a penalty not to exceed three times the maximum delinquent rate of interest permitted by statute until such time as the required payment is made in full. The penalty interest rate shall be set forth in the bid specifications and contract.

d. Subject to the payment of quarterly delinquent property taxes or the fiscal year delinquency by the total property tax levy purchaser as specified in the contract for the sale of the total property tax levy, the levy purchaser shall be paid, upon collection by the municipal tax collector, all delinquent taxes and other municipal charges that are owing, due and payable, subject to any contract provision pursuant to subsection h. of this section, including interest and penalties, if applicable. The municipal tax collector or chief financial officer shall remit such funds as authorized by the governing body to the levy purchaser only upon collection of the outstanding tax delinquencies, municipal liens or charges, or certificate redemptions, including interest or penalties that are due and paid to the tax collector. Such funds shall be remitted by the tax collector or chief financial officer to the total tax levy purchaser within 30 days of collection by the tax collector unless a different schedule is specified in the contract for the sale of the total property tax levy. Upon issuance of an appropriate tax sale certificate the total property tax levy purchaser may also pay subsequent taxes and other municipal liens and charges, subject to any limitations contained in the total property tax levy sale bid specifications and contract. The total property tax levy purchaser may file an action to foreclose the right to redeem the tax sale certificate, in personam, upon expiration of two years from the date of its issuance pursuant to R.S.54:5-86 et seq.

e. The collection and enforcement of taxes and the preparation of redemption statements and discharges of tax lien certificates shall remain the right and obligation of the municipal tax collector.

f. The purchaser shall provide reports as are requested by the municipality.

g. The purchaser of the total property tax levy may be obligated by the bid specifications and contract to pay all subsequent taxes, municipal liens or other municipal charges on each tax sale certificate acquired under the total property tax levy purchase until redemption or foreclosure of the tax sale certificate has been completed, whichever occurs first. The total

property tax levy purchase contract may provide that failure to make such payments within each fiscal year shall result in the forfeiture of any such certificate and any amount due thereon and require the assignment of the certificate back to the municipality. The bid specifications and contract may include a sunset provision on provisions relating to the total property tax levy purchaser's right or obligation to pay subsequent taxes and other municipal liens and charges.

h. The bid specifications and contract may contain provisions relating to the resolution of tax appeals on properties for which the total property tax levy purchaser has acquired tax sale certificates from the municipality.

i. The bid specification and contract may permit the municipality to conduct a public tax sale and reimburse the total property tax levy purchaser from the proceeds of the tax sale.

j. In the event that a tax sale certificate is issued in connection with the sale of a total property tax levy, the account of the municipality with the total property tax levy purchaser shall be credited with the total face amount of the certificate as of the date of its issuance.

k. The bid specifications and contract may provide that the total property tax levy purchaser, at the closing of the levy sale, shall have the right, but not the obligation, to acquire by assignment all tax lien certificates held by the municipality, excluding those certificates relating to known or suspected sites of environmental contamination. This right of the purchaser may be exercised only if the purchaser's bid is equal to or greater than 98% of the combined dollar value of the total property tax levy and the full redemptive value of the municipal tax lien certificates so assigned.

C.54:5-113.7 Rules, regulations; biennial report to Governor, Legislature.

18. The Director of the Division of Local Government Services in the Department of Community Affairs, in accordance with the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), may adopt such rules and regulations as are necessary to effectuate the purposes of this act.

In addition, the Department of Community Affairs shall prepare biennially a written report on those municipalities that have entered into contracts for the sale of the total property tax levy and the results of those executed contracts on the municipality and the property taxpayers in the municipality. The report shall be submitted to the Governor and the Legislature, with the first report to be submitted within 48 months following the effective date of P.L.1997, c.99 (C.40A:40.1 et al.).

19. This act shall take effect immediately.

Approved May 12, 1997.

CHAPTER 100

AN ACT concerning criminal history record background checks for certain persons who care for the elderly and supplementing Title 26, Title 45, and Title 53 of the Revised Statutes.

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

C.26:2H-82 Definitions for purposes of background checks on employees.

1. For the purposes of sections 2 through 6 of P.L.1997, c.100 (C.26:2H-83 through C.26:2H-87):

"Facility" means any facility or institution, whether public or private, offering health or health related services for the institutionalized elderly, and which is subject to regulation, visitation, inspection, or supervision by any government agency. Facilities include, but are not limited to, nursing homes, rehabilitation centers, residential health care facilities, general hospitals, special hospitals, chronic disease hospitals, psychiatric hospitals, developmental disabilities centers or facilities, day care facilities for the elderly, medical day care centers, and licensed home health care agencies.

"Patient, resident or client" means any person, 60 years of age or older, who is receiving treatment or care in any facility in all its aspects, including, but not limited to, admission, retention, confinement, commitment, period of residence, transfer, discharge and any instances directly related to such status.

C.26:2H-83 Background checks for certain employees at facility for institutionalized elderly.

2. a. A facility for the institutionalized elderly, as defined in section 1 of P.L.1997, c.100 (C.26:2H-82), shall not hire any unlicensed person serving in a position which involves regular contact with a patient, resident or client as the case may be, except on a conditional basis as provided for in section 3 of P.L.1997, c.100 (C.26:2H-84), unless the Commissioner of Health and Senior Services first determines, consistent with the requirements of P.L.1997, c.100 (C.26:2H-82 et al.), that no criminal history record information exists on file in the Federal Bureau of Investigation, Identification Division, or in the State Bureau of Identification in the Division of State Police, which would disqualify that person from being employed or utilized in such capacity or position. A person shall be disqualified from employment under P.L.1997, c.100 (C.26:2H-82 et al.) if that person's criminal history record background check reveals a record of conviction of any of the following crimes and offenses:

(1) In New Jersey, any crime or disorderly persons offense:

(a) involving danger to the person, meaning those crimes and disorderly persons offenses set forth in N.J.S.2C:11-1 et seq., N.J.S.2C:12-1 et seq., N.J.S.2C:13-1 et seq., N.J.S.2C:14-1 et seq. or N.J.S.2C:15-1 et seq.; or

(b) against the family, children or incompetents, meaning those crimes and disorderly persons offenses set forth in N.J.S.2C:24-1 et seq.; or

(c) involving theft as set forth in chapter 20 of Title 2C of the New Jersey Statutes; or

(d) involving any controlled dangerous substance or analog as set forth in chapter 35 of Title 2C of the New Jersey Statutes except paragraph (4) of subsection a. of N.J.S.2C:35-10.

(2) In any other state or jurisdiction, of conduct which, if committed in New Jersey, would constitute any of the crimes or disorderly persons offenses described in paragraph (1) of this subsection.

b. Notwithstanding the provisions of subsection a. of this section, no person shall be disqualified from employment under P.L.1997, c.100 (C.26:2H-82 et al.) on the basis of any conviction disclosed by a criminal history record background check performed pursuant to P.L.1997, c.100 (C.26:2H-82 et al.) if the person has affirmatively demonstrated to the Commissioner of Health and Senior Services clear and convincing evidence of the person's rehabilitation. In determining whether a person has affirmatively demonstrated rehabilitation, the following factors shall be considered:

(1) the nature and responsibility of the position which the convicted person would hold or has held, as the case may be;

(2) the nature and seriousness of the offense;

(3) the circumstances under which the offense occurred;

(4) the date of the offense;

(5) the age of the person when the offense was committed;

(6) whether the offense was an isolated or repeated incident;

(7) any social conditions which may have contributed to the offense; and

(8) any evidence of rehabilitation, including good conduct in prison or in the community, counseling or psychiatric treatment received, acquisition of additional academic or vocational schooling, successful participation in correctional work-release programs, or the recommendation of those who have had the person under their supervision.

c. If a person subject to the provisions of P.L.1997, c.100 (C.26:2H-82 et al.) refuses to consent to, or cooperate in, the securing of a criminal history record background check, the commissioner shall direct the principal administrator of the facility not to consider the person for employment.

C.26:2H-84 Qualification, disqualification of prospective employee; petition for hearing.

3. a. An applicant for employment at a facility shall submit to the Commissioner of Health and Senior Services the applicant's name, address and fingerprints taken on standard fingerprint cards by a State or municipal law enforcement agency. The commissioner is authorized to exchange fingerprint data with and receive criminal history record information from the Federal Bureau of Investigation and the Division of State Police for use in making the determinations required by P.L.1997, c.100 (C.26:2H-82 et al.).

b. Upon receipt of the criminal history record information for a person from the Federal Bureau of Investigation or the Division of State Police, the commissioner shall immediately notify the applicant and the applicant's employer or prospective employer, in writing, of the person's qualification or disqualification for employment under P.L.1997, c.100 (C.26:2H-82 et al.). If the applicant is disqualified, the conviction or convictions which constitute the basis for the disqualification shall be identified in the notice to the applicant, but shall not be identified in the notice to the applicant's employer or prospective employer.

c. The applicant shall have 30 days from the date of the written notice of disqualification to petition the commissioner for a hearing on the accuracy of the applicant's criminal history record information or to establish the applicant's rehabilitation under subsection b. of section 2 of P.L.1997, c.100 (C.26:2H-83). The commissioner shall notify the applicant's employer or prospective employer of the applicant's petition for a hearing within five days following the receipt of the petition from the applicant.

d. A facility may employ a person conditionally for a period not to exceed 180 days, pending completion of a criminal history record background check required under P.L.1997, c.100 (C.26:2H-82 et al.), if the person submits to the commissioner a sworn statement attesting that the person has not been convicted of any crime or disorderly persons offense as described in section 2 of P.L.1997, c.100 (C.26:2H-83). A person who submits a false sworn statement shall be disqualified from employment by any facility, home health care agency, nurses' registry, employment agency, or temporary help agency, and shall not have an opportunity to establish rehabilitation pursuant to subsection b. of section 2 of P.L.1997, c.100 (C.26:2H-83). A conditionally employed person who disputes the accuracy of the criminal history record information and who files a petition requesting a hearing pursuant to subsection c. of this section may remain employed at the facility until the commissioner rules on the applicant's petition but, pending the commissioner's ruling, the facility shall not permit the applicant

to have unsupervised contact with elderly patients, residents or clients, as the case may be.

A person who is to be employed in any substitute capacity or position, who is rehired annually, shall only be required to undergo a criminal history record check upon initial employment. A person who has been qualified for employment as a result of a criminal history record background check pursuant to P.L.1997, c.100 (C.26:2H-82 et al.) may use that qualification to obtain employment with a simultaneous or subsequent employer without having to undergo another check required by P.L.1997, c.100 (C.26:2H-82 et al.) for a period of 12 months from the date of the initial notice of qualification from the commissioner. The person may request and the commissioner shall send a notice of qualification upon request to simultaneous or subsequent employers within 12 months following the date of the initial qualification notice.

Prospective and conditionally employed persons shall retain any available right of review provided to applicants under Title 11A of the New Jersey Statutes.

C.26:2H-85 Assumption of cost of background checks.

4. The prospective employer may assume the cost of all criminal history record background checks conducted on prospective employees pursuant to P.L.1997, c.100 (C.26:2H-82 et al.); or the prospective employer may require the prospective employee to pay the cost of the criminal history record background checks.

C.26:2H-86 Rules, regulations.

5. In accordance with the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), the Commissioner of Health and Senior Services shall adopt rules and regulations necessary to implement the provisions of sections 1 through 4 and section 6 of P.L.1997, c.100 (C.26:2H-82 through C.26:2H-85 and C.26:2H-87).

C.26:2H-87 Noncompliance; fine.

6. Any employer subject to the provisions of sections 1 through 5 of P.L.1997, c.100 (C.26:2H-82 through C.26:2H-86) who fails to comply with those provisions or any person submitting a false sworn statement pursuant to section 3 of P.L.1997, c.100 (C.26:2H-84) shall be subject to a fine of not more than $1,000.

C.45:11-24.3 Background checks for certain home health aides, health care employees.

7. a. A home health care agency, nurses' registry, employment agency, or temporary help agency which is licensed or regulated by the Division of Consumer Affairs in the Department of Law and Public Safety, shall not hire a home health aide or other health care employee to serve in a position

which involves regular contact with a patient or client who is 60 years of age or older, except on a conditional basis as provided for in section 8 of P.L.1997, c.100 (C.45:11-24.4), unless the director first determines, consistent with the requirements of P.L.1997, c.100 (C.26:2H-82 et al.), that no criminal history record information exists on file in the Federal Bureau of Investigation, Identification Division, or in the State Bureau of Identification in the Division of State Police, which would disqualify that person from being employed or utilized in such capacity or position. A person shall be disqualified from employment under P.L.1997, c.100 (C.26:2H-82 et al.) if that person's criminal history record background check reveals a record of conviction of any of the following crimes and offenses:

(1) In New Jersey, any crime or disorderly persons offense:

(a) involving danger to the person, meaning those crimes and disorderly persons offenses set forth in N.J.S.2C:11-1 et seq., N.J.S.2C:12-1 et seq., N.J.S.2C:13-1 et seq., N.J.S.2C:14-1 et seq. or N.J.S.2C:15-1 et seq.; or

(b) against the family, children or incompetents, meaning those crimes and disorderly persons offenses set forth in N.J.S.2C:24-1 et seq.; or

(c) involving theft as set forth in chapter 20 of Title 2C of the New Jersey Statutes; or

(d) involving any controlled dangerous substance or analog as set forth in chapter 35 of Title 2C of the New Jersey Statutes except paragraph (4) of subsection a. of N.J.S.2C:35-10.

(2) In any other state or jurisdiction, of conduct which, if committed in New Jersey, would constitute any of the crimes or disorderly persons offenses described in paragraph (1) of this subsection.

b. Notwithstanding the provisions of subsection a. of this section, no person shall be disqualified from employment under P.L.1997, c.100 (C.26:2H-82 et al.) on the basis of any conviction disclosed by a criminal history record background check performed pursuant to P.L.1997, c.100 (C.26:2H-82 et al.) if the person has affirmatively demonstrated to the Director of the Division of Consumer Affairs clear and convincing evidence of the person's rehabilitation. In determining whether a person has affirmatively demonstrated rehabilitation, the following factors shall be considered:

(1) the nature and responsibility of the position which the convicted person would hold or has held, as the case may be;

(2) the nature and seriousness of the offense;

(3) the circumstances under which the offense occurred;

(4) the date of the offense;

(5) the age of the person when the offense was committed;

(6) whether the offense was an isolated or repeated incident;

(7) any social conditions which may have contributed to the offense; and

(8) any evidence of rehabilitation, including good conduct in prison or in the community, counseling or psychiatric treatment received, acquisition of additional academic or vocational schooling, successful participation in correctional work-release programs, or the recommendation of those who have had the person under their supervision.

c. If a person subject to the provisions of P.L.1997, c.100 (C.26:2H-82 et al.) refuses to consent to, or cooperate in, the securing of a criminal history record background check, the director shall direct the home health care agency, nurses' registry, employment agency, or temporary help agency not to consider the person for employment.

C.45:11-24.4 Qualification, disqualification of home health aide, health care employee; petition for hearing.

8. a. A home health aide or other health care employee who is an applicant for employment with a home health care agency, nurses' registry, employment agency, or temporary help agency which is licensed or regulated by the Division of Consumer Affairs shall submit to the Director of the Division of Consumer Affairs the applicant's name, address and fingerprints taken on standard fingerprint cards by the State or municipal law enforcement agency. The director is authorized to exchange fingerprint data with and receive criminal history record information from the Federal Bureau of Investigation and the Division of State Police for use in making the determinations required by P.L.1997, c.100 (C.26:2H-82 et al.).

b. Upon receipt of the criminal history record information for a person from the Federal Bureau of Investigation or the Division of State Police, the director shall immediately notify the applicant and the applicant's employer or prospective employer, in writing, of the person's qualification or disqualification for employment under P.L.1997, c.100 (C.26:2H-82 et al.). If the applicant is disqualified, the conviction or convictions which constitute the basis for the disqualification shall be identified in the notice to the applicant, but shall not be identified in the notice to the applicant's employer or prospective employer.

c. The applicant shall have 30 days from the date of the written notice of disqualification to petition the director for a hearing on the accuracy of the applicant's criminal history record information or to establish the applicant's rehabilitation under subsection b. of section 7 of P.L.1997, c.100 (C.45:11-24.3). The director shall notify the applicant's employer or prospective employer of the applicant's petition for a hearing within five days following the receipt of the petition from the applicant.

d. A home health care agency, nurses' registry, employment agency, or temporary help agency may employ a home health aide or other health care employee conditionally for a period not to exceed 180 days, pending completion of a criminal history record background check required under P.L.1997, c.100 (C.26:2H-82 et al.), if the person submits to the director a sworn statement attesting that the person has not been convicted of any crime or disorderly persons offense as described in section 7 of P.L.1997, c.100 (C.45:11-24.3). A person who submits a false sworn statement shall be disqualified from employment by any facility as defined in section 1 of P.L.1997, c.100 (C.26:2H-82), agency or registry, and shall not have an opportunity to establish rehabilitation pursuant to subsection b. of section 7 of P.L.1997, c.100 (C.45:11-24.3). A conditionally employed person who disputes the accuracy of the criminal history record information and who files a petition requesting a hearing pursuant to subsection c. of this section may remain employed by the employing agency or registry until the director rules on the applicant's petition but, pending the director's ruling, the employing agency or registry shall not permit the applicant to have unsupervised contact with patients or clients who are 60 years of age or older.

A person who is to be employed in any substitute capacity or position, who is rehired annually, shall only be required to undergo a criminal history record check upon initial employment. A home health aide or other health care employee who has been qualified for employment as a result of a criminal history record background check pursuant to P.L.1997, c.100 (C.26:2H-82 et al.) may use that qualification to obtain employment with a simultaneous or subsequent employer without having to undergo another check required by P.L.1997, c.100 (C.26:2H-82 et al.) for a period of 12 months from the date of the initial notice of qualification from the director. The aide or employee may request and the director shall send a notice of qualification upon request to simultaneous or subsequent employers within 12 months following the date of the initial qualification notice.

C.45:11-24.5 Assumption of cost of criminal history background check.

9. The home health care agency, nurses' registry, employment agency, or temporary help agency may assume the cost of all criminal history record background checks conducted on prospective employees pursuant to P.L.1997, c.100 (C.26:2H-82 et al.); or it may require the prospective employee to pay the cost of the criminal history record background checks.

C.45:11-24.6 Conditions for issuance of biennial recertifications to home health aides.

10. The Division of Consumer Affairs shall require that the Board of Nursing issue biennial recertifications to home health aides only upon receiving documented proof from a home health care agency or health care

service firm that the home health aide is currently employed and regularly supervised by a registered professional nurse.

C.45:11-24.7 Required language on certificate.

11. The Division of Consumer Affairs shall require that a Board of Nursing certificate issued to a home health aide contain the following statement: "Valid only if certified home health aide is employed by a home care services agency and is performing delegated nursing regimen or nursing tasks delegated through the authority of a duly licensed registered professional nurse."

C.45:11-24.8 Rules, regulations.

12. In accordance with 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 implement the provisions of sections 7 through 9 and section 13 of P.L.1997, c.100 (C.45:11-24.3 through C.45:11-24.5 and C.45:11-24.9).

C.45:11-24.9 Noncompliance; fine.

13. Any employer subject to the provisions of sections 7 through 9 and section 12 of P.L.1997, c.100 (C.45:11-24.3 through C.45:11-24.5 and C.45:11-24.8) who fails to comply with those provisions or any person submitting a false sworn statement pursuant to section 8 of P.L.1997, c.100 (C.45:11-24.4) shall be subject to a fine of not more than $1,000.

C.53:1-20.9a Conduct of criminal history record background check for employees working with elderly.

14. The Division of State Police in the Department of Law and Public Safety shall conduct a criminal history record background check including a name and fingerprint identification check of each prospective employee of a facility as defined in section 1 of P.L.1997, c.100 (C.26:2H-82) or of a home health care agency, nurses' registry, employment agency, or temporary help agency licensed or regulated by the Director of the Division of Consumer Affairs. The requirement of a criminal history record background check shall apply only to a prospective employee who is or would be serving in a position which involves regular contact with a patient, resident or client as the case may be, who is 60 years of age or older.

For the purpose of conducting the criminal history record background check, the Division of State Police shall examine its own files and arrange for a similar examination by federal authorities. The division shall immediately forward the information obtained as a result of conducting the check to the Commissioner of Health and Senior Services, in the case of a facility, and to the Director of the Division of Consumer Affairs, in the case

of a home health care agency, nurses' registry, employment agency, or temporary help agency.

15. This act shall take effect on the first day of the sixth month after enactment.

Approved May 12, 1997.

CHAPTER 101

AN ACT concerning breast feeding and supplementing Title 26 of the Revised Statutes.

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

1. The Legislature finds and declares that: the Surgeon General of the United States recommends that babies from birth to one year of age should be breast fed, unless medically contraindicated, in order to achieve a healthy start on life; breast milk strengthens the immune system of babies, improves digestion and is of better nutritional value than regular milk; other benefits include the establishment of a strong mother-baby bond and a potential increase in a baby's IQ level; despite the Surgeon General's recommendation, statistics reveal a declining number of women are choosing to breast feed their children, and nearly half of all new mothers are now choosing formula over breast milk even before they leave the hospital; the social constraints of modern society impede a woman's choice to breast feed due to embarrassment, fear of criminal prosecution and the lack of public acceptance; therefore, it is in the best interest of the State to recognize breast feeding in places of public accommodation as an important right which must be encouraged in order to promote child health.

C.26:4B-4 Right to breast feed in public.

2. Notwithstanding any provision of law to the contrary, a mother shall be entitled to breast feed her baby in any location of a place of public accommodation, resort or amusement wherein the mother is otherwise permitted.

C.26:4B-5 Enforcement, violations, penalties.

3. a. The local board of health or such board, body or officers exercising the functions of the local board of health according to law, upon written complaint and having reason to suspect a violation of this act has occurred

shall, by written notification, advise the owner, manager or other person having control of the public accommodation, resort or amusement of the initial complaint and of the penalties for any subsequent complaints. Thereupon, any owner, manager or other person having control of the public accommodation, resort or amusement receiving such notice who knowingly fails or refuses to comply with the provisions of this act is subject to a fine not to exceed $25.00 for the first offense following initial notification and not to exceed $100.00 for the second offense and not to exceed $200.00 for each offense thereafter. When there exists no local board of health or such board, body or officers having the authority to exercise the functions of the local board of health according to law in the municipality in which a violation of this act has allegedly occurred, the State Department of Health and Senior Services shall exercise the functions of the local boards of health for purposes of this act.

b. Any penalty recovered under the provisions of this act shall be recovered by and in the name of the Commissioner of Health and Senior Services or by and in the name of the local board of health. When the plaintiff is the Commissioner of Health and Senior Services, the penalty recovered shall be paid by the commissioner into the treasury of the State. When the plaintiff is a local board of health, the penalty recovered shall be paid by the local board into the treasury of the municipality where the violation occurred.

c. Every municipal court shall have jurisdiction over proceedings to enforce and collect any penalty imposed because of a violation of any provision of this act, if the violation has occurred within the territorial jurisdiction of the court. The proceedings shall be summary and in accordance with "the penalty enforcement law," N.J.S.2A:58-1 et seq. Process shall be in the nature of a summons or warrant and shall issue only at the suit of the Commissioner of Health and Senior Services, or the local board of health, as the case may be, as plaintiff.

4. This act shall take effect immediately.

Approved May 19, 1997.

CHAPTER 102

AN ACT concerning nonemergency health care transportation provided under the Medicaid program and amending and supplementing P.L.1981, c.134.

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

1. Section 1 of P.L.1981, c.134 (C.30:4D-6.2) is amended to read as follows:

C.30:4D-6.2 Definitions.

1. For the purposes of this act:

a. "Certified trained personnel" means that the one or more individuals directly providing mobility assistance vehicle services shall possess and carry upon his person a current certificate of completion of an advanced medical training course, as determined by the Commissioner of Health and Senior Services.

b. "Division" means the Division of Medical Assistance and Health Services in the Department of Human Services.

c. "Mobility assistance vehicle service" means the provision of nonemergency health care transportation, supervised by certified trained personnel, for sick, infirm or otherwise disabled Medicaid recipients who are under the care and supervision of a physician and whose medical condition is not of sufficient magnitude or gravity to require transportation by ambulance, but does require transportation from place to place for medical care and whose use of an alternate form of transportation, such as taxicab, bus, other public conveyance or private vehicle might create a serious risk to life and health.

d. "Medicaid recipient" means any person who is determined to be eligible to receive mobility assistance vehicle services as provided under this act and meets the eligibility requirements pursuant to the "New Jersey Medical Assistance and Health Services Act," P.L.1968, c. 413.

e. "Provider" means any person, public or private institution, agency or business concern lawfully providing mobility assistance vehicle services authorized under this act.

2. Section 2 of P.L.1981, c.134 (C.30:4D-6.3) is amended to read as follows:

C.30:4D-6.3 Provider of mobility assistance vehicle services; conditions for approval for reimbursement.

2. No provider of mobility assistance vehicle services shall be approved for reimbursement by the Division of Medical Assistance and Health Services for services rendered to Medicaid recipients unless such provider meets all the standards and requirements issued pursuant to section 3 and section 5 of this act.

3. Section 3 of P.L.1981, c.134 (C.30:4D-6.4) is amended to read as follows:

C.30:4D-6.4 Minimum requirements, liability insurance, personnel; rules, regulations.

3. After consulting with the Commissioner of Human Services, the Commissioner of Health and Senior Services is authorized and empowered to issue and enforce, or cause to be issued and enforced through the division, all necessary rules, regulations and administrative orders with respect to:

a. The development of minimum requirements concerning the equipment, supplies and vehicles of providers of mobility assistance vehicle services;

b. The establishment of standards for the amount of liability insurance each provider must maintain in order to be eligible to provide mobility assistance vehicle services. Evidence of such insurance, including the name of the insurer and the policy number, shall be filed at the time of application for approval by the division and from time to time as the division shall deem necessary; and

c. The establishment of standards for certified trained personnel employed by providers of mobility assistance vehicle services.

C.30:4D-3a "Invalid coach service" deemed to mean "mobility assistance vehicle service."

4. Whenever the term "invalid coach service" occurs or any reference is made thereto in any law, contract or document which pertains to the Medicaid program established pursuant to P.L.1968, c.413 (C.30:4D-1 et seq.), the same shall be deemed to mean or refer to "mobility assistance vehicle service."

5. This act shall take effect immediately.

Approved May 19, 1997.

CHAPTER 103

AN ACT concerning the membership of the New Jersey Horse Racing Injury Compensation Board and amending P.L.1995, c.329.

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

1. Section 4 of P.L.1995, c.329 (C.34:15-132) is amended to read as follows:

C.34:15-132 "New Jersey Horse Racing Injury Compensation Board" established.

4. There is hereby established the "New Jersey Horse Racing Injury Compensation Board," which shall be in, but not of, the Department of Law and Public Safety.

a. The board shall consist of seven members as follows: the Commissioner of Banking and Insurance, or his designee; the Attorney General, or his designee; one member of the New Jersey Racing Commission elected by the members of the commission, or his designee; and four members of the horse racing industry appointed by the Governor, one of whom shall represent the thoroughbred industry, one of whom shall represent the standardbred industry, one of whom shall represent the racetrack owners and one of whom shall represent jockeys regularly riding at New Jersey racetracks. In making these appointments, the Governor shall take into consideration the recommendations of the thoroughbred and standardbred industries, the racetrack owners and the organization which represents the largest number of jockeys regularly riding at New Jersey racetracks, respectively.

b. Members of the board shall serve without compensation but may be reimbursed for their expenses out of the administrative funds of the board.

c. The affirmative vote of at least four members shall constitute a majority for the transaction of any business and a quorum shall consist of a simple majority.

2. This act shall take effect immediately.

Approved May 28, 1997.

CHAPTER 104

AN ACT appropriating $15,284,000, and reappropriating $2,788,000, from the "Green Acres, Clean Water, Farmland and Historic Preservation Bond Act of 1992," P.L.1992, c.88, and reappropriating $328,000, and appropriating $2,675,000 in interest earnings, from the "Open Space Preservation Bond Act of 1989," P.L.1989, c.183, for farmland preservation; authorizing the use of unexpended balances and interest earnings from certain farmland preservation bond funds for farmland preservation; approving certain farmland preservation projects in southern New Jersey as eligible for funding; appropriating $750,000 from the "Green Acres, Clean Water, Farmland and Historic Preservation Bond Act of 1992," P.L.1992, c.88, for soil and water conservation

projects; and appropriating $1,000,000 from the "Green Acres, Farmland and Historic Preservation, and Blue Acres Bond Act," P.L.1995, c.204, for costs incurred in implementing the farmland preservation program.

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

1. a. There is appropriated 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, to the State Agriculture Development Committee the sum of $15,284,000 for the purpose of: (1) 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 section 2 of this act and section 1 of P.L.1997, c.105; and (2) providing for up to 100% of the cost of acquisition of development easements under such emergency conditions as the State Agriculture Development Committee determines, for projects approved as eligible for such funding pursuant to section 2 of this act and section 1 of P.L.1997, c.105.

b. There is reappropriated 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, to the State Agriculture Development Committee the unexpended balances of $2,788,000 appropriated pursuant to P.L.1995, c.60, for the purpose of: (1) 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 section 2 of this act and section 1 of P.L.1997, c.105; and (2) providing for up to 100% of the cost of acquisition of development easements under such emergency conditions as the State Agriculture Development Committee determines, for projects approved as eligible for such funding pursuant to section 2 of this act and section 1 of P.L.1997, c.105.

c. There is reappropriated from the "1989 Farmland Preservation Fund," established pursuant to section 22 of the "Open Space Preservation Bond Act of 1989," P.L.1989, c.183, to the State Agriculture Development Committee the unexpended balances of $328,000 appropriated or reappropriated pursuant to P.L.1993, c.262, P.L.1993, c.263, P.L.1993, c.264,

P.L.1995, c.60, P.L.1995, c.61, P.L.1995, c.62, and P.L.1996, c.56, for the purpose of: (1) 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 section 2 of this act and section 1 of P.L.1997, c.105; and (2) providing for up to 100% of the cost of acquisition of development easements under such emergency conditions as the State Agriculture Development Committee determines, for projects approved as eligible for such funding pursuant to section 2 of this act and section 1 of P.L.1997, c.105.

d. There is appropriated from the "1989 Farmland Preservation Fund," established pursuant to section 22 of the "Open Space Preservation Bond Act of 1989," P.L.1989, c.183, to the State Agriculture Development Committee the sum of $2,675,000 in interest earnings for the purpose of: (1) 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 section 2 of this act and section 1 of P.L.1997, c.105; and (2) providing for up to 100% of the cost of acquisition of development easements under such emergency conditions as the State Agriculture Development Committee determines, for projects approved as eligible for such funding pursuant to section 2 of this act and section 1 of P.L.1997, c.105.

2. The following projects are eligible for funding with the monies appropriated or reappropriated pursuant to subsections a., b., c., and d. of section 1 of this act:

Project (farm)	**County**	**Municipality**	**Acres (+/-)**	**Amount of Grant Not To Exceed**
Hall Estate	Burlington	North Hanover/ Chesterfield	222	$525,000
Croshaw	Burlington	North Hanover	185	475,000
Rahilly	Burlington	Springfield	40	75,000
Cape May/ Stites	Cape May	Dennis	35	75,000
Cape May/ Conover	Cape May	Middle	29	100,000
Cape May/ Hoff	Cape May	Middle	58	150,000
Cape May/ Shivers	Cape May	Middle	173	325,000
Kiefer	Cumberland	Greenwich	186	275,000
Willis	Cumberland	Hopewell	216	325,000
Dubois	Cumberland	Upper Deerfield	102	200,000
Johnson Farms Ent.	Cumberland	Upper Deerfield	112	225,000

Mae Partnership	Gloucester	Elk/ Harrison	317	550,000
Sorbello	Gloucester	South Harrison	55	150,000
Blasig, Jr.	Mercer	East Windsor	96	375,000
Skeba	Mercer	East Windsor	60	300,000
DiDonato	Mercer	Lawrence	84	600,000
Hendrickson	Mercer	Lawrence	92	625,000
Johnson	Mercer	Lawrence	65	475,000
Blasig, Sr.	Mercer	Washington	46	200,000
Washington Twp./ Mercrock	Mercer	Washington	85	325,000
Concorde Stud	Monmouth	Upper Freehold	248	950,000
Freiberger South	Monmouth	Upper Freehold	91	225,000
Leonard, CP	Monmouth	Upper Freehold	395	1,725,000
Red Bird Inc./ C.W. Plan Inc.	Ocean	Plumsted	128	300,000
Myers	Salem	Upper Pittsgrove	292	500,000

3. There is appropriated 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, to the State Agriculture Development Committee the sum of $750,000 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.

4. There is appropriated 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, to the State Agriculture Development Committee the sum of $1,000,000 for the purpose of providing for costs, as defined in section 3 of P.L.1995, c.204, incurred in implementing the provisions of the "Agriculture Retention and Development Act," P.L.1983, c.32 (C.4:1C-11 et seq.).

5. The expenditure of the sums appropriated or reappropriated by this act is subject to the provisions and conditions of P.L.1989, c.183, P.L.1992, c.88, or P.L.1995, c.204, as appropriate.

6. This act shall take effect immediately.

Approved June 2, 1997.

CHAPTER 105

AN ACT approving certain farmland preservation projects in northern New Jersey as eligible for funding from the "Green Acres, Clean Water, Farmland and Historic Preservation Bond Act of 1992," P.L.1992, c.88,

and from the "Open Space Preservation Bond Act of 1989," P.L.1989, c.183.

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

1. The following projects are eligible for funding with monies made available from the "Green Acres, Clean Water, Farmland and Historic Preservation Bond Act of 1992," P.L.1992, c.88, and from the "Open Space Preservation Bond Act of 1989," P.L.1989, c.183, and appropriated or reappropriated to the State Agriculture Development Committee pursuant to section 1 of P.L.1997, c.104:

Project (farm)	**County**	**Municipality**	**Acres (+/-)**	**Amount of Grant Not To Exceed**
Asbury Farms	Hunterdon	Bethlehem	130	$375,000
Hilton	Hunterdon	Delaware	71	225,000
Readington/Kanach/ Mason	Hunterdon	Readington	258	1,250,000
Zaitz Trust	Middlesex	Cranbury	369	2,350,000
Maier Brothers	Morris	Washington	136	600,000
Melroy	Morris	Washington	86	375,000
Washington Twp/ Borgenicht	Morris	Washington	390	2,725,000
Doyle	Somerset	Bedminister	97	825,000
Matjes Associates	Somerset	Hillsborough	105	750,000
Stafford	Somerset	Hillsborough	38	250,000
Medina	Somerset	Montgomery	133	775,000
Tucker	Somerset	Montgomery	36	200,000
Compton	Sussex	Wantage	155	375,000
Cosh, E. & M.	Sussex	Wantage	318	675,000
Cosh, Marjorie	Sussex	Wantage	270	575,000
Ricker Brothers	Sussex	Wantage	244	600,000
Oostdyk	Warren	Franklin	146	450,000
Trout	Warren	Franklin	157	450,000

2. The expenditure of the sums appropriated or reappropriated by this act is subject to the provisions and conditions of P.L.1989, c.183 and P.L.1992, c.88, as appropriate.

3. This act shall take effect immediately.

Approved June 2, 1997.

CHAPTER 106

AN ACT appropriating from the "Green Acres, Clean Water, Farmland and Historic Preservation Bond Act of 1992," P.L.1992, c.88, the sum of $6,334,437 for the purpose of making grants, as awarded by the New Jersey Historic Trust, for certain historic preservation projects in southern New Jersey, and the sum of $102,500 for the purpose of funding the monitoring and enforcement of historic preservation easements, restrictions, or other requirements.

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

1. a. There is appropriated to the New Jersey Historic Trust from the "1992 Historic Preservation Fund" established pursuant to section 25 of the "Green Acres, Clean Water, Farmland and Historic Preservation Bond Act of 1992," P.L.1992, c.88, the sum of $6,334,437 for the purpose of making grants, as awarded by the New Jersey Historic Trust, for historic preservation projects listed in this subsection. The sum appropriated pursuant to this subsection shall include administrative costs of the New Jersey Historic Trust incurred in administering this act. The following projects are eligible for funding with the monies appropriated pursuant to this subsection:

COUNTY	PROJECT NAME	LOCATION	NAME OF ORGANIZATION	GRANT AWARD
Atlantic	Absecon Lighthouse	Atlantic City	Inlet Public/Private Association	$1,000,922
Burlington	Smithville	Eastampton Twp.	Burlington County Board of Chosen Freeholders	$933,508
Burlington	Thomas and Mary Evens House	Evesham Twp.	Twp. of Evesham	$215,784
Camden	Eldridge R. Johnson Park	Camden	Rutgers, The State University	$186,033
Cape May	Hereford Inlet Light Station	North Wildwood	City of North Wildwood	$53,356
Cape May	Ocean City City Hall	Ocean City	City of Ocean City	$615,954
Cumberland	David Sheppard House	Bridgeton	City of Bridgeton	$260,000
Cumberland	East Point Lighthouse	Maurice River Twp.	Maurice River Historical Society	$184,000
Gloucester	Old Carpenter Street School	Woodbury	Bethel African Methodist Episcopal Church	$104,850
Gloucester	Woodbury (Train) Station	Woodbury	Woodbury Old-City Restoration Committee, Inc.	$97,523
Mercer	Hopewell Railroad Station	Hopewell	Borough of Hopewell	$568,050

Mercer	Roebling Machine Shop	Trenton	Invention Factory Science Center	$1,245,000
Ocean	Georgian Court College - Casino Building	Lakewood	Georgian Court College	$553,000
Salem	First Presbyterian Church of Salem	Salem	First Presbyterian Church of Salem	$316,457
TOTAL				$6,334,437

b. Any transfer of any funds or project sponsor listed in subsection a. of this section shall require the approval of the Joint Budget Oversight Committee or its successor.

c. There is appropriated to the New Jersey Historic Trust from the "1992 Historic Preservation Fund" established pursuant to section 25 of the "Green Acres, Clean Water, Farmland and Historic Preservation Bond Act of 1992," P.L.1992, c.88, the sum of $102,500 for the purpose of funding the monitoring and enforcement of historic preservation easements, restrictions, or other requirements associated with the projects funded pursuant to subsection a. of this section and pursuant to P.L.1997, c.107.

2. To the extent that monies remain available after the projects listed in section 1 of this act are offered funding from the "1992 Historic Preservation Fund," the projects listed in P.L.1997, c.107 shall be eligible for funding, including administrative costs of the New Jersey Historic Trust in administering this section, in a sequence consistent with the priority system established by the New Jersey Historic Trust, and shall require the approval of the Joint Budget Oversight Committee or its successor.

3. The expenditure of the sums appropriated by this act is subject to the provisions and conditions of P.L.1992, c.88.

4. This act shall take effect immediately.

Approved June 2, 1997.

CHAPTER 107

AN ACT appropriating from the "Green Acres, Clean Water, Farmland and Historic Preservation Bond Act of 1992," P.L.1992, c.88, the sum of $4,423,989 for the purpose of making grants, as awarded by the New Jersey Historic Trust, for certain historic preservation projects in northern New Jersey.

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

1. a. There is appropriated to the New Jersey Historic Trust from the "1992 Historic Preservation Fund" established pursuant to section 25 of the "Green Acres, Clean Water, Farmland and Historic Preservation Bond Act of 1992," P.L.1992, c.88, the sum of $4,423,989 for the purpose of making grants, as awarded by the New Jersey Historic Trust, for historic preservation projects listed in this subsection. The sum appropriated pursuant to this subsection shall include administrative costs of the New Jersey Historic Trust incurred in administering this act. The following projects are eligible for funding with the monies appropriated pursuant to this subsection:

COUNTY	PROJECT NAME	LOCATION	NAME OF ORGANIZATION	GRANT AWARD
Essex	B'nai Keshet: Red Gables	Montclair	B'nai Keshet, Montclair Jewish Center	$180,765
Essex	Montclair Inn	Montclair	Montclair Shared Housing Association	$86,068
Essex	Essex County Courthouse	Newark	Essex County Board of Chosen Freeholders	$831,250
Essex	Metropolitan Baptist Church/ Oheb Shalom Synagogue	Newark Conservancy, Inc.	Greater Newark	$300,000
Hunterdon	Locktown Church	Delaware Twp.	Friends of the Locktown Stone Church, Inc.	$72,162
Hunterdon	Riegel Ridge Community Center	Milford	Holland Township	$475,000
Monmouth	Asbury Park Convention Hall & Paramount Theater	Asbury Park	City of Asbury Park	$1,245,000
Monmouth	Woodrow Wilson Hall	West Long Branch	Monmouth University	$269,845
Morris	Museum of Early Trades and Crafts	Madison	Museum of Early Trades and Crafts	$194,944
Morris	Church of the Redeemer	Morristown	Church of the Redeemer	$39,192
Morris	Obadiah LaTourette Grist and Saw Mill	Washington Twp.	Washington Township Land Trust of Morris County, Inc.	$97,304
Passaic	Allied Textiles Printing Site - Colt Mill	Paterson	City of Paterson	$359,000
Union	Saint Mary's R.C. Church	Plainfield	St. Mary's Roman Catholic Church	$273,459
TOTAL				$4,423,989

b. Any transfer of any funds or project sponsor listed in subsection a. of this section shall require the approval of the Joint Budget Oversight Committee or its successor.

2. To the extent that monies remain available after the projects listed in section 1 of this act are offered funding from the "1992 Historic Preserva-

tion Fund," the projects listed in P.L.1997, c.106 shall be eligible for funding, including administrative costs of the New Jersey Historic Trust in administering this section, in a sequence consistent with the priority system established by the New Jersey Historic Trust, and shall require the approval of the Joint Budget Oversight Committee or its successor.

3. The expenditure of the sums appropriated by this act is subject to the provisions and conditions of P.L.1992, c.88.

4. This act shall take effect immediately.

Approved June 2, 1997.

CHAPTER 108

AN ACT concerning arson and amending N.J.S.2C:17-1.

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

1. N.J.S.2C:17-1 is amended to read as follows:

Arson and related offenses.

2C:17-1. Arson and related offenses.

a. Aggravated arson. A person is guilty of aggravated arson, a crime of the second degree, if he starts a fire or causes an explosion, whether on his own property or another's:

(1) Thereby purposely or knowingly placing another person in danger of death or bodily injury; or

(2) With the purpose of destroying a building or structure of another; or

(3) With the purpose of collecting insurance for the destruction or damage to such property under circumstances which recklessly place any other person in danger of death or bodily injury.

b. Arson. A person is guilty of arson, a crime of the third degree, if he purposely starts a fire or causes an explosion, whether on his own property or another's:

(1) Thereby recklessly placing another person in danger of death or bodily injury; or

(2) Thereby recklessly placing a building or structure of another in danger of damage or destruction; or

(3) With the purpose of collecting insurance for the destruction or damage to such property.

c. Failure to control or report dangerous fire. A person who knows that a fire is endangering life or a substantial amount of property of another and either fails to take reasonable measures to put out or control the fire, when he can do so without substantial risk to himself, or to give prompt fire alarm, commits a crime of the fourth degree if:

(1) He knows that he is under an official, contractual, or other legal duty to prevent or combat the fire; or

(2) The fire was started, albeit lawfully, by him or with his assent, or on property in his custody or control.

d. Any person who, directly or indirectly, pays or accepts any form of consideration including, but not limited to, money or any other pecuniary benefit, for the purpose of starting a fire or causing an explosion in violation of this section commits a crime of the first degree.

e. Notwithstanding the provisions of any section of this Title to the contrary, if a person is convicted of aggravated arson pursuant to the provisions of subsection a. of this section and the structure which was the target of the offense was a health care facility or a physician's office, the sentence imposed shall include a term of imprisonment. The court may not suspend or make any other noncustodial disposition of a person sentenced pursuant to the provisions of this subsection.

f. Definitions. "Structure" is defined in section 2C:18-1. Property is that of another, for the purpose of this section, if anyone other than the actor has a possessory or proprietary interest therein. If a building or structure is divided into separately occupied units, any unit not occupied by the actor is an occupied structure of another.

As used in this section, "health care facility" means health care facility as defined in section 2 of P.L.1971, c.136 (C.26:2H-2).

g. Notwithstanding the provisions of any section of this Title to the contrary, if a person is convicted pursuant to the provisions of subsection a., b. or d. of this section and the structure which was the target of the offense was a church, synagogue, temple or other place of public worship, that person commits a crime of the first degree and the sentence imposed shall include a term of imprisonment. The term of imprisonment shall include a minimum term of 15 years, during which the defendant shall be ineligible for parole. The court may not suspend or make any other noncustodial disposition of a person sentenced pursuant to the provisions of this subsection.

2. This act shall take effect immediately.

Approved June 2, 1997.

CHAPTER 109

AN ACT concerning the crime of arson and amending N.J.S.2C:17-1.

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

1. N.J.S.2C:17-1 is amended to read as follows:

Arson and related offenses.

2C:17-1. Arson and related offenses.

a. Aggravated arson. A person is guilty of aggravated arson, a crime of the second degree, if he starts a fire or causes an explosion, whether on his own property or another's:

(1) Thereby purposely or knowingly placing another person in danger of death or bodily injury; or

(2) With the purpose of destroying a building or structure of another; or

(3) With the purpose of collecting insurance for the destruction or damage to such property under circumstances which recklessly place any other person in danger of death or bodily injury; or

(4) With the purpose of destroying or damaging a structure in order to exempt the structure, completely or partially, from the provisions of any State, county or local zoning, planning or building law, regulation, ordinance or enactment under circumstances which recklessly place any other person in danger of death or bodily injury; or

(5) With the purpose of destroying or damaging any forest.

b. Arson. A person is guilty of arson, a crime of the third degree, if he purposely starts a fire or causes an explosion, whether on his own property or another's:

(1) Thereby recklessly placing another person in danger of death or bodily injury; or

(2) Thereby recklessly placing a building or structure of another in danger of damage or destruction; or

(3) With the purpose of collecting insurance for the destruction or damage to such property; or

(4) With the purpose of destroying or damaging a structure in order to exempt the structure, completely or partially, from the provisions of any State, county or local zoning, planning or building law, regulation, ordinance or enactment; or

(5) Thereby recklessly placing a forest in danger of damage or destruction.

c. Failure to control or report dangerous fire. A person who knows that a fire is endangering life or a substantial amount of property of another and either fails to take reasonable measures to put out or control the fire, when he can do so without substantial risk to himself, or to give prompt fire alarm, commits a crime of the fourth degree if:

(1) He knows that he is under an official, contractual, or other legal duty to prevent or combat the fire; or

(2) The fire was started, albeit lawfully, by him or with his assent, or on property in his custody or control.

d. Any person who, directly or indirectly, pays or accepts or offers to pay or accept any form of consideration including, but not limited to, money or any other pecuniary benefit, regardless of whether any consideration is actually exchanged for the purpose of starting a fire or causing an explosion in violation of this section commits a crime of the first degree.

e. Notwithstanding the provisions of any section of this Title to the contrary, if a person is convicted of aggravated arson pursuant to the provisions of subsection a. of this section and the structure which was the target of the offense was a health care facility or a physician's office, the sentence imposed shall include a term of imprisonment. The court may not suspend or make any other noncustodial disposition of a person sentenced pursuant to the provisions of this subsection.

f. Definitions. "Structure" is defined in section 2C:18-1. Property is that of another, for the purpose of this section, if any one other than the actor has a possessory, or legal or equitable proprietary interest therein. Property is that of another for the purpose of this section, if anyone other than the actor has a legal or equitable interest in the property including, but not limited to, a mortgage, pledge, lien or security interest therein. If a building or structure is divided into separately occupied units, any unit not occupied by the actor is an occupied structure of another.

As used in this section, "forest" means and includes any forest, brush land, grass land, salt marsh, wooded area and any combination thereof, including but not limited to, an open space area, public lands, wetlands, park lands, natural habitats, a State conservation area, a wildlife refuge area or any other designated undeveloped open space whether or not it is subject to specific protection under law.

As used in this section, "health care facility" means health care facility as defined in section 2 of P.L.1971, c.136 (C.26:2H-2).

g. Notwithstanding the provisions of any section of this Title to the contrary, if a person is convicted pursuant to the provisions of subsection a., b. or d. of this section and the structure which was the target of the offense was a church, synagogue, temple or other place of public worship, that person commits a crime of the first degree and the sentence imposed shall

include a term of imprisonment. The term of imprisonment shall include a minimum term of 15 years, during which the defendant shall be ineligible for parole. The court may not suspend or make any other noncustodial disposition of a person sentenced pursuant to the provisions of this subsection.

2. This act shall take effect immediately.

Approved June 3, 1997.

CHAPTER 110

AN ACT concerning the membership of the Nursing Home Administrator's Licensing Board and amending P.L.1968, c.356.

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

1. Section 10 of P.L.1968, c.356 (C.30:11-20) is amended to read as follows:

C.30:11-20 Nursing home administrator's licensing board; appointment; membership; qualifications; terms; compensation; reimbusement for expenses.

10. The Commissioner of the Department of Health and Senior Services subject to the approval of the Governor, shall appoint a Nursing Home Administrator's Licensing Board which shall consist of the Commissioner of the Department of Human Services; the Commissioner of the Department of Health and Senior Services, and seven nursing home administrators of recognized ability, two of whom shall be registered nurses who are graduates of accredited schools of nursing, licensed by the New Jersey State Board of Nursing to practice nursing in this State, one of whom shall be a fellow of the American College of Nursing Home Administrators, one of whom shall be a member of the American College of Nursing Home Administrators, one of whom shall be an administrator of a governmentally operated nursing home, one of whom shall be an administrator of a nonprofit home for the aged with a licensed infirmary, and one of whom shall be an administrator of a proprietary nursing home. There shall be appointed six additional members who shall be representative of the professions and institutions concerned with the care and treatment of chronically ill or infirm elderly patients other than nursing home administrators or persons associated with nursing homes, one of whom shall be a

physician licensed to practice medicine in this State, but in no event shall a majority of the board be representative of a single professional or institutional category. Any noninstitutional member of the board, which does not include nursing home administrators, shall have no direct financial interest in nursing homes. Each member of the board who is a nursing home administrator shall have a minimum of not less than five years' experience as an administrator in the supervision of a convalescent home or private nursing home and shall at all times be licensed as a nursing home administrator pursuant to the terms of this act. The board shall be appointed for terms of four years, except when appointed to complete an unexpired term. Members whose terms shall expire shall hold office until appointment of their successors. Members may be reappointed for one additional term. They shall serve without compensation, but shall be reimbursed for actual expenses incurred in the performance of their official duties.

2. This act shall take effect immediately and apply to appropriate vacancies which occur on the board after the effective date.

Approved June 3, 1997.

CHAPTER 111

AN ACT establishing criminal penalties for motor vehicle operators involved in certain hit and run accidents, and supplementing chapters 11 and 12 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:11-5.1 Knowingly leaving scene of motor vehicle accident resulting in death, third degree crime; sentencing.

1. A motor vehicle operator who knows he is involved in an accident and knowingly leaves the scene of that accident under circumstances that violate the provisions of R.S. 39:4-129 shall be guilty of a crime of the third degree if the accident results in the death of another person.

If the evidence so warrants, nothing in this section shall be deemed to preclude an indictment and conviction for aggravated manslaughter under the provisions of N.J.S.2C:11-4 or vehicular homicide under the provisions of N.J.S.2C:11-5.

Notwithstanding the provisions of N.J.S.2C:1-8 or any other provisions of law, a conviction arising under this section shall not merge with a conviction for aggravated manslaughter under the provisions of N.J.S.2C:11-4 or for vehicular

homicide under the provisions of N.J.S.2C:11-5 and a separate sentence shall be imposed upon each such conviction.

Notwithstanding the provisions of N.J.S.2C:44-5 or any other provisions of law, when the court imposes multiple sentences of imprisonment for more than one offense, those sentences shall run consecutively.

For the purposes of this section, neither knowledge of the death nor knowledge of the violation are elements of the offense and it shall not be a defense that the operator of the motor vehicle was unaware of the death or of the provisions of R.S.39:4-129.

C.2C:12-1.1 Knowingly leaving scene of motor vehicle accident resulting in serious bodily injury, fourth degree crime; sentencing.

2. A motor vehicle operator who knows he is involved in an accident and knowingly leaves the scene of that accident under circumstances that violate the provisions of R.S.39:4-129 shall be guilty of a crime of the fourth degree if the accident results in serious bodily injury to another person.

If the evidence so warrants, nothing in this section shall be deemed to preclude an indictment and conviction for aggravated assault or assault by auto under the provisions of N.J.S.2C:12-1.

Notwithstanding the provisions of N.J.S.2C:1-8 or any other provisions of law, a conviction arising under this section shall not merge with a conviction for aggravated assault or assault by auto under the provisions of N.J.S.2C:12-1 and a separate sentence shall be imposed upon each conviction.

Notwithstanding the provisions of N.J.S.2C:44-5 or any other provisions of law, whenever in the case of such multiple convictions the court imposes multiple sentences of imprisonment for more than one offense, those sentences shall run consecutively.

For the purposes of this section, neither knowledge of the serious bodily injury nor knowledge of the violation are elements of the offense and it shall not be a defense that the driver of the motor vehicle was unaware of the serious bodily injury or provisions of R.S.39:4-129.

3. This act shall take effect immediately.

Approved June 4, 1997.

CHAPTER 112

AN ACT concerning sick leave for certain teaching staff members and amending N.J.S.18A:30-2.1.

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

1. N.J.S.18A:30-2.1 is amended to read as follows:

Sick leave payment for service connected disability; satisfactory service.

18A:30-2.1. a. Whenever any employee, entitled to sick leave under this chapter, is absent from his post of duty as a result of a personal injury caused by an accident arising out of and in the course of his employment, his employer shall pay to such employee the full salary or wages for the period of such absence for up to one calendar year without having such absence charged to the annual sick leave or the accumulated sick leave provided in N.J.S.18A:30-2 and 18A:30-3. Salary or wage payments provided in this section shall be made for absence during the waiting period and during the period the employee received or was eligible to receive a temporary disability benefit under chapter 15 of Title 34, Labor and Workmen's Compensation, of the Revised Statutes. Any amount of salary or wages paid or payable to the employee pursuant to this section shall be reduced by the amount of any workmen's compensation award made for temporary disability.

b. Leave taken by an employee pursuant to subsection a. of this section shall constitute satisfactory service as provided pursuant to N.J.S.18A:29-14 and any other provision, statutory or contractual, relating to employment, adjustment or other increments and shall not constitute inefficiency or other good cause for the withholding of an employment or adjustment increment.

2. This act shall take effect immediately.

Approved June 5, 1997.

CHAPTER 113

AN ACT conforming the administration of State-administered retirement systems to federal Internal Revenue Code requirements, establishing certain non-forfeitable pension rights, and supplementing Title 43 of the Revised Statutes.

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

C.43:3C-9.1 Corpus, income of retirement systems, restrictions on use, diversions.

1. In accordance with the provisions of section 401 (a) (2) of the federal Internal Revenue Code, and subject to such exceptions as may be permitted

for governmental plans under section 401 (a) (2) of the federal Internal Revenue Code, at no time prior to the satisfaction of all liabilities with respect to members and their beneficiaries under the Teachers' Pension and Annuity Fund, established pursuant to N.J.S.18A:66-1 et seq., the Judicial Retirement System, established pursuant to P.L.1973, c.140 (C.43:6A-1 et seq.), the Prison Officers' Pension Fund, established pursuant to P.L.1941, c.220 (C.43:7-7 et seq.), the Public Employees' Retirement System, established pursuant to P.L.1954, c.84 (C.43:15A-1 et seq.), the Consolidated Police and Firemen's Pension Fund, established pursuant to R.S.43:16-1 et seq., the Police and Firemen's Retirement System, established pursuant to P.L.1944, c.255 (C.43:16A-1 et seq.), the State Police Retirement System, established pursuant to P.L.1965, c.89 (C.53:5A-1 et seq.), and the Alternate Benefit Program, established pursuant to P.L.1969, c.242 (C.18A:66-167 et seq.), shall any part of the corpus or income of the respective retirement systems, within the taxable year or thereafter, be used for or diverted to purposes other than for the exclusive benefit of the members or their beneficiaries.

C.43:3C-9.2 Limitations on contributions, benefits.

2. Notwithstanding any law, rule or regulation to the contrary, the contributions to and benefits payable under the Teachers' Pension and Annuity Fund, the Judicial Retirement System, the Prison Officers' Pension Fund, the Public Employees' Retirement System, the Consolidated Police and Firemen's Pension Fund, the Police and Firemen's Retirement System, the State Police Retirement System and the Alternate Benefit Program shall not exceed the limitations provided under section 415 of the federal Internal Revenue Code. The Division of Pensions and Benefits in the Department of the Treasury shall be responsible for implementation and enforcement of these limitations.

C.43:3C-9.3 TPAF, JRS, PERS, PFRS, SPRS compensation limitation not to be exceeded.

3. Notwithstanding any law, rule or regulation to the contrary, for members of the Teachers' Pension and Annuity Fund, the Judicial Retirement System, the Public Employees' Retirement System, the Police and Firemen's Retirement System, and the State Police Retirement System, the amount of compensation which may be used for member contributions and benefits under the retirement systems after June 30, 1996 shall not exceed the compensation limitation of section 401 (a) (17) of the federal Internal Revenue Code of 1986, (26 U.S.C. s.401 (a) (17)), as amended pursuant to section 13212 of the Omnibus Budget Reconciliation Act of 1993, Pub. L.103-66, 107 Stat. 312 or as hereafter amended or supplemented, to the extent applicable to governmental plans. The provisions of this section shall not be applicable to members enrolled prior to July 1, 1996 if the employer

of the members certifies to the Director of the Division of Pensions and Benefits, in the form and manner prescribed by the director, prior to July 1, 1997, that the employer will pay the additional cost for not applying the limit to the members.

C.43:3C-9.4 Alternate Benefit Program, compensation limitation not to be exceeded.

4. Notwithstanding any law, rule or regulation to the contrary, for members of the Alternate Benefit Program, the amount of compensation which may be used for employer and member contributions and benefits under the program after June 30, 1996 shall not exceed the compensation limitation of section 401 (a) (17) of the federal Internal Revenue Code of 1986, (26 U.S.C. s.401 (a) (17)), as amended pursuant to section 13212 of the Omnibus Budget Reconciliation Act of 1993, Pub. L.103-66, 107 Stat. 312, or as hereafter amended or supplemented, to the extent applicable to governmental plans. The provisions of this section shall not be applicable to members enrolled prior to July 1, 1996 if the employer of the members certifies to the Director of the Division of Pensions and Benefits, in the form and manner prescribed by the director, prior to July 1, 1997, that the employer will pay the additional cost for not applying the limit to the members.

C.43:3C-9.5 "Non-forfeitable right to receive benefits" defined, contributions; construction of act.

5. a. For purposes of this section, a "non-forfeitable right to receive benefits" means that the benefits program, for any employee for whom the right has attached, cannot be reduced. The provisions of this section shall not apply to post-retirement medical benefits which are provided pursuant to law.

b. Vested members of the Teachers' Pension and Annuity Fund, the Judicial Retirement System, the Prison Officers' Pension Fund, the Public Employees' Retirement System, the Consolidated Police and Firemen's Pension Fund, the Police and Firemen's Retirement System, and the State Police Retirement System, upon the attainment of five years of service credit in the retirement system or fund or on the date of enactment of this bill, whichever is later, shall have a non-forfeitable right to receive benefits as provided under the laws governing the retirement system or fund upon the attainment of five years of service credit in the retirement system or fund or on the effective date of this act, whichever is later.

c. The State shall make an annual normal contribution and an annual unfunded accrued liability contribution to each system or fund pursuant to standard actuarial practices authorized by law, unless both of the following conditions are met: (1) there is no existing unfunded accrued liability contribution due to the system or fund at the close of the valuation period

applicable to the upcoming fiscal year; and (2) there are excess valuation assets in excess of the actuarial accrued liability of the system or fund at the close of the valuation period applicable to the upcoming fiscal year.

d. This act shall not be construed to preclude forfeiture, suspension or reduction in benefits for dishonorable service.

e. Except as expressly provided herein and only to the extent so expressly provided, nothing in this act shall be deemed to (1) limit the right of the State to alter, modify or amend such retirement systems and funds, or (2) create in any member a right in the corpus or management of a retirement system or pension fund.

6. This act shall take effect immediately.

Approved June 5, 1997.

CHAPTER 114

AN ACT authorizing the issuance of bonds, notes or other obligations by the New Jersey Economic Development Authority for the purposes of financing, in full or in part, the State's portion of the unfunded accrued liability under the State retirement systems and supplementing Title 34 of the Revised Statutes.

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

C.34:1B-7.45 Short title.

1. This act shall be known and may be cited as the "Pension Bond Financing Act of 1997."

C.34:1B-7.46 Findings, declarations relative to issuance of bonds, notes, other obligations to fund accrued pension liability.

2. The Legislature finds and declares that:

a. The State currently makes contributions on an annual basis to fund the State's obligations under its various pension funds and retirement systems, consisting, in part, of the "unfunded accrued liability contribution" representing pension benefits earned in prior years which, pursuant to standard actuarial practices, are not yet fully funded.

b. The State's current unfunded accrued liability is approximately $3.2 billion for the following State pension funds and retirement systems: the Teachers' Pension and Annuity Fund; the Public Employees' Retirement System - State portion only; the Police and Firemen's Retirement System -

State portion only; the State Police Retirement System; the Judicial Retirement System; the Prison Officers' Pension Fund; and the Consolidated Police and Firemen's Pension Fund; and the primary reason for this unfunded accrued liability is the required inclusion of funding for pension adjustment or cost-of-living-adjustment benefits within these funds or systems.

c. It is in the public interest to fund this unfunded accrued liability, in full or in part, through the issuance of bonds, notes or other obligations by the New Jersey Economic Development Authority which shall be retired through annual payments to be made by the State, subject to appropriation by the State Legislature.

d. By issuing bonds, notes or other obligations to fund, in full or in part, this unfunded accrued liability, the State will achieve significant savings and will eliminate the need for pension contributions on an annual basis to fund this unfunded accrued liability.

e. It is intended that the proceeds from sale or sales of bonds, notes or other obligations for the purposes of funding the unfunded accrued pension liability shall not be less than approximately $2.7 billion; provided, however, that notwithstanding the foregoing, any series of bonds, notes or other obligations issued under this act, whether or not yielding proceeds of $2.7 billion or less, shall be authorized and valid if issued in accordance with section 4 of this act.

f. It is anticipated that the bonds, notes or other obligations to be issued will be amortized over a shorter period of time than the actuarial amortization of the unfunded liability; and the difference between the payment of principal and interest on the bonds, notes or other obligations and the estimated contributions by the State under the actuarial amortization will provide significant savings to the State.

C.34:1B-7.47 Definitions relative to issuance of bonds, notes, other obligations to fund accrued pension liability.

3. As used in this act:

a. "Bonds" means bonds, notes or other obligations issued by the authority pursuant to this act.

b. "New Jersey Economic Development Authority" or "authority" means the New Jersey Economic Development Authority created pursuant to section 4 of P.L.1974, c.80 (C.34:1B-4).

c. "Refunding bonds" means bonds, notes or other obligations issued to refinance bonds, notes or other obligations previously issued by the authority pursuant to section 4 of this act.

d. "Unfunded accrued pension liability" means the unfunded accrued liability of the State under: the Teachers' Pension and Annuity Fund,

determined as of March 31, 1996 under N.J.S.18A:66-18; the Judicial Retirement System, determined as of June 30, 1996 under section 33 of P.L.1973, c.140 (C.43:6A-33); the Prison Officers' Pension Fund, determined as of June 30, 1996 under P.L.1941, c.220 (C.42:7-7 et seq.); the Public Employees' Retirement System, determined as of March 31, 1996 under section 24 of P.L.1954, c.84 (C.43:15A-24); the Consolidated Police and Firemen's Pension Fund, determined as of June 30, 1996 under R.S.43:16-5; the Police and Firemen's Retirement System, determined as of June 30, 1995 under section 15 of P.L.1944, c.255 (C.43:16A-15); and the State Police Retirement System, determined as of June 30, 1996 under section 34 of P.L.1965, c.89 (C.53:5A-34), and certified by the State Treasurer and reported to the authority pursuant to section 4 of this act.

C.34:1B-7.48 Powers of authority concerning bonds.

4. Notwithstanding the provisions of any law, rule, regulation or order to the contrary:

a. The authority shall have the power, pursuant to the provisions of this act and P.L.1974, c.80 (C.34:1B-1 et seq.), to issue bonds and refunding bonds, incur indebtedness and borrow money secured, in whole or in part, by moneys received pursuant to sections 5 and 6 of this act, for the purpose of providing funds for the payment, in full or in part, of the unfunded accrued pension liability, as such unfunded accrued pension liability is certified by the State Treasurer and reported to the authority, and any costs related to the issuance thereof. The authority may establish reserve or other funds to further secure bonds and refunding bonds. The bonds shall be in the amount to yield proceeds of $2.75 billion to fund, all or in part, the unfunded accrued pension liability, plus additional bonds to pay for the costs of issuance.

b. The authority may, in any resolution authorizing the issuance of bonds or refunding bonds, pledge the contract with the State Treasurer, provided for in section 6 of this act, or any part thereof, for the payment or redemption of the bonds or refunding bonds, and covenant as to the use and disposition of money available to the authority for payments of bonds and refunding bonds. All costs associated with the issuance of bonds and refunding bonds by the authority for the purposes set forth in this act may be paid by the authority from amounts it receives from the proceeds of the bonds or refunding bonds and from amounts it receives pursuant to sections 5 and 6 of this act, which costs may include, but are not limited to, any costs relating to the issuance of the bonds or refunding bonds, administrative costs of the authority attributable to the payment of the unfunded accrued pension liability, and costs attributable to the agreements described in subsection c. of this section. The bonds or refunding bonds shall be

authorized by resolution, which shall stipulate the manner of execution and form of the bonds, whether the bonds are in one or more series, the date or dates of issue, time or times of maturity, which shall not exceed 38 years,the rate or rates of interest payable on the bonds, which may be at fixed rates or variable rates, and which interest may be current interest or may accrue, the denomination or denominations in which the bonds are issued, conversion or registration privileges, the sources and medium of payment and place or places of payment, terms of redemption, privileges of exchangeability or interchangeability, and entitlement to priorities of payment or security in the amounts to be received by the authority pursuant to sections 5 and 6 of this act. The bonds may be sold at a public or private sale at a price or prices determined by the authority. The authority is authorized to enter into any agreements necessary or desirable to effectuate the purposes of this section, including agreements to sell bonds or refunding bonds to any person and to comply with the laws of any jurisdiction relating thereto.

c. In connection with any bonds or refunding bonds issued pursuant to this act, the authority may also 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 contract, surety bond, commitment to purchase or sell bonds, purchase or sale agreement, or commitments or other contracts or agreements and other security agreements approved by the authority.

d. No resolution adopted by the authority authorizing the issuance of bonds or refunding bonds pursuant to this act shall be adopted or otherwise made effective without the approval in writing of the State Treasurer. Except as provided by subsection i. of section 4 of P.L.1974, c.80 (C.34:1B-4), bonds or refunding bonds may be issued without obtaining the consent of any department, division, commission, board, bureau or agency of the State, other than the approval as required by this subsection, and without any other proceedings or the occurrence of any other conditions or other things other than those proceedings, conditions or things which are specifically required by this act.

e. Bonds and refunding bonds issued by the authority pursuant to this act shall be special and limited obligations of the authority payable from, and secured by, such funds and moneys determined by the authority in accordance with this section. Neither the members of the 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 the

provisions of this act 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 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 authority shall contain a statement to that effect on their face.

f. The 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 such other advisors, consultants and agents as may be necessary to effectuate the purposes of this act.

g. The proceeds from the sale of the bonds, other than refunding bonds, issued pursuant to this act, after payment of any costs related to the issuance of such bonds, shall be paid by the authority to the Teachers' Pension and Annuity Fund, the Judicial Retirement System, the Prison Officers' Pension Fund, the Public Employees' Retirement System, the Consolidated Police and Firemen's Pension Fund, the Police and Firemen's Retirement System, and the State Police Retirement System to be applied to the payment, in full or in part, of the unfunded accrued pension liability of the State under these funds and systems as directed by the State Treasurer, or in such other manner as the State Treasurer and the authority may determine.

h. All bonds or refunding bonds issued by the authority are deemed to be issued by a body corporate and politic of the State for an essential governmental purpose, and the interest thereon and the income derived from all funds, revenues, incomes and other moneys received for or to be received by the authority and pledged and available to pay or secure the payment on bonds or refunding bonds and the interest thereon, shall be exempt from all taxes levied pursuant to the provisions of Title 54 of the Revised Statutes or Title 54A of the New Jersey Statutes, except for transfer, inheritance and estate taxes levied pursuant to Subtitle 5 of Title 54 of the Revised Statutes.

i. The State hereby pledges and covenants with the holders of any bonds or refunding bonds issued pursuant to the provisions of this act, that it will not limit or alter the rights or powers vested in the authority by this act, nor limit or alter the rights or powers of the State Treasurer in any manner which would jeopardize the interest of the holders or any trustee of such holders, or inhibit or prevent performance or fulfillment by the authority or the State Treasurer with respect to the terms of any agreement made with the holders of these bonds or refunding bonds or agreements made pursuant to subsection c. of section 4 of this act except that the failure of the Legislature to appropriate moneys for any purpose of this act shall not be deemed a violation of this section.

j. Notwithstanding any restriction contained in any other law, rule, regulation or order to the contrary, the State and all political subdivisions of this State, their officers, boards, commissioners, departments or other agencies, all banks, bankers, trust companies, savings banks and institutions, building and loan associations, saving and loan associations, investment companies and other persons carrying on a banking or investment business, and all executors, administrators, guardians, trustees and other fiduciaries, and all other persons whatsoever who now are or may hereafter be authorized to invest in bonds or other obligations of the State, may properly and legally invest any sinking funds, moneys or other funds, including capital, belonging to them or within their control, in any bonds or refunding bonds issued by the authority under the provisions of this act; and said bonds and refunding bonds are hereby made securities which may properly and legally be deposited with, and received by any State or municipal officers or agency of the State, for any purpose for which the deposit of bonds or other obligations of the State is now, or may hereafter be, authorized by law.

C.34:1B-7.49 Payments of debt service to authority; schedule.

5. a. The State Treasurer shall, in each State fiscal year, pay from the General Fund to the authority, in accordance with a contract or contracts between the State Treasurer and the authority, authorized pursuant to section 6 of this act, an amount equivalent to the amount due to be paid in such State fiscal year to pay the debt service incurred for such State fiscal year on the bonds or refunding bonds of the authority issued pursuant to this act and any additional costs authorized by section 4 of this act.

b. In addition to such terms and conditions as are agreed upon pursuant to section 6 of this act, the contract or contracts shall provide that all such payments from the General Fund shall be subject to, and dependent upon, appropriations being made from time to time by the Legislature for such purposes and shall further provide for a payment schedule and requirements as follows:

(1) For State fiscal year 1998, an amount not less than the amount that would be required to be applied in that State fiscal year to the amortization schedule of the unfunded accrued pension liability, as that liability is defined in subsection d. of section 3 of this act and actuarially determined as of the dates specified therein (hereinafter "unfunded accrued pension liability payment");

(2) For each of the State fiscal years from 1999 through 2004, inclusive, an amount not less than the sum of the respective unfunded accrued pension liability payment plus $25 million;

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(3) For each of the State fiscal years from 2005 through 2020, inclusive, an amount not less than the respective unfunded accrued pension liability payment;

(4) For each of the State fiscal years from 2021 through 2035, or such State fiscal year after 2021 and prior to 2035 in which the last of the bonds issued under this act are retired, as appropriate, an amount not less than the unfunded accrued pension liability payment for State fiscal year 2020 and not more than the unfunded accrued pension liability payment for State fiscal year 2021;

(5) No payments under the contract or contracts shall be required for bonds that are defeased or bonds for which a deposit sufficient to provide for all payments on the bonds has been made; and

(6) Notwithstanding any other provision of this section to the contrary, under all payment provisions set forth in this section, annual amounts to be paid shall be sufficient to pay the debt service on the bonds and any refunding bonds, and any additional costs authorized by section 4 of this act for the appropriate years.

C.34:1B-7.50 State, authority contracts authorized; terms, conditions.

6. The State Treasurer and the authority are authorized to enter into one or more contracts to implement the payment arrangement that is provided for in section 5 of this act. The contract or contracts shall provide for payment by the State Treasurer of the amounts required to be paid pursuant to section 5 of this act and shall set forth the procedure for the transfer of moneys for the purpose of paying such moneys. The contract or contracts shall contain such terms and conditions as are determined by the parties, and shall include, but not be limited to, terms and conditions necessary and desirable to secure any bonds or refunding bonds of the authority issued pursuant to this act; provided, however, that notwithstanding any other provision of any law, rule, regulation or order to the contrary, the authority shall be paid only such funds as shall be determined by the contract or contracts and further provided that the incurrence of any obligation of the State under the contract or contracts, including any payments to be made thereunder from the General Fund, shall be subject to and dependent upon appropriations being made from time to time by the Legislature for the purposes of this act.

C.34:1B-7.51 Annual report, contents.

7. The State Treasurer shall, on or before April 1 of each year, issue a report on the financing provided for in this act to the Governor, the Senate President, the Speaker of the General Assembly, and the chairs of the Senate Budget and Appropriations Committee and the Assembly Appropriations Committee or the respective successor committees. The report shall

include, but not be limited to: the outstanding debt and the payments provided for in section 5 of this act for the current State fiscal year; the cumulative amount of debt incurred, debt retired and payments and, as appropriate, debt outstanding from prior State fiscal years for which bonds or refunding bonds have been issued pursuant to this act; and estimates of same for the remainder of time in which any debt incurred pursuant to this act is outstanding.

C.34:1B-7.52 Supersedure by act.

8. It is the intent of the Legislature that in the event of any conflict or inconsistency between the provisions of this act and any other law pertaining to the purposes of this act, to the extent of the conflict or inconsistency, the provisions of this act shall be enforced and the provisions of the other law shall be of no effect.

C.34:1B-7.53 Severability of act.

9. If any clause, sentence, paragraph, section or part of this act shall be adjudged by any court of competent jurisdiction to be invalid, the judgment shall not affect, impair or invalidate the remainder thereof, but shall be confined in its operation to the clause, sentence, paragraph, section or part thereof directly involved in the controversy in which the judgment shall have been rendered.

10. This act shall be construed liberally to effectuate the purposes thereof, and as complete and independent authorization for each action and purpose set forth herein.

11. This act shall take effect immediately.

Approved June 5, 1997.

CHAPTER 115

AN ACT concerning employer and employee contributions to the State retirement systems and revising 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.18A:66-18 is amended to read as follows:

Contingent reserve fund.

18A:66-18. The contingent reserve fund shall be the fund in which shall be credited contributions made by the State and other employers.

a. Upon the basis of the tables recommended by the actuary which the board of trustees adopts and regular interest, the actuary of the board shall compute annually, beginning as of March 31, 1992, the amount of contribution which shall be the normal cost as computed under the projected unit credit method attributable to service rendered under the retirement system for the year beginning on July 1 immediately succeeding the date of the computation. This shall be known as the "normal contribution."

b. Upon the basis of the tables recommended by the actuary which the board of trustees adopts and regular interest, the actuary of the board shall annually determine if there is an amount of the accrued liability of the retirement system, computed under the projected unit credit method, including the liability for pension adjustment benefits for active employees funded pursuant to section 2 of P.L.1987, c.385 (C.18A:66-18.1), which is not already covered by the assets of the retirement system, valued in accordance with the asset valuation method established in this section. This shall be known as the "unfunded accrued liability." If there was no unfunded accrued liability for the valuation period immediately preceding the current valuation period, the actuary, using the total amount of this unfunded accrued liability, shall compute the initial amount of contribution which, if the contribution is increased at a specific rate and paid annually for a specific period of time, will amortize this liability. The State Treasurer shall determine, upon the advice of the Director of the Division of Pensions and Benefits, the board of trustees and the actuary, the rate of increase for the contribution and the time period for full funding of this liability, which shall not exceed 30 years. This shall be known as the "accrued liability contribution." Thereafter, any increase or decrease in the unfunded accrued liability as a result of actuarial losses or gains for subsequent valuation years shall serve to increase or decrease, respectively, the amortization period for the unfunded accrued liability, unless an increase in the amortization period will cause it to exceed 30 years. If an increase in the amortization period as a result of actuarial losses for a valuation year would exceed 30 years, the accrued liability contribution shall be computed for the valuation year in the same manner provided for the computation of the initial accrued liability contribution under this section. The State may pay all or any portion of its unfunded accrued liability under the retirement system from any source of funds legally available for the purpose, including, without limitation, the proceeds of bonds authorized by law for this purpose.

The value of the assets to be used in the computation of the contributions provided for under this section for valuation periods shall be the value of the assets for the preceding valuation period increased by the regular interest rate, plus the net cash flow for the valuation period (the difference between the benefits and expenses paid by the system and the contributions

to the system) increased by one half of the regular interest rate, plus 20% of the difference between this expected value and the full market value of the assets as of the end of the valuation period. This shall be known as the "valuation assets." Notwithstanding the first sentence of this paragraph, the valuation assets for the valuation period ending March 31, 1996 shall be the full market value of the assets as of that date and shall include the proceeds from the bonds issued pursuant to the Pension Bond Financing Act of 1997, P.L.1997, c.114 (C.34:1B-7.45 et seq.), paid to the system by the New Jersey Economic Development Authority to fund the unfunded accrued liability of the system.

"Excess valuation assets" for a valuation period means:

(1) the valuation assets; less

(2) the actuarial accrued liability for basic benefits and pension adjustment benefits, excluding the unfunded accrued liability for early retirement incentive benefits pursuant to P.L.1991, c.231 and P.L.1993, c.163 for employers other than the State; less

(3) the contributory group insurance premium fund created by N.J.S.18A:66-77; less

(4) the post-retirement medical premium fund created pursuant to section 2 of P.L.1987, c.385 (C.18A:66-18.1), as amended by section 3 of P.L.1994, c.62; less

(5) the present value of the projected total normal cost for pension adjustment benefits in excess of the projected total phased-in normal cost for pension adjustment benefits as originally authorized by section 2 of P.L.1987, c.385 (C.18A:66-18.1) over the full phase-in period, determined in the manner prescribed for the determination and amortization of the unfunded accrued liability of the system, if the sum of the foregoing items is greater than zero.

If there are excess valuation assets for the valuation period ending March 31, 1996, the normal contributions for the valuation periods ending March 31, 1996 and March 31, 1997 which have not yet been paid to the retirement system shall be reduced to the extent possible by the excess valuation assets, provided that the General Fund balances that would have been paid to the retirement system except for this provision shall first be allocated as State aid to public schools to the extent that additional sums are required to comply with the May 14, 1997 decision of the New Jersey Supreme Court in Abbott v. Burke, and provided further that the normal contribution for the valuation period ending March 31, 1996 shall not be less than $54,000,000. If there are excess valuation assets for a valuation period ending after March 31, 1996, the State Treasurer may reduce the normal contribution payable for the next valuation period as follows:

(1) for valuation periods ending March 31, 1997 through March 31, 2001, to the extent possible by up to 100% of the excess valuation assets;

(2) for the valuation period ending March 31, 2002, to the extent possible by up to 84% of the excess valuation assets;

(3) for the valuation period ending March 31, 2003, to the extent possible by up to 68% of the excess valuation assets; and

(4) for valuation periods ending on or after March 31, 2004, to the extent possible by up to 50% of the excess valuation assets.

For calendar years 1998 and 1999, the rate of contribution of members of the retirement system under N.J.S.18A:66-29 shall be reduced by ½ of 1% from excess valuation assets. Thereafter, the rate of contribution of members of the retirement system under that section for a calendar year shall be reduced equally with normal contributions to the extent possible, but not by more than ½ of 1%, from excess valuation assets if the State Treasurer determines that excess valuation assets shall be used to reduce normal contributions by the State for the fiscal year beginning immediately prior to the calendar year, and excess valuation assets above the amount necessary to fund the reduction for that calendar year in the member contribution rate plus an equal reduction in the normal contribution shall be available for the further reduction of normal contributions, subject to the limitations prescribed by this subsection.

c. (Deleted by amendment, P.L.1992, c.125.)

d. The retirement system shall certify annually the aggregate amount payable to the contingent reserve fund in the ensuing year, which amount shall be equal to the sum of the amounts described in this section, and which shall be paid into the contingent reserve fund in the manner provided by section 18A:66-33.

e. Except as provided in sections 18A:66-26 and 18A:66-53, the death benefits payable under the provisions of this article upon the death of an active or retired member shall be paid from the contingent reserve fund.

f. The disbursements for benefits not covered by reserves in the system on account of veterans shall be met by direct contribution of the State.

2. Section 2 of P.L.1987, c.385 (C.18A:66-18.1) is amended to read as follows:

C.18A:66-18.1 Payment of pension adjustment benefits; health care benefits.

2. Pension adjustment benefits for members and beneficiaries of the Teachers' Pension and Annuity Fund as provided by the "Pension Adjustment Act," P.L.1958, c.143 (C.43:3B-1 et seq.) shall be paid by the retirement system and shall be funded as employer obligations by the same

method provided by law for the funding of employer obligations for the basic retirement benefits provided by the retirement system.

Health care benefits for qualified retirees and their dependents as provided by section 3 of P.L.1987, c.384 (C.52:14-17.32f) shall be funded and paid by the retirement system through a separate fund or trust of the retirement system in accordance with the requirements of the federal Internal Revenue Code. Beginning with the actuarial valuation period ending March 31, 1994, the actuary of the retirement system shall annually compute a contribution to fund these health care benefits which shall be the amount necessary to pay the anticipated premiums or periodic charges for the benefits for the following valuation period and to provide that the balance in the fund as of the end of the following valuation period shall be increased by 1/2 of 1% of the salary of the active members for the valuation period. If the assets in the fund are insufficient to pay the premiums or periodic charges for the benefits, they shall be paid directly by the State.

3. Section 33 of P.L.1973, c.140 (C.43:6A-33) is amended to read as follows:

C.43:6A-33 Computation of contributions; valuation of assets; contingent reserve fund.

33. a. Upon the basis of the tables recommended by the actuary which the commission adopts and regular interest, the actuary shall compute annually, beginning as of June 30, 1992, the amount of the contribution which shall be the normal cost as computed under the projected unit credit method attributable to service rendered under the retirement system for the year beginning on July 1 immediately succeeding the date of the computation. This shall be known as the "normal contribution."

b. Upon the basis of the tables recommended by the actuary which the commission adopts and regular interest, the actuary shall annually determine if there is an amount of the accrued liability of the retirement system, computed under the projected unit credit method, which is not already covered by the assets of the retirement system, valued in accordance with the asset valuation method established in this section. This shall be known as the "unfunded accrued liability." If there was no unfunded accrued liability for the valuation period immediately preceding the current valuation period, the actuary, using the total amount of this unfunded accrued liability, shall compute the initial amount of contribution which, if the contribution is increased at a specific rate and paid annually for a specific period of time, will amortize this liability. The State Treasurer shall determine, upon the advice of the Director of the Division of Pensions and Benefits, the commission and the actuary, the rate of increase for the contribution and the time period for full funding of this liability, which shall

not exceed 30 years. This shall be known as the "accrued liability contribution." Thereafter, any increase or decrease in the unfunded accrued liability as a result of actuarial losses or gains for subsequent valuation years shall serve to increase or decrease, respectively, the amortization period for the unfunded accrued liability, unless an increase in the amortization period will cause it to exceed 30 years. If an increase in the amortization period as a result of actuarial losses for a valuation year would exceed 30 years, the accrued liability contribution shall be computed for the valuation year in the same manner provided for the computation of the initial accrued liability contribution under this section. The State may pay all or any portion of its unfunded accrued liability under the retirement system from any source of funds legally available for the purpose, including, without limitation, the proceeds of bonds authorized by law for this purpose.

The value of the assets to be used in the computation of the contributions provided for under this section for valuation periods shall be the value of the assets for the preceding valuation period increased by the regular interest rate, plus the net cash flow for the valuation period (the difference between the benefits and expenses paid by the system and the contributions to the system) increased by one half of the regular interest rate, plus 20% of the difference between this expected value and the full market value of the assets as of the end of the valuation period. This shall be known as the "valuation assets." Notwithstanding the first sentence of this paragraph, the valuation assets for the valuation period ending June 30, 1996 shall be the full market value of the assets as of that date and shall include the proceeds from the bonds issued pursuant to the Pension Bond Financing Act of 1997, P.L.1997, c.114 (C.34:1B-7.45 et seq.), paid to the system by the New Jersey Economic Development Authority to fund the unfunded accrued liability of the system.

"Excess valuation assets" means the valuation assets for a valuation period less the actuarial accrued liability for the valuation period, if the sum is greater than zero. If there are excess valuation assets for the valuation period ending June 30, 1996, the normal contributions for the valuation periods ending June 30, 1996 and June 30, 1997 which have not yet been paid to the retirement system shall be reduced to the extent possible by the excess valuation assets, provided that the General Fund balances that would have been paid to the retirement system except for this provision shall first be allocated as State aid to public schools to the extent that additional sums are required to comply with the May 14, 1997 decision of the New Jersey Supreme Court in Abbott v. Burke. If there are excess valuation assets for a valuation period ending after June 30, 1996, the State Treasurer may reduce the normal contribution payable for the next valuation period as follows:

(1) for valuation periods ending June 30, 1997 through June 30, 2001, to the extent possible by up to 100% of the excess valuation assets;

(2) for the valuation period ending June 30, 2002, to the extent possible by up to 84% of the excess valuation assets;

(3) for the valuation period ending June 30, 2003, to the extent possible by up to 68% of the excess valuation assets; and

(4) for valuation periods ending on or after June 30, 2004, to the extent possible by up to 50% of the excess valuation assets.

c. The actuary shall certify annually the aggregate amount payable to the contingent reserve fund in the ensuing year, which amount shall be equal to the sum of the amounts described in this section. The State shall pay into the contingent reserve fund during the ensuing year the amount so determined.

The cash death benefits, payable as the result of contribution by the State under the provisions of this act upon the death of a member in active service and after retirement, shall be paid from the contingent reserve fund.

d. (Deleted by amendment, P.L.1992, c.125.)

4. Section 7 of P.L.1941, c.220 (C.43:7-13) is amended to read as follows:

C.43:7-13 Creation of pension fund.

7. For the purpose of paying the pensions, a fund shall be created as follows:

(a) There shall be deducted from every payment of salary to a prison officer benefited by this act, 6% of the amount thereof;

(b) That the State shall pay into said fund yearly an amount equal to 6% of the total salaries paid to the said prison officers who shall benefit by this act, which amount shall be submitted to the Legislature yearly by the pension commission. The Legislature shall make an appropriation sufficient to provide for such obligation of the State;

(c) There shall be added to such fund all fines imposed upon any such prison officer, all money donated to the fund, all moneys deducted from the salary of such prison officers because of absence or loss of time due to suspension, and 1/2 of all rewards paid for any purpose to such prison officer;

(d) If there shall not be sufficient money in the fund so created, the Legislature shall include in any appropriation bill a sum sufficient to meet the requirements of the fund for the time being;

(e) All pensions granted under this article shall be exempt from any State or municipal tax, levy and sale, garnishment or attachment, or any other process whatsoever, and shall be unassignable.

The State may pay all or any portion of its unfunded accrued liability under the retirement system from any source of funds legally available for the purpose, including, without limitation, the proceeds of bonds authorized by law for this purpose.

5. Section 24 of P.L.1954, c.84 (C.43:15A-24) is amended to read as follows:

C.43:15A-24 Contingent reserve fund.

24. The contingent reserve fund shall be the fund in which shall be credited contributions made by the State and other employers.

a. Upon the basis of the tables recommended by the actuary which the board adopts and regular interest, the actuary shall compute annually, beginning as of March 31, 1992, the amount of contribution which shall be the normal cost as computed under the projected unit credit method attributable to service rendered under the retirement system for the year beginning on July 1 immediately succeeding the date of the computation. This shall be known as the "normal contribution."

b. With respect to employers other than the State, upon the basis of the tables recommended by the actuary which the board adopts and regular interest, the actuary shall compute the amount of the accrued liability of the retirement system as of March 31, 1992 under the projected unit credit method, excluding the liability for pension adjustment benefits for active employees funded pursuant to section 2 of P.L.1990, c.6 (C.43:15A-24.1), which is not already covered by the assets of the retirement system, valued in accordance with the asset valuation method established in this section. Using the total amount of this unfunded accrued liability, the actuary shall compute the initial amount of contribution which, if the contribution is increased at a specific rate and paid annually for a specific period of time, will amortize this liability. The State Treasurer shall determine, upon the advice of the Director of the Division of Pensions and Benefits, the board of trustees and the actuary, the rate of increase for the contribution and the time period for full funding of this liability, which shall not exceed 40 years on initial application of this section as amended by this act, P.L.1994, c.62. This shall be known as the "accrued liability contribution." Any increase or decrease in the unfunded accrued liability as a result of actuarial losses or gains for the 10 valuation years following valuation year 1992 shall serve to increase or decrease, respectively, the unfunded accrued liability contribution. Thereafter, any increase or decrease in the unfunded accrued liability as a result of actuarial losses or gains for subsequent valuation years shall serve to increase or decrease, respectively, the amortization period for the unfunded accrued liability, unless an increase in the amortization period

will cause it to exceed 30 years. If an increase in the amortization period as a result of actuarial losses for a valuation year would exceed 30 years, the accrued liability contribution shall be computed for the valuation year in the same manner provided for the computation of the initial accrued liability contribution under this section.

With respect to the State, upon the basis of the tables recommended by the actuary which the commission adopts and regular interest, the actuary shall annually determine if there is an amount of the accrued liability of the retirement system, computed under the projected unit credit method, which is not already covered by the assets of the retirement system, valued in accordance with the asset valuation method established in this section. This shall be known as the "unfunded accrued liability." If there was no unfunded accrued liability for the valuation period immediately preceding the current valuation period, the actuary, using the total amount of this unfunded accrued liability, shall compute the initial amount of contribution which, if the contribution is increased at a specific rate and paid annually for a specific period of time, will amortize this liability. The State Treasurer shall determine, upon the advice of the Director of the Division of Pensions and Benefits, the commission and the actuary, the rate of increase for the contribution and the time period for full funding of this liability, which shall not exceed 30 years. This shall be known as the "accrued liability contribution." Thereafter, any increase or decrease in the unfunded accrued liability as a result of actuarial losses or gains for subsequent valuation years shall serve to increase or decrease, respectively, the amortization period for the unfunded accrued liability, unless an increase in the amortization period will cause it to exceed 30 years. If an increase in the amortization period as a result of actuarial losses for a valuation year would exceed 30 years, the accrued liability contribution shall be computed for the valuation year in the same manner provided for the computation of the initial accrued liability contribution under this section. The State may pay all or any portion of its unfunded accrued liability under the retirement system from any source of funds legally available for the purpose. including, without limitation, the proceeds of bonds authorized by law for this purpose.

The value of the assets to be used in the computation of the contributions provided for under this section for valuation periods shall be the value of the assets for the preceding valuation period increased by the regular interest rate, plus the net cash flow for the valuation period (the difference between the benefits and expenses paid by the system and the contributions to the system) increased by one half of the regular interest rate, plus 20% of the difference between this expected value and the full market value of the assets as of the end of the valuation period. This shall be known as the "valuation assets." Notwithstanding the first sentence of this paragraph, the

valuation assets for the valuation period ending March 31, 1996 shall be the full market value of the assets as of that date and, with respect to the valuation assets allocated to the State, shall include the proceeds from the bonds issued pursuant to the Pension Bond Financing Act of 1997, P.L.1997, c.114 (C.34:1B-7.45 et seq.), paid to the system by the New Jersey Economic Development Authority to fund the unfunded accrued liability of the system.

"Excess valuation assets" for a valuation period means, with respect to the valuation assets allocated to the State:

(1) the valuation assets allocated to the State; less

(2) the actuarial accrued liability of the State for basic benefits and pension adjustment benefits under the retirement system; less

(3) the contributory group insurance premium fund, created by section 4 of P.L.1955, c.214 (C.43:15A-91), as amended by section 4 of P.L.1960, c.79; less

(4) the post retirement medical premium fund, created pursuant to section 2 of P.L.1990, c.6 (C.43:15A-24.1), as amended by section 8 of P.L.1994, c.62; less

(5) the present value of the projected total normal cost for pension adjustment benefits in excess of the projected total phased-in normal cost for pension adjustment benefits for the State authorized by section 2 of P.L.1990, c.6 (C.43:15A-24.1) over the full phase-in period, determined in the manner prescribed for the determination and amortization of the unfunded accrued liability of the system, if the sum of the foregoing items is greater than zero.

"Excess valuation assets" for a valuation period means, with respect to the valuation assets allocated to other employers:

(1) the valuation assets allocated to the other employers; less

(2) the actuarial accrued liability of the other employers for basic benefits and pension adjustment benefits under the retirement system, excluding the unfunded accrued liability for early retirement incentive benefits pursuant to P.L.1991, c.229, P.L.1991, c.230, P.L.1993, c.138, and P.L.1993, c.181, for employers other than the State; less

(3) the contributory group insurance premium fund, created by section 4 of P.L.1955, c.214 (C.43:15A-91), as amended by section 4 of P.L.1960, c.79; less

(4) the present value of the projected total normal cost for pension adjustment benefits in excess of the projected total phased-in normal cost for pension adjustment benefits for the other employers authorized by section 2 of P.L.1990, c.6 (C.43:15A-24.1) over the full phase-in period, determined in the manner prescribed for the determination and amortization

of the unfunded accrued liability of the system, if the sum of the foregoing items is greater than zero.

If there are excess valuation assets allocated to the State or to the other employers for the valuation period ending March 31, 1996, the normal contributions payable by the State or by the other employers for the valuation periods ending March 31, 1996 and March 31, 1997 which have not yet been paid to the retirement system shall be reduced to the extent possible by the excess valuation assets allocated to the State or to the other employers, respectively, provided that with respect to the excess valuation assets allocated to the State, the General Fund balances that would have been paid to the retirement system except for this provision shall first be allocated as State aid to public schools to the extent that additional sums are required to comply with the May 14, 1997 decision of the New Jersey Supreme Court in Abbott v. Burke. If there are excess valuation assets allocated to the State or to the other employers for a valuation period ending after March 31, 1996, the State Treasurer may reduce the normal contribution payable by the State or by the other employers for the next valuation period as follows:

(1) for valuation periods ending March 31, 1997 through March 31, 2001, to the extent possible by up to 100% of the excess valuation assets allocated to the State or to the other employers, respectively;

(2) for the valuation period ending March 31, 2002, to the extent possible by up to 84% of the excess valuation assets allocated to the State or to the other employers, respectively;

(3) for the valuation period ending March 31, 2003, to the extent possible by up to 68% of the excess valuation assets allocated to the State or to the other employers, respectively; and

(4) for valuation periods ending on or after March 31, 2004, to the extent possible by up to 50% of the excess valuation assets allocated to the State or to the other employers, respectively.

For calendar years 1998 and 1999, the rate of contribution of members of the retirement system under section 25 of P.L.1954, c.84 (C.43:15A-25) shall be reduced by ½ of 1% from excess valuation assets. Thereafter, the rate of contribution of members of the retirement system under that section for a calendar year shall be reduced equally with normal contributions to the extent possible, but not by more than ½ of 1%, from excess valuation assets if the State Treasurer determines that excess valuation assets shall be used to reduce normal contributions by the State and local employers for the fiscal year beginning immediately prior to the calendar year, or for the calendar year for local employers whose fiscal year is the calendar year, and excess valuation assets above the amount necessary to fund the reduction for that calendar year in the member contribution rate plus an equal reduction

in the normal contribution shall be available for the further reduction of normal contributions, subject to the limitations prescribed by this subsection.

c. The retirement system shall certify annually the aggregate amount payable to the contingent reserve fund in the ensuing year, which amount shall be equal to the sum of the amounts described in this section. The State shall pay into the contingent reserve fund during the ensuing year the amount so determined. The death benefits, payable as a result of contribution by the State under the provisions of this chapter upon the death of an active or retired member, shall be paid from the contingent reserve fund.

d. The disbursements for benefits not covered by reserves in the system on account of veterans shall be met by direct contributions of the State and other employers.

6. Section 2 of P.L.1990, c.6 (C.43:15A-24.1) is amended to read as follows:

C.43:15A-24.1 Payment of pension adjustment benefits, health benefits.

2. Pension adjustment benefits for members and beneficiaries of the Public Employees' Retirement System provided by the "Pension Adjustment Act," P.L.1958, c.143 (C.43:3B-1 et seq.) shall be paid by the retirement system and shall be funded as employer obligations by the same method provided by law for the funding of employer obligations for the basic retirement benefits provided by the retirement system. Normal and accrued liability contributions for pension adjustment benefits for active employees of employers other than the State shall be determined for the 1992 valuation year and shall be phased in so that the level of recognition of the full normal and accrued liability contributions for the State and other employers shall be 20% for valuation year 1992 and 24% for valuation year 1993, and shall be increased by 2.24% for each valuation year thereafter until the full normal and accrued liability contributions are fully recognized.

Health care benefits for retired State employees and their dependents for which the State is required to pay the premiums or periodic charges under the "New Jersey State Health Benefits Program Act," P.L.1961, c.49 (C.52:14-17.25 et seq.), shall be funded and paid by the retirement system through a separate fund or trust of the retirement system in accordance with the requirements of the federal Internal Revenue Code. Beginning with the actuarial valuation period ending March 31, 1994, the actuary of the retirement system shall annually compute a contribution to fund these health care benefits which shall be the amount necessary to pay the anticipated premiums or periodic charges for the benefits for the following valuation period and to provide that the balance in the fund as of the end of the

following valuation period shall be increased by 1/2 of 1% of the salary of the active members for the valuation period. If the assets in the fund are insufficient to pay the premiums or periodic charges for the benefits, they shall be paid directly by the State.

7. R.S.43:16-5 is amended to read as follows:

Consolidated Police and Firemen's Pension Fund.

43:16-5. For the purpose of paying the pensions provided by this chapter, all pension funds heretofore created and in existence pursuant to the provisions of an act entitled "An act providing for the retirement of policemen and firemen of the police and fire departments in municipalities of this State, including all police officers having supervision of regulation of traffic upon county roads, and providing a pension for such retired policemen and firemen and members of the police and fire departments, and the widows, children and sole dependent parents of deceased members of said departments," approved April 15, 1920 (P.L.1920, c.160), and chapter 16 of Title 43 of the Revised Statutes, shall, from and after July 1, 1953, be consolidated, and, as so consolidated, shall be transferred to and placed under the Consolidated Police and Firemen's Pension Fund created by the provisions of this chapter. All rights and privileges created and extended to members of a municipal police department or of a paid or part-paid fire department or of a county police department, including members of the paid or part-paid fire department of any fire district located in any township which has adopted said act or said chapter of the Revised Statutes are hereby expressly preserved, continued and transferred from said pension funds to said consolidated fund. Nothing herein contained shall be deemed to affect or impair the right of any beneficiary of any of the funds so created, but all rights of such beneficiaries which have accrued or may accrue in or against any such pension fund shall be deemed to have accrued or to accrue against the funds so consolidated. Said consolidated fund shall be maintained as follows:

(a) There shall be deducted from every payment of salary to each member, as defined in the supplement to this chapter enacted by laws of 1944, c.253, s.12, as amended and supplemented, and paid into said consolidated fund 7% of the amount thereof.

(b) All employers, as defined in the supplement to this chapter enacted by laws of 1944, c.253, s.21, as amended and supplemented, shall contribute to the said consolidated fund in the following manner and amounts:

(1) An amount equal to 6% of the total of salaries annually paid to the members of the consolidated fund under said employer's jurisdiction, which shall be known as the employer's normal contribution, and which shall be

paid into said fund no later than April 1 of the State's fiscal year in which payment is due.

(2) An additional amount annually for a period of 30 years, commencing July 1, 1953, equal to 66 2/3% of the share of the particular employer of the annual amortization payment determined by the actuary to be required to bring the fund to a state of actuarial solvency at the end of the said 30-year period. In determining an employer's share of said annual amortization payment, the actuary shall determine separately, and give due credit to the value of the assets transferred by such employer to said consolidated fund. The amount of each of such annual payments shall be certified by the fund to the treasurer of each employer prior to the first day of the year in which such payment is required to be made, and said amount shall be appropriated in said employer's budget for that year. Said annual payment, which shall be known as the employer's accrued liability contribution, shall be made in two equal portions; the first on the first day of each year, and the second on July 1 of each year.

(3) An additional amount to be paid each year following the termination of the 30-year period provided for in subsection (b)(2) of this section, sufficient to meet the requirements of the fund.

(4) A fee, payable no later than April 1 of the State's fiscal year in which payment of the employer's normal contribution is due and consisting of such proportion of the administrative expense of the consolidated fund as the number of active and retired members under the jurisdiction of such employer, or their beneficiaries, then bears to the total number of active and retired members under the jurisdiction of such employer, or their beneficiaries, then bears to the total number of active and retired members and beneficiaries in the consolidated fund.

(c) The State of New Jersey shall contribute annually, throughout a period of 20 years, commencing July 1, 1972, such amount as may be necessary to make up the balance of the accrued liability of the consolidated fund. The amount of such annual contributions by the State shall be certified to the State Treasurer by the actuary at the time required for other State departmental budgetary certifications. All funds necessary to meet the State's share of said annual payments shall be included in the annual State budget and appropriated by the Legislature.

(d) If payment of the full amount of the employer's obligation is not made within 30 days of the due date established by the act, interest at the rate of 10% per annum shall commence to run against the unpaid balance thereof on the first day after such thirtieth day.

If payment in full, representing the monthly transmittal and report of salary deductions, is not made within 15 days of the due date established by the pension fund, interest at the rate of 10% per annum shall commence to

run against the total transmittal of salary deductions for the period on the first day after such fifteenth day.

(e) The accrued liability contribution of any employer shall be payable by the employer for the entire period of the financing of such liability and shall continue to be due and owing to the fund even when there are no longer any beneficiaries entitled to benefits.

(f) (Deleted by amendment, P.L.1992, c.125.)

(g) (Deleted by amendment, P.L.1992, c.125.)

(h) Upon the basis of tables recommended by the actuary which the commission adopts after consultation with the Director of the Division of Pensions and Benefits, the actuary shall compute the amount of unfunded liability of the fund as of June 30, 1990 which is not already covered by the assets of the fund, valued in accordance with the asset valuation method established in this section, and prospective employer normal contributions and employee contributions. Using the total amount of this unfunded liability, the actuary shall compute the amount of the flat annual payment which, if paid in each succeeding fiscal year, commencing with July 1, 1991, for a period of nine years, will provide for this liability. This payment shall be increased or decreased in succeeding fiscal years to amortize any actuarial loss or gain over the remaining time in this nine-year period. Any unfunded liability remaining after this nine-year period shall be funded by direct State appropriations. The actuary shall annually certify over the nine-year period the amount payable to the fund in the ensuing year, and the State shall pay into the fund during the ensuing year the amount so certified. The State may pay all or any portion of its unfunded accrued liability under the retirement system from any source of funds legally available for the purpose, including, without limitation, the proceeds of bonds authorized by law for this purpose.

The value of the assets for the valuation periods ending on or after June 30, 1992 shall be the value of the assets for the preceding valuation period increased by the regular interest rate, plus the net cash flow for the valuation period (the difference between the benefits paid by the system and the contributions to the system) increased by one half of the regular interest rate, plus 20% of the difference between this expected value and the full market value of the assets as of the end of the valuation period.

The tables of actuarial assumptions previously adopted by the commission for the valuation periods ending June 30, 1990 and June 30, 1991 shall be applicable to the revaluations of the retirement system under P.L.1992, c.125 (C.43:4B-1 et al.).

8. Section 15 of P.L.1944, c.255 (C.43:16A-15) is amended to read as follows:

C.43:16A-15 Contributions; expenses of administration.

15. (1) The contributions required for the support of the retirement system shall be made by members and their employers.

(2) The uniform percentage contribution rate for members shall be 8.5% of compensation.

(3) (Deleted by amendment, P.L.1989, c.204).

(4) Upon the basis of the tables recommended by the actuary which the board adopts and regular interest, the actuary shall compute annually, beginning as of June 30, 1991, the amount of contribution which shall be the normal cost as computed under the projected unit credit method attributable to service rendered under the retirement system for the year beginning on July 1 immediately succeeding the date of the computation. This shall be known as the "normal contribution."

(5) (Deleted by amendment, P.L.1989, c.204).

(6) (Deleted by amendment, P.L.1994, c.62.)

(7) Each employer shall cause to be deducted from the salary of each member the percentage of earnable compensation prescribed in subsection (2) of this section. To facilitate the making of deductions, the retirement system may modify the amount of deduction required of any member by an amount not to exceed 1/10 of 1% of the compensation upon which the deduction is based.

(8) The deductions provided for herein shall be made notwithstanding that the minimum salary provided for by law for any member shall be reduced thereby. Every member shall be deemed to consent and agree to the deductions made and provided for herein, and payment of salary or compensation less said deduction shall be a full and complete discharge and acquittance of all claims and demands whatsoever for the service rendered by such person during the period covered by such payment, except as to the benefits provided under this act. The chief fiscal officer of each employer shall certify to the retirement system in such manner as the retirement system may prescribe, the amounts deducted; and when deducted shall be paid into said annuity savings fund, and shall be credited to the individual account of the member from whose salary said deduction was made.

(9) With respect to employers other than the State, upon the basis of the tables recommended by the actuary which the board adopts and regular interest, the actuary shall compute the amount of the accrued liability as of June 30, 1991 under the projected unit credit method, which is not already covered by the assets of the retirement system, valued in accordance with the asset valuation method established in this section. Using the total amount of this unfunded accrued liability, the actuary shall compute the initial amount of contribution which, if the contribution is increased at a

specific rate and paid annually for a specific period of time, will amortize this liability. The State Treasurer shall determine, upon the advice of the Director of the Division of Pensions and Benefits, the board of trustees and the actuary, the rate of increase for the contribution and the time period for full funding of this liability, which shall not exceed 40 years on initial application of this section as amended by this act, P.L.1994, c.62. This shall be known as the "accrued liability contribution." Any increase or decrease in the unfunded accrued liability as a result of actuarial losses or gains for the 10 valuation years following valuation year 1991 shall serve to increase or decrease, respectively, the unfunded accrued liability contribution. Thereafter, any increase or decrease in the unfunded accrued liability as a result of actuarial losses or gains for subsequent valuation years shall serve to increase or decrease, respectively, the amortization period for the unfunded accrued liability, unless an increase in the amortization period will cause it to exceed 30 years. If an increase in the amortization period as a result of actuarial losses for a valuation year would exceed 30 years, the accrued liability contribution shall be computed for the valuation year in the same manner provided for the computation of the initial accrued liability contribution under this section.

With respect to the State, upon the basis of the tables recommended by the actuary which the board adopts and regular interest, the actuary shall annually determine if there is an amount of the accrued liability, computed under the projected unit credit method, which is not already covered by the assets of the retirement system, valued in accordance with the asset valuation method established in this section. This shall be known as the "unfunded accrued liability." If there was no unfunded accrued liability for the valuation period immediately preceding the current valuation period, the actuary, using the total amount of this unfunded accrued liability, shall compute the initial amount of contribution which, if the contribution is increased at a specific rate and paid annually for a specific period of time, will amortize this liability. The State Treasurer shall determine, upon the advice of the Director of the Division of Pensions and Benefits, the board of trustees and the actuary, the rate of increase for the contribution and the time period for full funding of this liability, which shall not exceed 30 years. This shall be known as the "accrued liability contribution." Thereafter, any increase or decrease in the unfunded accrued liability as a result of actuarial losses or gains for subsequent valuation years shall serve to increase or decrease, respectively, the amortization period for the unfunded accrued liability, unless an increase in the amortization period will cause it to exceed 30 years. If an increase in the amortization period as a result of actuarial losses for a valuation year would exceed 30 years, the accrued liability contribution shall be computed for the valuation year in the same manner

provided for the computation of the initial accrued liability contribution under this section. The State may pay all or any portion of its unfunded accrued liability under the retirement system from any source of funds legally available for the purpose, including, without limitation, the proceeds of bonds authorized by law for this purpose.

The value of the assets to be used in the computation of the contributions provided for under this section for valuation periods shall be the value of the assets for the preceding valuation period increased by the regular interest rate, plus the net cash flow for the valuation period (the difference between the benefits and expenses paid by the system and the contributions to the system) increased by one half of the regular interest rate, plus 20% of the difference between this expected value and the full market value of the assets as of the end of the valuation period. This shall be known as the "valuation assets." Notwithstanding the first sentence of this paragraph, the valuation assets for the valuation period ending June 30, 1995 shall be the full market value of the assets as of that date and, with respect to the valuation assets allocated to the State, shall include the proceeds from the bonds issued pursuant to the Pension Bond Financing Act of 1997, P.L.1997, c.114 (C.34:1B-7.45 et seq.), paid to the system by the New Jersey Economic Development Authority to fund the unfunded accrued liability of the system.

"Excess valuation assets" means, with respect to the valuation assets allocated to the State, the valuation assets allocated to the State for a valuation period less the actuarial accrued liability of the State for the valuation period, if the sum is greater than zero. "Excess valuation assets" means, with respect to the valuation assets allocated to other employers, the valuation assets allocated to the other employers for a valuation period less the actuarial accrued liability of the other employers for the valuation period, excluding the unfunded accrued liability for early retirement incentive benefits pursuant to P.L.1993, c.99 for the other employers, if the sum is greater than zero.

If there are excess valuation assets allocated to the State or to the other employers for the valuation period ending June 30, 1995, the normal contributions payable by the State or by the other employers for the valuation periods ending June 30, 1995, and June 30, 1996 which have not yet been paid to the retirement system shall be reduced to the extent possible by the excess valuation assets allocated to the State or to the other employers, respectively, provided that with respect to the excess valuation assets allocated to the State, the General Fund balances that would have been paid to the retirement system except for this provision shall first be allocated as State aid to public schools to the extent that additional sums are required to comply with the May 14, 1997 decision of the New Jersey Supreme Court

in Abbott v. Burke. If there are excess valuation assets allocated to the State or to the other employers for a valuation period ending after June 30, 1995, the State Treasurer may reduce the normal contribution payable by the State or by other employers for the next valuation period as follows:

(1) for valuation periods ending June 30, 1996 through June 30, 2000, to the extent possible by up to 100% of the excess valuation assets allocated to the State or to the other employers, respectively;

(2) for the valuation period ending June 30, 2001, to the extent possible by up to 84% of the excess valuation assets allocated to the State or to the other employers, respectively;

(3) for the valuation period ending June 30, 2002, to the extent possible by up to 68% of the excess valuation assets allocated to the State or to the other employers, respectively; and

(4) for valuation periods ending on or after June 30, 2003, to the extent possible by up to 50% of the excess valuation assets allocated to the State or to the other employers, respectively.

The normal and accrued liability contributions shall be certified annually by the retirement system and shall be included in the budget of the employer and levied and collected in the same manner as any other taxes are levied and collected for the payment of the salaries of members.

(10) The treasurer or corresponding officer of the employer shall pay to the State Treasurer no later than April 1 of the State's fiscal year in which payment is due the amount so certified as payable by the employer, and shall pay monthly to the State Treasurer the amount of the deductions from the salary of the members in the employ of the employer, and the State Treasurer shall credit such amount to the appropriate fund or funds, of the retirement system.

If payment of the full amount of the employer's obligation is not made within 30 days of the due date established by this act, interest at the rate of 10% per annum shall commence to run against the unpaid balance thereof on the first day after such 30th day.

If payment in full, representing the monthly transmittal and report of salary deductions, is not made within 15 days of the due date established by the retirement system, interest at the rate of 10% per annum shall commence to run against the total transmittal of salary deductions for the period on the first day after such 15th day.

(11) The expenses of administration of the retirement system shall be paid by the State of New Jersey. Each employer shall reimburse the State for a proportionate share of the amount paid by the State for administrative expense. This proportion shall be computed as the number of members under the jurisdiction of such employer bears to the total number of members in the system. The pro rata share of the cost of administrative

expense shall be included with the certification by the retirement system of the employer's contribution to the system.

(12) Notwithstanding anything to the contrary, the retirement system shall not be liable for the payment of any pension or other benefits on account of the employees or beneficiaries of any employer participating in the retirement system, for which reserves have not been previously created from funds, contributed by such employer or its employees for such benefits.

(13) (Deleted by amendment, P.L.1992, c.125.)

(14) Commencing with valuation year 1991, with payment to be made in Fiscal Year 1994, the Legislature shall annually appropriate and the State Treasurer shall pay into the pension accumulation fund of the retirement system an amount equal to 1.1% of the compensation of the members of the system for the valuation year to fund the benefits provided by section 16 of P.L.1964, c.241 (C.43:16A-11.1), as amended by P.L.1979, c.109.

9. Section 34 of P.L.1965, c.89 (C.53:5A-34) is amended to read as follows:

C.53:5A-34 Contingent reserve fund.

34. The Contingent Reserve Fund shall be the fund in which shall be credited contributions made by the State.

a. Upon the basis of the tables recommended by the actuary which the board adopts and regular interest, the actuary shall compute annually, beginning as of June 30, 1992, the amount of the contribution which shall be the normal cost as computed under the projected unit credit method attributable to service rendered under the retirement system for the year beginning on July 1 immediately succeeding the date of the computation. This shall be known as the "normal contribution."

b. Upon the basis of the tables recommended by the actuary which the board adopts and regular interest, the actuary shall annually determine if there is an amount of the accrued liability of the retirement system, computed under the projected unit credit method, which is not already covered by the assets of the retirement system, valued in accordance with the asset valuation method established in this section. This shall be known as the "unfunded accrued liability." If there was no unfunded accrued liability for the valuation period immediately preceding the current valuation period, the actuary, using the total amount of this unfunded accrued liability, shall compute the initial amount of contribution which, if the contribution is increased at a specific rate and paid annually for a specific period of time, will amortize this liability. The State Treasurer shall determine, upon the advice of the Director of the Division of Pensions and

Benefits, the board of trustees and the actuary, the rate of increase for the contribution and the time period for full funding of this liability, which shall not exceed 30 years. This shall be known as the "accrued liability contribution." Thereafter, any increase or decrease in the unfunded accrued liability as a result of actuarial losses or gains for subsequent valuation years shall serve to increase or decrease, respectively, the amortization period for the unfunded accrued liability, unless an increase in the amortization period will cause it to exceed 30 years. If an increase in the amortization period as a result of actuarial losses for a valuation year would exceed 30 years, the accrued liability contribution shall be computed for the valuation year in the same manner provided for the computation of the initial accrued liability contribution under this section. The State may pay all or any portion of its unfunded accrued liability under the retirement system from any source of funds legally available for the purpose, including, without limitation, the proceeds of bonds authorized by law for this purpose.

The value of the assets to be used in the computation of the contributions provided for under this section for valuation periods shall be the value of the assets for the preceding valuation period increased by the regular interest rate, plus the net cash flow for the valuation period (the difference between the benefits and expenses paid by the system and the contributions to the system) increased by one half of the regular interest rate, plus 20% of the difference between this expected value and the full market value of the assets as of the end of the valuation period. This shall be known as the "valuation assets." Notwithstanding the first sentence of this paragraph, the valuation assets for the valuation period ending June 30, 1996 shall be the full market value of the assets as of that date and shall include the proceeds from the bonds issued pursuant to the Pension Bond Financing Act of 1997, P.L.1997, c.114 (C.34:1B-7.45 et seq.), paid to the system by the New Jersey Economic Development Authority to fund the unfunded accrued liability of the system.

"Excess valuation assets" means the valuation assets for a valuation period less the actuarial accrued liability for the valuation period, if the sum is greater than zero. If there are excess valuation assets for the valuation period ending June 30, 1996, the normal contributions for the valuation periods ending June 30, 1996 and June 30, 1997 which have not yet been paid to the retirement system shall be reduced to the extent possible by the excess valuation assets, provided that the General Fund balances that would have been paid to the retirement system except for this provision shall first be allocated as State aid to public schools to the extent that additional sums are required to comply with the May 14, 1997 decision of the New Jersey Supreme Court in Abbott v. Burke. If there are excess valuation assets for a valuation period ending after June 30, 1996, the State Treasurer may

reduce the normal contribution payable for the next valuation period as follows:

(1) for valuation periods ending June 30, 1997 through June 30, 2001, to the extent possible by up to 100% of the excess valuation assets;

(2) for the valuation period ending June 30, 2002, to the extent possible by up to 84% of the excess valuation assets;

(3) for the valuation period ending June 30, 2003, to the extent possible by up to 68% of the excess valuation assets; and

(4) for valuation periods ending on or after June 30, 2004, to the extent possible by up to 50% of the excess valuation assets.

c. The actuary shall certify annually the aggregate amount payable to the Contingent Reserve Fund in the ensuing year, which amount shall be equal to the sum of the amounts described in this section. The State shall pay into the Contingent Reserve Fund during the ensuing year the amount so certified. In the event the amount certified to be paid by the State includes amounts due for services rendered by members to specific instrumentalities or authorities the total amounts so certified shall be paid to the retirement system by the State; provided, however, the full cost attributable to such services rendered to such instrumentalities and authorities shall be computed separately by the actuary and the State shall be reimbursed for such amounts by such instrumentalities or authorities.

The cash death benefits, payable as the result of contribution by the State under the provisions of this act upon the death of a member in active service and after retirement shall be paid from the Contingent Reserve Fund.

10. This act shall take effect immediately.

Approved June 5, 1997.

CHAPTER 116

AN ACT concerning certain deferred compensation plans and amending P.L.1977, c.381 and P.L.1978, c.39.

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

1. Section 3 of P.L.1977, c.381 (C.43:15B-3) is amended to read as follows:

C.43:15B-3 Provisions of plan.

3. a. The plan shall provide that all money not needed for the immediate payment of benefits shall be invested by the employer in interest bearing securities in which savings banks of this State are authorized to invest their funds, or the employer shall make deposits in interest bearing accounts, or in the State of New Jersey Cash Management Fund established pursuant to section 1 of P.L.1977, c. 281 (C.52:18A-90.4), or in individual or group annuity programs whether fixed or variable, mutual funds, or life insurance contracts whether fixed or variable.

b. Notwithstanding section 1 of P.L.1977, c.381 (C.43:15B-1), the employer may contract with one or more private organizations for the administration of all or part of the plan, including the management and investment, or either thereof, of deferred and deducted salary funds.

Each contract shall be subject to the prior approval of the Director of the Division of Local Government Services on the basis of restrictions, limitations and other conditions established by the director by rule and regulation promulgated pursuant to the "Administrative Procedure Act" (P.L.1968, c.410, C.52:14B-1 et seq.); provided, however, that the director shall not approve any contract if it is inconsistent with any standards which the New Jersey State Employees' Deferred Compensation Board, established pursuant to P.L.1978, c.39 (C. 52:18A-163 et seq.), may adopt for the deferred compensation plans of municipalities, counties, or authorities thereof, including, but not limited to, any service cost guidelines. If at the time a municipality, county or authority submits a contract to the Director of the Division of Local Government Services for his approval and the New Jersey State Employees' Deferred Compensation Board has not adopted standards for such deferred compensation plans, the director may approve such contract if it is consistent with the rules and regulations which he has promulgated for such contracts.

c. The employer may establish a plan or plan option which permits a participating employee to request the employer to invest all or a specified percentage of said employee's deferred salary in one, or a specified combination of, the following kinds of investments: (1) fixed or variable life insurance contracts, (2) individual or group, fixed or variable annuity contracts, (3) mutual fund shares, (4) interest bearing accounts or securities in which savings banks of this State are authorized to invest their funds, and (5) the State of New Jersey Cash Management Fund; provided that the employer retains the discretion to reject such request. Any such investments shall be limited to investments that are authorized for fiduciaries of trust estates pursuant to the "Prudent Investment Law" (P.L.1975, c.337, C. 3A:15-35 et seq.); provided, however, that with the exception of invest-

ments made by domestic insurance companies licensed to sell life insurance and annuities in this State and subject to review by the Commissioner of the Department of Banking and Insurance pursuant to chapter 20 of Title 17B of the New Jersey Statutes, the Director of the Division of Local Government Services may review and reject any such investments as inconsistent with the standard applicable to the prudent investor as provided in section 3 of P.L.1975, c.337 (C.3A:15-37).

d. No organization seeking a contract pursuant to subsection b. of this section, shall through distribution of written material or by any other means, solicit employee participation in any deferred compensation plan or solicit employees to support the efforts of the organization to secure the contract. An organization holding a contract approved pursuant to subsection b. may distribute written material to solicit employee participation in a deferred compensation program, provided that the organization has received approval of the content and form of the material from the Director of the Division of Local Government Services. No representative of an organization under contract pursuant to subsection b. of this section shall initiate verbal communication with any prospective employee participant in a deferred compensation program without the express consent of the employer; provided, however, that any communication so authorized shall be consistent with the written material approved by the Director of the Division of Local Government Services.

e. Subject to rules and regulations established by a board or any other body created or designated by the State or public official designated by the State (said board, body or official hereinafter "board"), to administer a deferred payment compensation plan established by the State (hereinafter "State plan") and subject to the approval of the board, the plan may provide for the employer for the benefit of its participants to participate in any State plan established by the board for State employees. In the event that such participation is approved by the board, rules, regulations and conditions established by the board or in the State plan shall apply to such participants, or said rules, regulations and conditions shall so apply as amended or supplemented with regard to said participants.

f. The named fiduciary shall provide in the plan for the distribution of any investment earnings, gains or losses, consistent with the requirements of the federal Internal Revenue Code, as amended. The distribution shall be allocated to each employee when he or she withdraws from the plan or receives benefits from the plan in accordance with the terms of the plan and the provisions of this act. For those employees participating in the State plan pursuant to subsection 3e. herein, the rules and regulations of the State board shall apply.

g. The plan shall provide for a uniform system of accounting for each participant and for investment of deferred compensation funds with annual or more frequent reports to the participants in the plan.

h. The named fiduciary shall have authority to take any steps reasonably necessary to implement the plan consistent with this act and the requirements of the federal Internal Revenue Code, as amended.

2. Section 5 of P.L.1977, c.381 (C.43:15B-5) is amended to read as follows:

C.43:15B-5 Investment of deferred, deducted moneys; assets held in trust.

5. a. All moneys which are deferred and deducted in accordance with the provisions of this act and the plan shall be invested in accord with the provisions of this act and the plan. The obligation of the employer to participating employees shall be contractual only and no preferred or special interest in the deferred moneys shall accrue to such employees.

b. For plans approved prior to August 20, 1996, moneys deferred shall be subject to the claims of the employer's general creditors until the plan document is amended to have all moneys deferred and any other assets or income of the plan held in trust or one or more annuity contracts or one or more custodial accounts for the exclusive benefit of the participating employees and their beneficiaries. Employers shall have until January 1, 1999 to implement this change. For all plans adopted on or after August 20, 1996, all moneys that are deferred and any other assets or income of the plan shall be held in trust or one or more annuity contracts or one or more custodial accounts for the exclusive benefit of the participating employees and their beneficiaries.

3. Section 10 of P.L.1977, c.381 (C.43:15B-10) is amended to read as follows:

C.43:15B-10 Consistency of plan with requirements of federal Internal Revenue Code.

10. No agreement may be entered into between the employer and any employee for the deferral and deduction of any portion of current salary, pursuant to this act, until the named fiduciary determines that the plan and any related implementing rules and regulations are consistent with the requirements of the federal Internal Revenue Code, as amended.

4. Section 8 of P.L.1978, c.39 (C.52:18A-170) is amended to read as follows:

C.52:18A-170 Disposition of deferred, deducted moneys; assets held in trust.

8. All moneys which are deferred and deducted in accordance with the provisions of this act and the plan shall remain assets of the State and shall be invested in accord with the provisions of this act and the plan. The obligation of the State to participating employees and contractors shall be contractual only and no preferred or special interest in the deferred moneys shall accrue to such employees or contractors, except that all assets and income of the plan shall be held in trust for the exclusive benefit of participating employees and their beneficiaries.

5. This act shall take effect immediately.

Approved June 6, 1997.

CHAPTER 117

AN ACT concerning prison sentencing and supplementing P.L.1979, c.441.

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 the "No Early Release Act."

C.2C:43-7.2 Mandatory service of 85% of sentence for certain offenders.

2. a. A court imposing a sentence of incarceration for a crime of the first or second degree shall fix a minimum term of 85% of the sentence during which the defendant shall not be eligible for parole if the crime is a violent crime as defined in subsection d. of this section..

b. 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.

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, unless the court imposes a sentence of lifetime parole supervision pursuant to P.L. , c. (C.)(now pending before the Legislature as Senate Bill No. 524 SCS), 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 defendant 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 Bureau of Parole of the Department of Corrections 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. For the purposes of this section, "violent crime" means any crime in which the actor causes death, causes serious bodily injury as defined in subsection b. of N.J.S.2C:11-1, or uses or threatens the immediate use of a deadly weapon. "Violent crime" also includes any aggravated sexual assault or sexual assault in which the actor uses, or threatens the immediate use of, physical force.

For the purposes of this section, "deadly weapon" means any firearm or other weapon, device, instrument, material or substance, whether animate or inanimate, which in the manner it is used or is intended to be used, is known to be capable of producing death or serious bodily injury.

e. A court shall not impose sentence pursuant to this section unless the ground therefor has been established at a hearing after the conviction of the defendant and on written notice to him of the ground proposed. The defendant shall have the right to hear and controvert the evidence against him and to offer evidence upon the issue.

C.30:4-123.51b Released status under term of parole supervision; rules, regulations.

3. a. A person who has been sentenced to a term of parole supervision and is on release status in the community pursuant to section 2 of P.L.1997, c.117 (C.2C:43-7.2) shall, during the term of parole supervision, remain on release status in the community, in the legal custody of the Commissioner of the Department of Corrections, and shall be supervised by the Bureau of Parole of the Department of Corrections as if on parole, and shall be subject to the provisions and conditions set by the appropriate board panel. The appropriate board panel shall have the authority, in accordance with the procedures and standards set forth in sections 15 through 21 of P.L.1979, c.441 (C.30:4-123.59 through 30:4-123.65), to revoke the person's release status and return the person to custody for the remainder of the term or until it is determined, in accordance with regulations adopted by the board, that the person is again eligible for release consideration pursuant to section 9 of P.L.1979, c.441 (C.30:4-123.53).

b. The Parole Board shall promulgate rules and regulations necessary to carry out the purposes of this act pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.).

4. This act shall take effect immediately.

Approved June 9, 1997.

CHAPTER 118

AN ACT concerning education, providing scholarships for certain individuals and supplementing chapter 71 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:71-102 Miss New Jersey Educational Scholarship Program, established.

1. There is established the Miss New Jersey Educational Scholarship program. It shall be the duty of the Office of Student Assistance established pursuant to section 17 of P.L.1994, c.48 (C.18A:3B-17) to administer this program.

C.18A:71-103 Miss New Jersey Educational Scholarship, eligibility.

2. A Miss New Jersey Educational Scholarship shall be awarded annually to an individual who has been designated by the Office of Student Assistance, in consultation with the Miss New Jersey Pageant Organization, as being an exceptional young leader in the area of civic, cultural or charitable endeavors in the spirit of the Miss New Jersey Pageant. However, for the first year following enactment, the then reigning Miss New Jersey shall be awarded the scholarship in recognition of the contributions made by the Miss New Jersey and Miss America Pageants in promoting the State. In order to be eligible for the scholarship, the individual shall be enrolled in or accepted into a course of study leading to an initial bachelors degree or a post graduate degree in any public institution of higher education of this State, as enumerated in N.J.S.18A:62-1.

C.18A:71-104 Scholarship conditions, costs other than tuition.

3. Any Miss New Jersey scholarship recipient who enrolls in a public institution of higher education in the State shall be allowed to obtain an initial bachelors degree or a post graduate degree without payment of tuition as long as the individual remains a full time student in good standing at the

institution. There shall be appropriated annually to the Office of Student Assistance a sum equal to the cost of tuition at each public institution enrolling a Miss New Jersey Scholarship recipient. The scholarship recipient shall be responsible for all other costs.

C.18A:71-105 Rules, regulations.

4. The Student Assistance Board shall adopt, pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.) such rules and regulations as are necessary for the implementation of this act.

5. This act shall take effect immediately; however, the first Miss New Jersey Scholarship shall be awarded for the academic year which ensues next following enactment.

Approved June 13, 1997.

CHAPTER 119

AN ACT concerning aggravated assault and amending N.J.S.2C:12-1.

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

1. N.J.S.2C:12-1 is amended to read as follows:

Assault.

2C:12-1. Assault. a. Simple assault. A person is guilty of assault if he:

(1) Attempts to cause or purposely, knowingly or recklessly causes bodily injury to another; or

(2) Negligently causes bodily injury to another with a deadly weapon; or

(3) Attempts by physical menace to put another in fear of imminent serious bodily injury.

Simple assault is a disorderly persons offense unless committed in a fight or scuffle entered into by mutual consent, in which case it is a petty disorderly persons offense.

b. Aggravated assault. A person is guilty of aggravated assault if he:

(1) Attempts to cause serious bodily injury to another, or causes such injury purposely or knowingly or under circumstances manifesting extreme indifference to the value of human life recklessly causes such injury; or

(2) Attempts to cause or purposely or knowingly causes bodily injury to another with a deadly weapon; or

(3) Recklessly causes bodily injury to another with a deadly weapon; or

(4) Knowingly under circumstances manifesting extreme indifference to the value of human life points a firearm, as defined in section 2C:39-1f., at or in the direction of another, whether or not the actor believes it to be loaded; or

(5) Commits a simple assault as defined in subsection a. (1), (2) or (3) of this section upon:

(a) Any law enforcement officer acting in the performance of his duties while in uniform or exhibiting evidence of his authority; or

(b) Any paid or volunteer fireman acting in the performance of his duties while in uniform or otherwise clearly identifiable as being engaged in the performance of the duties of a fireman; or

(c) Any person engaged in emergency first-aid or medical services acting in the performance of his duties while in uniform or otherwise clearly identifiable as being engaged in the performance of emergency first-aid or medical services; or

(d) Any school board member or school administrator, teacher or other employee of a school board while clearly identifiable as being engaged in the performance of his duties or because of his status as a member or employee of a school board; or

(e) Any employee of the Division of Youth and Family Services while clearly identifiable as being engaged in the performance of his duties or because of his status as an employee of the division; or

(f) Any justice of the Supreme Court, judge of the Superior Court, judge of the Tax Court or municipal judge while clearly identifiable as being engaged in the performance of judicial duties or because of his status as a member of the judiciary; or

(6) Causes bodily injury to another person while fleeing or attempting to elude a law enforcement officer in violation of subsection b. of N.J.S.2C:29-2 or while operating a motor vehicle in violation of subsection c. of N.J.S.2C:20-10. Notwithstanding any other provision of law to the contrary, a person shall be strictly liable for a violation of this subsection upon proof of a violation of subsection b. of N.J.S.2C:29-2 or while operating a motor vehicle in violation of subsection c. of N.J.S.2C:20-10 which resulted in bodily injury to another person;

(7) Attempts to cause significant bodily injury to another or causes significant bodily injury purposely or knowingly or, under circumstances manifesting extreme indifference to the value of human life recklessly causes such significant bodily injury; or

(8) Causes bodily injury by knowingly or purposely starting a fire or causing an explosion in violation of N.J.S.2C:17-1 which results in bodily injury to any emergency services personnel involved in fire suppression

activities, rendering emergency medical services resulting from the fire or explosion or rescue operations, or rendering any necessary assistance at the scene of the fire or explosion, including any bodily injury sustained while responding to the scene of a reported fire or explosion. For purposes of this subsection, "emergency services personnel" shall include, but not be limited to, any paid or volunteer fireman, any person engaged in emergency first-aid or medical services and any law enforcement officer. Notwithstanding any other provision of law to the contrary, a person shall be strictly liable for a violation of this paragraph upon proof of a violation of N.J.S.2C:17-1 which resulted in bodily injury to any emergency services personnel.

Aggravated assault under subsections b. (1) and b. (6) is a crime of the second degree; under subsections b. (2) and b. (7) is a crime of the third degree; under subsections b. (3) and b. (4) is a crime of the fourth degree; and under subsection b. (5) is a crime of the third degree if the victim suffers bodily injury, otherwise it is a crime of the fourth degree. Aggravated assault under subsection b. (8) is a crime of the third degree if the victim suffers bodily injury; if the victim suffers significant bodily injury or serious bodily injury it is a crime of the second degree.

c. A person is guilty of assault by auto or vessel when the person drives a vehicle or vessel recklessly and causes either serious bodily injury or bodily injury to another. Assault by auto or vessel is a crime of the fourth degree if serious bodily injury results and is a disorderly persons offense if bodily injury results.

As used in this section, "vessel" means a means of conveyance for travel on water and propelled otherwise than by muscular power.

d. A person who is employed by a facility as defined in section 2 of P.L.1977, c.239 (C.52:27G-2) who commits a simple assault as defined in paragraph (1) or (2) of subsection a. of this section upon an institutionalized elderly person as defined in section 2 of P.L.1977, c.239 (C.52:27G-2) is guilty of a crime of the fourth degree.

e. A person who commits a simple assault as defined in subsection a. of this section is guilty of a crime of the fourth degree if the person acted with a purpose to intimidate an individual or group of individuals because of race, color, religion, gender, handicap, sexual orientation, or ethnicity.

2. This act shall take effect immediately .

Approved June 18, 1997.

CHAPTER 120

AN ACT concerning the criteria for extended terms of imprisonment and amending N.J.S.2C:44-3.

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

1. N.J.S.2C:44-3 is amended to read as follows:

Criteria for sentence of extended term of imprisonment.

2C:44-3. Criteria for Sentence of Extended Term of Imprisonment.

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. The court shall, upon application of the prosecuting attorney, sentence a person who has been convicted of a crime, other than a violation of N.J.S.2C:12-1a., N.J.S.2C:33-4, or a violation of N.J.S.2C:14-2 or 2C:14-3 if the grounds for the application is purpose to intimidate because of gender, to an extended term if it finds, by a preponderance of the evidence, the grounds in subsection e. 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, upon application of the prosecutor, 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 offense 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. The defendant in committing the crime acted with a purpose to intimidate an individual or group of individuals because of race, color, gender, handicap, religion, sexual orientation or ethnicity.

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.

2. This act shall take effect immediately.

Approved June 20, 1997.

CHAPTER 121

AN ACT concerning confiscated animals and supplementing Title 4 of the Revised Statutes.

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

C.4:22-48.2 Owner of confiscated animal responsible for certain costs.

1. The costs of sheltering, caring for, or treating any animal that has been confiscated from a person arrested pursuant to the provisions of R.S.4:22-47 by an agent of the New Jersey Society for the Prevention of Cruelty to Animals, or any other person authorized to make an arrest pursuant to article 2 of chapter 22 of Title 4 of the Revised Statutes, until the animal is adjudged forfeited or until the animal is returned to the owner, shall be borne by the owner of the animal.

2. This act shall take effect immediately.

Approved June 20, 1997.

CHAPTER 122

AN ACT reappropriating $8,036,000 from the "Cultural Centers and Historic Preservation Fund," established pursuant to the "New Jersey Green Acres, Cultural Centers and Historic Preservation Bond Act of 1987," P.L.1987, c.265, to assist projects for cultural center development, and providing for cancellation of certain previous appropriations from the fund.

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

1. a. There is reappropriated $8,036,000 to the State Council on the Arts in the Department of State for the purpose of awarding grants to assist projects for cultural center development, which sum shall include administrative costs of the projects, from the unexpended balances of amounts previously appropriated pursuant to P.L.1989, c.349, P.L.1991, c.251 and P.L.1993, c.191 from the "Cultural Centers and Historic Preservation Fund," created pursuant to section 20 of P.L.1987, c.265, to the extent the unexpended balances are available due to project cancellation or withdrawal

or the inability to execute contract with grant applicant as of the effective date of P.L.1997, c.122, as determined by the State Council on the Arts. The following capital projects are eligible for funding from this reappropriation up to amounts listed herein and subject to grant awards:

The New Jersey Shakespeare Festival	$2,500,000
The John Harms Concerts	2,108,000
The Jersey City Museum	2,000,000
Burlington County College	530,000
The South Jersey Performing Arts Center	500,000
Cumberland County College	398,000
TOTAL	$8,036,000

b. Appropriations previously made pursuant to P.L.1989, c.349, P.L.1991, c.251 and P.L.1993, c.191 from the "Cultural Centers and Historic Preservation Fund," created pursuant to section 20 of P.L.1987, c.265, are hereby canceled to the extent of any unexpended balances in amounts in excess of the reappropriation made in subsection a. of this section that are available due to project cancellation or withdrawal or the inability to execute contract with grant applicant as of the effective date of P.L.1997, c.122, as determined by the State Council on the Arts.

c. The State Council on the Arts shall report to the Joint Budget Oversight Committee within 30 days following the effective date of P.L.1997, c.122 the amounts previously appropriated pursuant to P.L.1989, c.349, P.L.1991, c.251 and P.L.1993, c.191 that remain unexpended as of the effective date of P.L.1997, c.122 due to project cancellation, withdrawal or inability to execute contract with grant applicant and the reasons for any cancellation or withdrawal or inability to execute a contract.

d. The expenditure of the sums reappropriated by this section is subject to the provisions and conditions of P.L.1987, c.265.

2. This act shall take effect immediately.

Approved June 20, 1997.

CHAPTER 123

AN ACT concerning permits issued to control crop damage caused by deer and supplementing Title 23 of the Revised Statutes.

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

C.23:4-42.1 Killing of deer causing crop damage permitted, conditions.

1. Notwithstanding the provisions of R.S.23:4-45 or any other law, rule, regulation, or provision of the State Fish and Game Code to the contrary, whenever a permit is issued by the State to a person to kill deer causing crop damage on land under cultivation pursuant to R.S.23:4-42, it shall be lawful for the permittee or authorized agent thereof, for the purposes authorized by the permit and only while on the land or lands under cultivation which are owned or leased by that permittee, but not on or along any public highway adjacent thereto, and for which the permit is issued, to:

a. Kill either sex deer at any time of day or night, except that the Fish and Game Council may impose such restrictions thereon as may be necessary to protect the general public;

b. Transport, possess, have in the permittee's or agent's control, or keep firearms authorized pursuant to R.S.23:4-44 uncased, unloaded, and outside the trunk while in or on a motor vehicle or any other kind of vehicle;

c. Utilize an illuminating device or devices, including but not limited to a spotlight, flashlight, floodlight, or headlight, whether portable or fixed to a motor vehicle or any other kind of vehicle, to locate and stun deer; and

d. Be assisted by the use of a driver for the motor vehicle or other kind of vehicle, and by a person or persons operating the illuminating device or devices, none of whom shall be required to possess a firearms purchaser identification card while providing such assistance.

C.23:4-42.2 Annual report to include number of deer killed pursuant to permits.

2. The Division of Fish, Game and Wildlife shall include in its annual report the number of deer killed pursuant to permits issued for the purposes set forth in R.S.23:4-42.

3. This act shall take effect immediately.

Approved June 20, 1997.

CHAPTER 124

AN ACT concerning careless driving and supplementing chapter 4 of Title 39 of the Revised Statutes.

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

C.39:4-77.1 Snow, ice dislodged from moving vehicle causing injury, property damage; penalties.

1. When snow or ice is dislodged from a moving vehicle and strikes another vehicle or pedestrian causing injury or property damage, the following penalties shall apply:

The operator of a non-commercial motor vehicle shall be subject to a fine of not less than $200 or more than $1,000 for each offense.

The operator, owner, lessee, bailee or any one of the aforesaid of a commercial motor vehicle shall be subject to a fine of not less than $500 or more than $1,500 for each offense.

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.

2. This act shall take effect immediately.

Approved June 20, 1997.

CHAPTER 125

AN ACT authorizing the creation of a debt of the State of New Jersey by the issuance of bonds of the State in the aggregate principal amount of $20,000,000 for the purpose of providing financing for the demolition and disposal of unsafe buildings in urban and rural centers; providing the ways and means to pay and discharge the principal of and interest on the bonds; providing for the submission of this act to the people at a general election; and making an appropriation therefor.

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 the "Urban and Rural Centers Unsafe Buildings Demolition Bond Act."

2. The Legislature finds and declares that:

a. The State's older urban areas and rural centers have a long history as important residential, commercial, and industrial locations.

b. These older areas because of their history have many buildings, which due to age, lack of proper maintenance, or abandonment, have significantly deteriorated.

c. Deteriorated buildings become unsafe for human occupancy or continued business operations, and strain the financial resources of those affected municipalities which must handle the life threatening problems associated with buildings that are untended and become an inducement for illicit activities.

d. To help redress the problems exacerbated by deteriorated buildings, the State should assist municipalities with the costs of demolishing and disposing of unsafe buildings in the older urban areas and rural centers.

3. As used in this act:

"Bonds" mean the bonds authorized to be issued, or issued, under this act;

"Building demolition and disposal project" means any work relating to the demolition and disposal of unsafe buildings in urban and rural centers;

"Commission" means the New Jersey Commission on Capital Budgeting and Planning;

"Commissioner" means the Commissioner of Community Affairs;

"Cost" means the expenses incurred in connection with: a building demolition and disposal project; the execution of any agreements and franchises deemed by the department to be necessary or useful and convenient in connection with any building demolition or disposal authorized by this act; the procurement of engineering, inspection, planning, legal, financial, or other professional services, including the services of a bond registrar or an authenticating agent; the issuance of bonds, or any interest or discount thereon; the administrative, organizational, operating, or other expenses incident to the financing and completing, of any project authorized by this act; the establishment of a reserve fund or funds for working capital, operating, maintenance, or replacement expenses and for the payment or security of principal or interest on bonds, as the Director of the Division of Budget and Accounting in the Department of the Treasury may determine; and reimbursement to any fund of the State of moneys which may have been transferred or advanced therefrom to any fund created by this act, or of any moneys which may have been expended therefrom for, or in connection with, any project authorized by this act;

"Department" means the New Jersey Department of Community Affairs or any agency or department successor to its power and responsibilities;

"Government securities" means any bonds or other obligations which as to principal and interest constitute direct obligations of, or are unconditionally guaranteed by, the United States of America, including obligations of any federal agency, to the extent those obligations are unconditionally guaranteed by the United States of America, and any certificates or any other evidences of an ownership interest in those obligations of, or

unconditionally guaranteed by, the United States of America or in specified portions which may consist of the principal of, or the interest on, those obligations;

"Urban and rural center" means any municipality eligible to receive State aid under P.L.1977, c.260 (C.52:27D-162 et seq.) or P.L.1978, c.14 (C.52:27D-178 et seq.).

4. The commissioner shall adopt, pursuant to the "Administrative Procedure Act," P.L.1968 c.410 (C.52:14B-1 et seq.), rules and regulations necessary to implement the provisions of this act. The commissioner shall review and consider the findings and recommendations of the commission in the administration of the provisions of this act.

5. a. Bonds of the State of New Jersey are authorized to be issued in the aggregate principal amount of $20,000,000 for the purpose of providing financing for the cost of the demolition and disposal of unsafe buildings in urban and rural centers. Of this aggregate principal amount, $20,000,000 shall be used to provide loans through a revolving loan fund to municipalities and agencies and authorities thereof to assist building demolition and disposal projects.

b. Procedures for the review and approval of, and eligibility criteria for, demolition and disposal of such buildings shall be established by the commissioner.

The commissioner shall prepare a priority list of eligible municipal projects based upon requests from municipal governing bodies or agencies or authorities thereof, and upon need, as determined by the commissioner and shall give priority to those projects that involve the demolition and disposal of an unsafe building: (1) as a necessary prerequisite to the erection of a new building by a governmental entity, nonprofit organization, or a private individual or commercial enterprise pursuant to construction plans that have been approved by the municipality; or (2) which has been shown to the satisfaction of the commissioner to pose an imminent and extreme hazard to the health and safety of the surrounding community.

Funds shall be appropriated by the Legislature only in accordance with those priority lists.

6. The bonds authorized under this act shall be serial bonds, term bonds, or a combination thereof, and shall be known as "Urban and Rural Centers Unsafe Buildings Demolition Bonds." They shall be issued from time to time as the issuing officials herein named shall determine and may be issued in coupon form, fully-registered form or book-entry form. The

bonds may be subject to redemption prior to maturity and shall mature and be paid not later than 35 years from the respective dates of their issuance.

7. The Governor, the State Treasurer and the Director of the Division of Budget and Accounting in the Department of the Treasury, or any two of these officials, herein referred to as "the issuing officials," are authorized to carry out the provisions of this act relating to the issuance of bonds, and shall determine all matters in connection therewith, subject to the provisions of this act. If an issuing official is absent from the State or incapable of acting for any reason, the powers and duties of that issuing official shall be exercised and performed by the person authorized by law to act in an official capacity in the place of that issuing official.

8. Bonds issued in accordance with the provisions of this act shall be a direct obligation of the State of New Jersey, and the faith and credit of the State are pledged for the payment of the interest and redemption premium thereon, if any, when due, and for the payment of the principal thereof at maturity or earlier redemption date. The principal of and interest on the bonds shall be exempt from taxation by the State or by any county, municipality or other taxing district of the State.

9. The bonds shall be signed in the name of the State by means of the manual or facsimile signature of the Governor under the Great Seal of the State, which seal may be by facsimile or by way of any other form of reproduction on the bonds, and attested by the manual or facsimile signature of the Secretary of the State, or an Assistant Secretary of State, and shall be countersigned by the facsimile signature of the Director of the Division of Budget and Accounting in the Department of the Treasury and may be manually authenticated by an authenticating agent or bond registrar, as the issuing officials shall determine. Interest coupons, if any, attached to the bonds shall be signed by the facsimile signature of the Director of the Division of Budget and Accounting in the Department of the Treasury. The bonds may be issued notwithstanding that an official signing them or whose manual or facsimile signature appears on the bonds or coupons has ceased to hold office at the time of issuance, or at the time of the delivery of the bonds to the purchaser thereof.

10. a. The bonds shall recite that they are issued for the purposes set forth in section 5 of this act, that they are issued pursuant to this act, that this act was submitted to the people of the State at the general election held in the month of November, 1997 and that this act was approved by a majority of the legally qualified voters of the State voting thereon at the election.

This recital shall be conclusive evidence of the authority of the State to issue the bonds and their validity. Any bonds containing this recital shall, in any suit, action or proceeding involving their validity, be conclusively deemed to be fully authorized by this act and to have been issued, sold, executed and delivered in conformity herewith and with all other provisions of laws applicable hereto, and shall be incontestable for any cause.

b. The bonds shall be issued in those denominations and in the form or forms, whether coupon, fully-registered or book-entry, and with or without provisions for interchangeability thereof, as may be determined by the issuing officials.

11. When the bonds are issued from time to time, the bonds of each issue shall constitute a separate series to be designated by the issuing officials. Each series of bonds shall bear such rate or rates of interest as may be determined by the issuing officials, which interest shall be payable semiannually; except that the first and last interest periods may be longer or shorter, in order that intervening semiannual payments may be at convenient dates.

12. The bonds shall be issued and sold at the price or prices and under the terms, conditions and regulations as the issuing officials may prescribe, after notice of the sale, published at least once in at least three newspapers published in this State, and at least once in a publication carrying municipal bond notices and devoted primarily to financial news, published in this State or in the city of New York, the first notice to appear at least five days prior to the day of bidding. The notice of sale may contain a provision to the effect that any bid in pursuance thereof may be rejected. In the event of rejection or failure to receive any acceptable bid, the issuing officials, at any time within 60 days from the date of the advertised sale, may sell the bonds at a private sale at such price or prices and under the terms and conditions as the issuing officials may prescribe. The issuing officials may sell all or part of the bonds of any series as issued to any State fund or to the federal government or any agency thereof, at a private sale, without advertisement.

13. Until permanent bonds are prepared, the issuing officials may issue temporary bonds in the form and with those privileges as to their registration and exchange for permanent bonds as may be determined by the issuing officials.

14. The proceeds from the sale of bonds used to provide loans to municipalities and agencies and authorities thereof to assist building demolition and disposal projects shall be paid to the State Treasurer and be

held by the State Treasurer in a separate fund, and be deposited in such depositories as may be selected by the State Treasurer to the credit of the fund, which fund shall be known as the "Urban and Rural Centers Unsafe Buildings Demolition Revolving Loan Fund."

15. a. The moneys in the "Urban and Rural Centers Unsafe Buildings Demolition Revolving Loan Fund" are specifically dedicated and shall be applied to the cost of making low-interest loans to municipalities and agencies and authorities thereof for building demolition and disposal projects as set forth in section 5 of this act. However, no moneys in the fund shall be expended for those purposes, except as otherwise authorized by this act, without the specific appropriation thereof by the Legislature, but bonds may be issued as herein provided, notwithstanding that the Legislature shall not have then adopted an act making a specific appropriation of any of the moneys. Any act appropriating moneys from the "Urban and Rural Centers Unsafe Buildings Demolition Revolving Loan Fund" shall identify the project to be funded by the moneys. The expenditure of funds appropriated for the cost of a building demolition and disposal project shall be conditioned on the receipt of all approvals, consents, or permits required for the final demolition and disposal of the building.

b. Loans issued from the "Urban and Rural Centers Unsafe Buildings Demolition Revolving Loan Fund" shall be for a term as determined by the commissioner not to exceed 20 years and at an interest rate determined by the commissioner not to exceed 4 per cent per year. The terms of any loan agreement shall be approved by the State Treasurer. Any loan made from the "Urban and Rural Centers Unsafe Buildings Demolition Revolving Loan Fund" shall be awarded based upon the criteria and procedures established pursuant to section 5 of this act. The commissioner shall, however, consider the extent of matching funds in reviewing loan applications.

c. At any time prior to the issuance and sale of bonds under this act, the State Treasurer is authorized to transfer from any available moneys in any fund of the treasury of the State to the credit of the "Urban and Rural Centers Unsafe Buildings Demolition Revolving Loan Fund" those sums as the State Treasurer may deem necessary. The sums so transferred shall be returned to the same fund of the treasury of the State by the State Treasurer from the proceeds of the sale of the first issue of bonds.

d. Pending their application to the purposes provided in this act, the moneys in the "Urban and Rural Centers Unsafe Buildings Demolition Revolving Loan Fund" may be invested and reinvested as are other trust funds in the custody of the State Treasurer, in the manner provided by law. All repayments of loans made pursuant to this act, and interest thereon, shall

be deposited in the "Urban and Rural Centers Unsafe Buildings Demolition Revolving Loan Fund." Earnings received from moneys in the fund shall be credited to the fund.

16. If any coupon bond, coupon or registered bond is lost, mutilated or destroyed, a new bond or coupon shall be executed and delivered of like tenor, in substitution for the lost, mutilated or destroyed bond or coupon, upon the owner furnishing to the issuing officials evidence satisfactory to them of the loss, mutilation or destruction of the bond or coupon, the ownership thereof, and security, indemnity and reimbursement for expenses connected therewith, as the issuing officials may require.

17. The accrued interest, if any, received upon the sale of the bonds shall be applied to the discharge of a like amount of interest upon the bonds when due. Any expense incurred by the issuing officials for advertising, engraving, printing, clerical, authenticating, registering, legal or other services necessary to carry out the duties imposed upon them by the provisions of this act shall be paid from the proceeds of the sale of the bonds by the State Treasurer, upon the warrant of the Director of the Division of Budget and Accounting in the Department of the Treasury, in the same manner as other obligations of the State are paid.

18. Bonds of each series issued hereunder shall mature, including any sinking fund redemptions, not later than the 35th year from the date of issue of that series, and in amounts as shall be determined by the issuing officials. The issuing officials may reserve to the State by appropriate provision in the bonds of any series the power to redeem any of the bonds prior to maturity at the price or prices and upon the terms and conditions as may be provided in the bonds.

19. Any bond or bonds issued hereunder which are subject to refinancing pursuant to the "Refunding Bond Act of 1985," P.L.1985, c.74 as amended by P.L.1992, c.182 (C.49:2B-1 et seq.), shall no longer be deemed to be outstanding, shall no longer constitute a direct obligation of the State of New Jersey, and the faith and credit of the State shall no longer be pledged to the payment of the principal of, redemption premium, if any, and interest on the bonds, and the bonds shall be secured solely by and payable solely from moneys and government securities deposited in trust with one or more trustees or escrow agents, which trustees and escrow agents shall be trust companies or national or state banks having powers of a trust company, located either within or without the State, as provided herein, whenever there shall be deposited in trust with the trustees or escrow agents,

as provided herein, either moneys or government securities, including government securities issued or held in book-entry form on the books of the Department of the Treasury of the United States, the principal of and interest on which when due will provide money which, together with the moneys, if any, deposited with the trustees or escrow agents at the same time, shall be sufficient to pay when due the principal of, redemption premium, if any, and interest due and to become due on the bonds on or prior to the redemption date or maturity date thereof, as the case may be; provided the government securities shall not be subject to redemption prior to their maturity other than at the option of the holder thereof. The State of New Jersey hereby covenants with the holders of any bonds for which government securities or moneys shall have been deposited in trust with the trustees or escrow agents as provided in this section that, except as otherwise provided in this section, neither the government securities nor moneys so deposited with the trustees or escrow agents shall be withdrawn or used by the State for any purpose other than, and shall be held in trust for, the payment of the principal of, redemption premium, if any, and interest to become due on the bonds; provided that any cash received from the principal or interest payments on the government securities deposited with the trustees or escrow agents, to the extent the cash will not be required at any time for that purpose, shall be paid over to the State, as received by the trustees or escrow agents, free and clear of any trust, lien, pledge or assignment securing the bonds; and to the extent the cash will be required for that purpose at a later date, shall, to the extent practicable and legally permissible, be reinvested in government securities maturing at times and in amounts sufficient to pay when due the principal of, redemption premium, if any, and interest to become due on the bonds on and prior to the redemption date or maturity date thereof, as the case may be, and interest earned from the reinvestments shall be paid over to the State, as received by the trustees or escrow agents, free and clear of any trust, lien or pledge securing the bonds. Notwithstanding anything to the contrary contained herein: a. the trustees or escrow agents shall, if so directed by the issuing officials, apply moneys on deposit with the trustees or escrow agents pursuant to the provisions of this section, and redeem or sell government securities so deposited with the trustees or escrow agents, and apply the proceeds thereof to (1) the purchase of the bonds which were refinanced by the deposit with the trustees or escrow agents of the moneys and government securities and immediately thereafter cancel all bonds so purchased, or (2) the purchase of different government securities; provided however, that the moneys and government securities on deposit with the trustees or escrow agents after the purchase and cancellation of the bonds or the purchase of different government securities shall be sufficient to pay when

due the principal of, redemption premium, if any, and interest on all other bonds in respect of which the moneys and government securities were deposited with the trustees or escrow agents on or prior to the redemption date or maturity date thereof, as the case may be; and b. in the event that on any date, as a result of any purchases and cancellations of bonds or any purchases of different government securities, as provided in this sentence, the total amount of moneys and government securities remaining on deposit with the trustees or escrow agents is in excess of the total amount which would have been required to be deposited with the trustees or escrow agents on that date in respect of the remaining bonds for which the deposit was made in order to pay when due the principal of, redemption premium, if any, and interest on the remaining bonds, the trustees or escrow agents shall, if so directed by the issuing officials, pay the amount of the excess to the State, free and clear of any trust, lien, pledge or assignment securing the refunding bonds.

20. Refunding bonds issued pursuant to P.L.1985, c.74 as amended by P.L.1992, c.182 (C.49:2B-1 et seq.) may be consolidated with bonds issued pursuant to section 6 of this act or with bonds issued pursuant to any other act for purposes of sale.

21. To provide funds to meet the interest and principal payment requirements for the bonds and refunding bonds issued under this act and outstanding, there is appropriated in the order following:

a. Revenue derived from the collection of taxes under the "Sales and Use Tax Act," P.L.1966, c.30 (C.54:32B-1 et seq.), or so much thereof as may be required; and

b. If, at any time, funds necessary to meet the interest, redemption premium, if any, and principal payments on outstanding bonds issued under this act are insufficient or not available, there shall be assessed, levied and collected annually in each of the municipalities of the counties of this State, a tax on the real and personal property upon which municipal taxes are or shall be assessed, levied and collected, sufficient to meet the interest on all outstanding bonds issued hereunder and on the bonds proposed to be issued under this act in the calendar year in which the tax is to be raised and for the payment of bonds falling due in the year following the year for which the tax is levied. The tax shall be assessed, levied and collected in the same manner and at the same time as are other taxes upon real and personal property. The governing body of each municipality shall cause to be paid to the county treasurer of the county in which the municipality is located, on or before December 15 in each year, the amount of tax herein directed to be

assessed and levied, and the county treasurer shall pay the amount of the tax to the State Treasurer on or before December 20 in each year.

If on or before December 31 in any year, the issuing officials, by resolution, determine that there are moneys in the General Fund beyond the needs of the State, sufficient to meet the principal of bonds falling due and all interest and redemption premium, if any, payable in the ensuing calendar year, the issuing officials shall file the resolution in the office of the State Treasurer, whereupon the State Treasurer shall transfer the moneys to a separate fund to be designated by the State Treasurer, and shall pay the principal, redemption premium, if any, and interest out of that fund as the same shall become due and payable, and the other sources of payment of the principal, redemption premium, if any, and interest provided for in this section shall not then be available, and the receipts for the year from the tax specified in subsection a. of this section shall be considered and treated as part of the General Fund, available for general purposes.

22. Should the State Treasurer, by December 31 of any year, deem it necessary, because of the insufficiency of funds collected from the sources of revenues as provided in this act, to meet the interest and principal payments for the year after the ensuing year, then the State Treasurer shall certify to the Director of the Division of Budget and Accounting in the Department of the Treasury the amount necessary to be raised by taxation for those purposes, the same to be assessed, levied and collected for and in the ensuring calendar year. The director shall, on or before March 1 following, calculate the amount in dollars to be assessed, levied and collected in each county as herein set forth. This calculation shall be based upon the corrected assessed valuation of each county for the year preceding the year in which the tax is to be assessed, but the tax shall be assessed, levied and collected upon the assessed valuation of the year in which the tax is assessed and levied. The director shall certify the amount to the county board of taxation and the treasurer of each county. The county board of taxation shall include the proper amount in the current tax levy of the several taxing districts of the county in proportion to the ratables as ascertained for the current year.

23. For the purpose of complying with the provisions of the State Constitution, this act shall be submitted to the people at the general election to be held in the month of November, 1997. To inform the people of the contents of this act, it shall be the duty of the Secretary of State, after this section takes effect, and at least 60 days prior to the election, to cause this act to be published at least once in one or more newspapers of each county, if any newspapers be published therein and to notify the clerk of each county

of this State of the passage of this act; and the clerks respectively, in accordance with the instructions of the Secretary of State, shall have printed on each of the ballots the following:

If you approve of the act entitled below, make a cross (x), plus (+), or check (✓) mark in the square opposite the word "Yes."

If you disapprove of the act entitled below, make a cross (x), plus (+), or check (✓) mark in the square opposite the word "No."

If voting machines are used, a vote of "Yes" or "No" shall be equivalent to these markings respectively.

	YES	URBAN AND RURAL CENTERS UNSAFE BUILDINGS DEMOLITION BOND ACT Shall the "Urban and Rural Centers Unsafe Buildings Demolition Bond Act," which authorizes the State to issue bonds in the amount of $20,000,000 for the purpose of providing financing for the demolition and disposal of unsafe buildings in urban and rural centers and providing the ways and means to pay the interest on the debt and also to pay and discharge the principal thereof, be approved?
	NO	INTERPRETIVE STATEMENT Approval of this act would authorize the sale of $20,000,000 in State general obligation bonds to be used for the purpose of providing $20,000,000 in low-interest loans to municipalities for the demolition and disposal of unsafe buildings in urban and rural centers.

The fact and date of the approval or passage of this act, as the case may be, may be inserted in the appropriate place after the title in the ballot. No other requirements of law of any kind or character as to notice or procedure, except as herein provided, need be adhered to.

The votes so cast for and against the approval of this act, by ballot or voting machine, shall be counted and the result thereof returned by the election officer, and a canvass of the election had in the same manner as is provided for by law in the case of the election of a Governor, and the approval or disapproval of this act so determined shall be declared in the same manner as the result of an election for a Governor, and if there is a majority of all the votes cast for and against it at the election in favor of the

approval of this act, then all the provisions of this act not made effective theretofore shall take effect forthwith.

24. There is appropriated the sum of $5,000 to the Department of State for expenses in connection with the publication of notice pursuant to section 23 of this act.

25. The commissioner shall submit to the State Treasurer and the commission with the department's annual budget request a plan for the expenditure of funds from the "Urban and Rural Centers Unsafe Buildings Demolition Revolving Loan Fund" for the upcoming fiscal year. This plan shall include the following information: a performance evaluation of the expenditures made from the funds to date; a description of programs planned during the upcoming fiscal year; a copy of the regulations in force governing the operation of programs that are financed, in part or in whole, by funds from the "Urban and Rural Centers Unsafe Buildings Demolition Revolving Loan Fund"; and an estimate of expenditures for the upcoming fiscal year.

26. Immediately following the submission to the Legislature of the Governor's annual budget message, the commissioner shall submit to the Community Affairs Committee of the Senate and the Local Government Committee of the General Assembly, or their designated successors, and to the Joint Budget Oversight Committee, or its successor, a copy of the plan called for under section 25 of this act, together with such changes therein as may have been required by the Governor's budget message.

27. Not less than 30 days prior to entering into any contract, lease, obligation, or agreement to effectuate the purposes of this act, the commissioner shall report to and consult with the Joint Budget Oversight Committee, or its successor.

28. All appropriations from the "Urban and Rural Centers Unsafe Buildings Demolition Revolving Loan Fund" shall be by specific project allocation, on a municipal area-by-area basis, and any transfer of any funds so appropriated shall require the approval of the Joint Budget Oversight Committee, or its successor.

29. This section and sections 23 and 24 of this act shall take effect immediately and the remainder of this act shall take effect as and when provided in section 23.

Approved June 23, 1997.

CHAPTER 126

AN ACT concerning the release of the performance guarantee upon acceptance of improvements and amending P.L.1975, c.291.

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

1. Section 41 of P.L.1975, c.291 (C.40:55D-53) is amended to read as follows:

C.40:55D-53 Guarantees required; surety; release.

41. Guarantees required; surety; release. a. Before recording of final subdivision plats or as a condition of final site plan approval or as a condition to the issuance of a zoning permit pursuant to subsection d. of section 52 of P.L.1975, c.291 (C.40:55D-65), the approving authority may require and shall accept in accordance with the standards adopted by ordinance for the purpose of assuring the installation and maintenance of on-tract improvements:

(1) The furnishing of a performance guarantee in favor of the municipality in an amount not to exceed 120% of the cost of installation, which cost shall be determined by the municipal engineer according to the method of calculation set forth in section 15 of P.L.1991, c.256 (C.40:55D-53.4), for improvements which the approving authority may deem necessary or appropriate including: streets, grading, pavement, gutters, curbs, sidewalks, street lighting, shade trees, surveyor's monuments, as shown on the final map and required by the "Map Filing Law," P.L.1960, c.141 (C.46:23-9.9 et seq.), water mains, culverts, storm sewers, sanitary sewers or other means of sewage disposal, drainage structures, erosion control and sedimentation control devices, public improvements of open space and, in the case of site plans only, other on-site improvements and landscaping.

The municipal engineer shall prepare an itemized cost estimate of the improvements covered by the performance guarantee, which itemized cost estimate shall be appended to each performance guarantee posted by the obligor.

(2) Provision for a maintenance guarantee to be posted with the governing body for a period not to exceed two years after final acceptance of the improvement, in an amount not to exceed 15% of the cost of the improvement, which cost shall be determined by the municipal engineer according to the method of calculation set forth in section 15 of P.L.1991, c.256 (C.40:55D-53.4). In the event that other governmental agencies or public utilities automatically will own the utilities to be installed or the

improvements are covered by a performance or maintenance guarantee to another governmental agency, no performance or maintenance guarantee, as the case may be, shall be required by the municipality for such utilities or improvements.

b. The time allowed for installation of the improvements for which the performance guarantee has been provided may be extended by the governing body by resolution. As a condition or as part of any such extension, the amount of any performance guarantee shall be increased or reduced, as the case may be, to an amount not to exceed 120% of the cost of the installation, which cost shall be determined by the municipal engineer according to the method of calculation set forth in section 15 of P.L.1991, c.256 (C.40:55D-53.4) as of the time of the passage of the resolution.

c. If the required improvements are not completed or corrected in accordance with the performance guarantee, the obligor and surety, if any, shall be liable thereon to the municipality for the reasonable cost of the improvements not completed or corrected and the municipality may either prior to or after the receipt of the proceeds thereof complete such improvements. Such completion or correction of improvements shall be subject to the public bidding requirements of the "Local Public Contracts Law," P.L.1971, c.198 (C.40A:11-1 et seq.).

d. (1) Upon substantial completion of all required street improvements (except for the top course) and appurtenant utility improvements, and the connection of same to the public system, the obligor may request of the governing body in writing, by certified mail addressed in care of the municipal clerk, that the municipal engineer prepare, in accordance with the itemized cost estimate prepared by the municipal engineer and appended to the performance guarantee pursuant to subsection a. of this section, a list of all uncompleted or unsatisfactory completed improvements. If such a request is made, the obligor shall send a copy of the request to the municipal engineer. The request shall indicate which improvements have been completed and which improvements remain uncompleted in the judgment of the obligor. Thereupon the municipal engineer shall inspect all improvements covered by obligor's request and shall file a detailed list and report, in writing, with the governing body, and shall simultaneously send a copy thereof to the obligor not later than 45 days after receipt of the obligor's request.

(2) The list prepared by the municipal engineer shall state, in detail, with respect to each improvement determined to be incomplete or unsatisfactory, the nature and extent of the incompleteness of each incomplete improvement or the nature and extent of, and remedy for, the unsatisfactory state of each completed improvement determined to be unsatisfactory. The report prepared by the municipal engineer shall identify each improvement

determined to be complete and satisfactory together with a recommendation as to the amount of reduction to be made in the performance guarantee relating to the completed and satisfactory improvement, in accordance with the itemized cost estimate prepared by the municipal engineer and appended to the performance guarantee pursuant to subsection a. of this section.

e. (1) The governing body, by resolution, shall either approve the improvements determined to be complete and satisfactory by the municipal engineer, or reject any or all of these improvements upon the establishment in the resolution of cause for rejection, and shall approve and authorize the amount of reduction to be made in the performance guarantee relating to the improvements accepted, in accordance with the itemized cost estimate prepared by the municipal engineer and appended to the performance guarantee pursuant to subsection a. of this section. This resolution shall be adopted not later than 45 days after receipt of the list and report prepared by the municipal engineer. Upon adoption of the resolution by the governing body, the obligor shall be released from all liability pursuant to its performance guarantee, with respect to those approved improvements, except for that portion adequately sufficient to secure completion or correction of the improvements not yet approved; provided that 30% of the amount of the total performance guarantee posted may be retained to ensure completion and acceptability of all improvements.

For the purpose of releasing the obligor from liability pursuant to its performance guarantee, the amount of the performance guarantee attributable to each approved improvement shall be reduced by the total amount for each such improvement, in accordance with the itemized cost estimate prepared by the municipal engineer and appended to the performance guarantee pursuant to subsection a. of this section, including any contingency factor applied to the cost of installation. If the sum of the approved improvements would exceed 70 percent of the total amount of the performance guarantee, then the municipality may retain 30 percent of the amount of the total performance guarantee to ensure completion and acceptability of all improvements, as provided above.

(2) If the municipal engineer fails to send or provide the list and report as requested by the obligor pursuant to subsection d. of this section within 45 days from receipt of the request, the obligor may apply to the court in a summary manner for an order compelling the municipal engineer to provide the list and report within a stated time and the cost of applying to the court, including reasonable attorney's fees, may be awarded to the prevailing party.

If the governing body fails to approve or reject the improvements determined by the municipal engineer to be complete and satisfactory or reduce the performance guarantee for the complete and satisfactory improvements within 45 days from the receipt of the municipal engineer's

list and report, the obligor may apply to the court in a summary manner for an order compelling, within a stated time, approval of the complete and satisfactory improvements and approval of a reduction in the performance guarantee for the approvable complete and satisfactory improvements in accordance with the itemized cost estimate prepared by the municipal engineer and appended to the performance guarantee pursuant to subsection a. of this section; and the cost of applying to the court, including reasonable attorney's fees, may be awarded to the prevailing party.

(3) In the event that the obligor has made a cash deposit with the municipality or approving authority as part of the performance guarantee, then any partial reduction granted in the performance guarantee pursuant to this subsection shall be applied to the cash deposit in the same proportion as the original cash deposit bears to the full amount of the performance guarantee.

f. If any portion of the required improvements is rejected, the approving authority may require the obligor to complete or correct such improvements and, upon completion or correction, the same procedure of notification, as set forth in this section shall be followed.

g. Nothing herein, however, shall be construed to limit the right of the obligor to contest by legal proceedings any determination of the governing body or the municipal engineer.

h. The obligor shall reimburse the municipality for all reasonable inspection fees paid to the municipal engineer for the foregoing inspection of improvements; provided that the municipality may require of the developer a deposit for the inspection fees in an amount not to exceed, except for extraordinary circumstances, the greater of $500 or 5% of the cost of improvements, which cost shall be determined pursuant to section 15 of P.L.1991, c.256 (C.40:55D-53.4). For those developments for which the inspection fees are less than $10,000, fees may, at the option of the developer, be paid in two installments. The initial amount deposited by a developer shall be 50% of the inspection fees. When the balance on deposit drops to 10% of the inspection fees because the amount deposited by the developer has been reduced by the amount paid to the municipal engineer for inspection, the developer shall deposit the remaining 50% of the inspection fees. For those developments for which the inspection fees are $10,000 or greater, fees may, at the option of the developer, be paid in four installments. The initial amount deposited by a developer shall be 25% of the inspection fees. When the balance on deposit drops to 10% of the inspection fees because the amount deposited by the developer has been reduced by the amount paid to the municipal engineer for inspection, the developer shall make additional deposits of 25% of the inspection fees. The

municipal engineer shall not perform any inspection if sufficient funds to pay for those inspections are not on deposit.

i. In the event that final approval is by stages or sections of development pursuant to subsection a. of section 29 of P.L.1975, c.291 (C.40:55D-38), the provisions of this section shall be applied by stage or section.

j. To the extent that any of the improvements have been dedicated to the municipality on the subdivision plat or site plan, the municipal governing body shall be deemed, upon the release of any performance guarantee required pursuant to subsection a. of this section, to accept dedication for public use of streets or roads and any other improvements made thereon according to site plans and subdivision plats approved by the approving authority, provided that such improvements have been inspected and have received final approval by the municipal engineer.

2. This act shall take effect 90 days next following enactment.

Approved June 23, 1997.

CHAPTER 127

AN ACT concerning the qualification of certain persons to serve as jurors and amending N.J.S.2B:20-1.

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

1. N.J.S.2B:20-1 is amended to read as follows:

Qualifications of jurors.

2B:20-1. Qualifications of jurors.

Every person summoned as a juror:

a. shall be 18 years of age or older;

b. shall be able to read and understand the English language;

c. shall be a citizen of the United States;

d. shall be a resident of the county in which the person is summoned;

e. shall not have been convicted of any indictable offense under the laws of this State, another state, or the United States;

f. shall not have any mental or physical disability which will prevent the person from properly serving as a juror.

2. This act shall take effect immediately.

Approved June 23, 1997.

CHAPTER 128

AN ACT concerning special emergency appropriations by a local unit and amending N.J.S.40A:4-53.

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

1. N.J.S.40A:4-53 is amended to read as follows:

Special emergency appropriations.

40A:4-53. A local unit may adopt an ordinance authorizing special emergency appropriations for the carrying out of any of the following purposes:

a. Preparation of an approved tax map.

b. Preparation and execution of a complete program of revaluation of real property for the use of the local assessor, or of any program to update and make current any previous revaluation program when such is ordered by the county board of taxation.

c. Preparation of a revision and codification of its ordinances.

d. Engagement of special consultants for the preparation, and the preparation of a master plan or plans, when required to conform to the planning laws of the State.

e. Preparation of drainage maps for flood control purposes.

f. Preliminary engineering studies and planning necessary for the installation and construction of a sanitary sewer system.

g. Authorized expenses of a consolidation commission established pursuant to the "Municipal Consolidation Act," P.L.1977, c.435 (C.40:43-66.35 et seq.).

h. Contractually required severance liabilities resulting from the layoff or retirement of employees, when the total liability is in excess of 10 per cent of the amount to be raised by taxes for municipal purposes in the fiscal year in which the layoffs or retirements take place.

A copy of all ordinances or resolutions as adopted relating to special emergency appropriations shall be filed with the director.

2. This act shall take effect immediately, and shall be retroactive to December 1, 1996.

Approved June 24, 1997.

CHAPTER 129

AN ACT appropriating funds for a supplemental distribution to municipalities during fiscal year 1997, amending and supplementing P.L.1996, c.42.

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

1. The following provision in section 1 of P.L.1996, c.42, the Fiscal Year 1997 annual appropriations act, is amended to read as follows:

STATE AID
82 DEPARTMENT OF THE TREASURY
70 Government Direction, Management and Control
75 State Subsidies and Financial Aid -- State Aid

2. In addition to the amounts appropriated under P.L.1996, c.42, there is appropriated out of the General Fund the following sum for the purpose specified in the following language:

STATE AID
82 DEPARTMENT OF THE TREASURY
70 Government Direction, Management and Control
75 State Subsidies and Financial Aid -- State Aid

There is appropriated from public utilities franchise, gross receipts, and energy unit taxes $45,000,000 as supplementary payments to municipalities and such additional amounts as may be necessary to fund corrections as described herein. These amounts shall be distributed on or before June 30, 1997, first in amounts equal to decreases, if any, resulting from corrections to apportionment valuations made by the Director of the Division of Taxation pursuant to R.S.54:30-2 and thereafter in proportion to the amount of the payment each municipality received during Fiscal Year 1997 from the $685,000,000 distribution from the proceeds of the public utilities franchise, gross receipts, and energy unit taxes. A supplementary payment shall be used solely and exclusively by each municipality for the purpose of reducing the amount the municipality is required to raise by local property tax levy for municipal purposes. If the amount of the supplementary payment exceeds the amount required to be raised by local property tax levy for municipal purposes, the balance of the supplementary payment shall be used to reduce the amount the municipality is required to raise for county purposes, notwithstanding the provisions of law to the contrary. Notwithstanding any provisions of the "Local Budget Law," N.J.S.40A:4-1 et seq., each municipality may anticipate the receipt of the amount of supplementary payment as shall be certified to it by the

Director of the Division of Taxation in the Department of the Treasury and shall file any amendment or correction in its local budget as may be required to properly reflect that payment. The Director of the Division of Taxation shall provide the Director of the Division of Local Government Services in the Department of Community Affairs with a list of the certified supplementary payments for all affected municipalities. The Director of the Division of Local Government Services in the Department of Community Affairs shall certify that each municipality has complied with the requirements set forth herein concerning the use of the supplementary payments.

3. This act shall take effect immediately.

Approved June 27, 1997.

CHAPTER 130

A SUPPLEMENT to "An Act making appropriations for the support of the State Government and the several public purposes for the fiscal year ending June 30, 1997 and regulating the disbursement thereof," approved June 28, 1996 (P.L.1996, c.42).

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

1. In addition to the amounts appropriated under P.L.1996, c.42, there are appropriated out of the General Fund the following sums for the purposes specified:

DIRECT STATE SERVICES
26 DEPARTMENT OF CORRECTIONS
10 Public Safety and Criminal Justice
16 Detention and Rehabilitation
7025 System-Wide Program Support

13-7025 Institutional Program Support		$35,757,000
Total Appropriation, System-Wide Program Support		$35,757,000
Special Purpose:		
Increased Operating Costs	($3,575,700)	
Total Appropriations, Department of Corrections		$35,757,000

From the amount appropriated hereinabove for Increased Operating Costs, such sums as shall be determined by the Commissioner of Corrections shall be transferred to other accounts within the Department of Corrections.

66 DEPARTMENT OF LAW AND PUBLIC SAFETY
10 Public Safety and Criminal Justice
12 Law Enforcement

99-1200 Management and Administrative Services $6,554,000
Total Appropriation, Law Enforcement $6,554,000
Special Purpose:
Increased Operating Costs ..... ($5,554,000)
STFA Grievance Settlement ..... .(1,000,000)

10 Public Safety and Criminal Justice
18 Juvenile Services
1500 Division of Juvenile Services

99-1500 Management and Administrative Services $771,000
Total Appropriation, Division of
Juvenile Services $771,000
Special Purpose:
Increased Operating Costs ..... ($771,000)

From the amounts appropriated hereinabove for Increased Operating Costs, such sums as shall be determined by the Attorney General shall be transferred to other accounts within the Department of Law and Public Safety.

Total Appropriations, Direct State Services $43,082,000

GRANTS-IN-AID
26 DEPARTMENT OF CORRECTIONS
10 Public Safety and Criminal Justice
16 Detention and Rehabilitation
7025 System-Wide Program Support--Grants-In-Aid

13-7025 Institutional Program Support $4,462,000
Total Appropriation, System-Wide
Program Support $4,462,000
Grants:
Purchase of Services for Inmates Incarcerated
In County Penal Facilities ..... ($4,462,000)
Total Appropriations, Department of Corrections $4,462,000

DEPARTMENT OF HUMAN SERVICES
20 Physical and Mental Health
24 Special Health Services
7540 Division of Medical Assistance and Health Services -- Grants-in-Aid

22-7540 General Medical Services $80,000,000
Total Appropriation, Division of Medical Assistance
and Health Services $80,000,000
Grants:
Payments for Medical Assistance Recipients--
Outpatient Hospital ..... ($53,000,000)

Payments for Medical Assistance Recipients --
Physician ..... ($15,067,000)

Community Care Programs for the Elderly
and Disabled ..... ($11,933,000)

Total Appropriations, Department of
Human Services $80,000,000

Total Appropriations, Grants-In-Aid $84,462,000

Total Appropriations, State Funds $127,544,000

2. Upon certification by the Director of the Division of Budget and Accounting in the Department of the Treasury that federal funds to support the expenditures listed below are available, the following sums are appropriated:

FEDERAL FUNDS
54 DEPARTMENT OF HUMAN SERVICES
20 Physical and Mental Health
24 Special Health Services
7540 Division of Medical Assistance and Health Services

22-7540 General Medical Services $76,550,000
Total Appropriation, Division of Medical
Assistance and Health Services $76,550,000
Grants:
Payments for Medical Assistance
Recipients--Outpatient Hospital ..... ($50,314,000)
Payments for Medical Assistance
Recipients--Physician ..... ($14,303,000)
Community Care Programs for the Elderly
and Disabled ..... ($11,933,000)

Total Appropriations, Department of Human Services $76,550,000

66 DEPARTMENT OF LAW AND PUBLIC SAFETY
10 Public Safety and Criminal Justice
12 Law Enforcement
1200 Division of State Police

24-1200 Marine Police Operations $267,000
Total Appropriation, Division of State Police $267,000
Grants:
Recreational Boating Safety
Financial Assistance ..... ($267,000)

Total Appropriation, Department of Law and Public Safety $267,000

Total Appropriation, Federal Funds $76,817,000

3. This act shall take effect immediately.

Approved June 27, 1997.

CHAPTER 131

Note: In approving the following act, certain items were deleted or reduced by the Governor. For a statement of those items see the Governor's statement appended to Assembly Bill No. 3000, dated June 27, 1997.

AN ACT making appropriations for the support of the State Government and the several public purposes for the fiscal year ending June 30, 1998 and regulating the disbursement thereof.

ANTICIPATED RESOURCES FOR THE FISCAL YEAR 1997-1998

GENERAL FUND

Undesignated Fund Balance, July 1, 1997	$268,545,000

Major Taxes

Sales	$4,550,000,000
Corporation Business	1,282,000,000
Motor Fuels	470,000,000
Motor Vehicle Fees	419,000,000
Transfer Inheritance	305,000,000
Insurance Premiums	261,000,000
Cigarette	243,000,000
Petroleum Products Gross Receipts	198,000,000
Public Utility Excise (Reform).	7,000,000
Corporation Banks and Financial Institutions.	100,000,000
Alcoholic Beverage Excise	51,000,000
Savings Institutions	18,000,000
Tobacco Products Wholesale Sales	7,000,000
Total -- Major Taxes.	$7,986,000,000

Miscellaneous Taxes, Fees, Revenues

Executive Branch --	
Department of Agriculture:	
Fertilizer Inspection Fees	$168,000
Miscellaneous Revenue	4,000
Subtotal, Department of Agriculture	$172,000
Department of Banking and Insurance:	
Actuarial Services	$5,000
Bank Assessments	2,739,000
Banking --Examination Fees	2,947,000
Banking -- Licenses and Other Fees	3,124,000
FAIR Act Administration	12,500,000
Insurance -- Special Purpose Assessment	12,200,000
Insurance Examination Billings	1,500,000
Insurance Fraud Prevention	12,350,000
Insurance Licenses and Other Fees	8,476,000
Real Estate Commission	3,530,000
Subtotal, Department of Banking and Insurance	$59,371,000

Department of Community Affairs:	
Affordable Housing and Neighborhood Preservation -- Fair Housing	$18,325,000
Boarding Home Fees	250,000
Construction Fees	5,523,000
Fire Safety	13,326,000
Hackensack Meadowlands Development Commission	4,200,000
Housing Inspection Fees	6,437,000
Plan Review Additional	1,647,000
Planned Real Estate Development Fees	828,000
Subtotal, Department of Community Affairs	$50,536,000
Department of Education:	
Academy for the Advancement of Teaching and Administration	$275,000
Audit Recoveries	1,900,000
Audit of Enrollments	10,000,000
Local School District Loan Recoveries -- NJEDA	17,600,000
Miscellaneous Revenue	310,000
Nonpublic Schools Textbook Recoveries	500,000
School Construction Inspection Fees	277,000
State Board of Examiners	1,700,000
Subtotal, Department of Education	$32,562,000
Department of Environmental Protection:	
Air Pollution Fees and Fines	$10,850,000
Clean Water Enforcement Act	1,750,000
Coastal Area Development Review Act	894,000
Endangered Species Tax Check-Off	312,000
Excess Diversion	230,000
Freshwater Wetlands Fees	1,760,000
Freshwater Wetlands Fines	30,000
Hazardous Waste Fees	4,700,000
Hazardous Waste Fines	350,000
Hunters' and Anglers' Licenses	10,945,000
Industrial Site Recovery Act	1,500,000
Laboratory Certification Fees	3,400,000
Laboratory Certification Fines	22,000
Marina Rentals	840,000
Marine Lands -- Preparation and Filing Fees	120,000
Medical Waste	3,600,000
Miscellaneous Revenue	64,000
New Jersey Pollutant Discharge Elimination System	21,200,000
New Jersey Water Supply Authority Debt Service Repayments	770,000
Parks Management Fees and Permits	4,000,000
Parks Management Fines	160,000
Pesticide Control Fees	4,000,000
Pesticide Control Fines	50,000
Radiation Protection Fees	3,050,000
Radiation Protection Fines	45,000
Radon Testers Certification	260,000
Recycling Fees	450,000
Shellfish and Marine Fisheries	10,000
Solid and Hazardous Waste Disclosure	4,050,000
Solid Waste -- Utility Regulation Assessments	3,200,000
Solid Waste -- Utility Regulation Fines	200,000

Solid Waste Fines -- DEP	250,000
Solid Waste Management Fees -- DEP	6,360,000
Spring Meadow Golf Course	500,000
Stormwater Permits	2,900,000
Stream Encroachment	1,330,000
Toxic Catastrophe Prevention Fees	1,258,000
Toxic Catastrophe Prevention Fines	52,000
Treatment Works Approval	850,000
Underground Storage Tanks	1,741,000
Water Allocation	2,100,000
Water Supply Management Regulations	800,000
Water/Wastewater Operators Licenses	305,000
Waterfront Development Fees	1,040,000
Waterfront Development Fines	15,000
Well Permits/Well Drillers/Pump Installers Licenses	1,000,000
Wetlands	22,000
Worker and Community Right to Know -- Fines and Fees	182,000
Subtotal, Department of Environmental Protection	$103,517,000
Department of Health and Senior Services:	
Animal Control Act	$550,000
Licenses, Fines, Permits, Penalties, and Fines	790,000
New Jersey Essential Health Services Commission	1,200,000
Rabies Control	453,000
Subtotal, Department of Health and Senior Services	$2,993,000
Department of Human Services:	
Child Care Licensing/Adoption Law	$120,000
Federal Revenue Initiatives	20,000,000
Marriage License Fees	1,309,000
Medicaid Uncompensated Care -- Acute	160,000,000
Medicaid Uncompensated Care -- Mental Health	18,011,000
Medicaid Uncompensated Care -- Psychiatric	169,562,000
Medicaid Uncompensated Care -- UMDNJ	52,550,000
Medical Assistance -- Federal Match on PAAD/ Medicaid Dual Eligibles.	2,250,000
Patients' and Residents' Cost Recoveries:	
Developmental Disability	22,843,000
Psychiatric Hospitals	48,322,000
Special Residential Services	1,154,000
School Based Medicaid	26,000,000
Subtotal, Department of Human Services	$522,121,000
Department of Labor:	
Special Compensation Fund	$1,540,000
Workers' Compensation Assessment	11,029,000
Workplace Standards -- Licenses, Permits and Fines	2,538,000
Subtotal, Department of Labor	$15,107,000
Department of Law and Public Safety:	
Beverage Licenses	$2,000,000
Division of Consumer Affairs:	
General Revenues:	
Charities Registration Section	695,000
Consumer Affairs	2,000
Controlled Dangerous Substances.	100,000
Legalized Games of Chance Control	1,390,000

Private Employment Agencies	258,000
Weights and Measures -- General	2,612,000
Professional Examining Board Fees:	
New Jersey Cemetery Board	150,000
State Board of Architects	435,000
State Board of Audiology and Speech -- Language Pathology Advisory	87,000
State Board of Certified Public Accountants	691,000
State Board of Chiropractors	481,000
State Board of Cosmetology and Hairstyling	2,029,000
State Board of Dentistry	725,000
State Board of Electrical Contractors	481,000
State Board of Marriage Counselor Examiners	150,000
State Board of Master Plumbers	331,000
State Board of Medical Examiners	3,670,000
State Board of Mortuary Science	244,000
State Board of Nursing	2,835,000
State Board of Occupational Therapists and Assistants	92,000
State Board of Ophthalmic Dispensers and Ophthalmic Technicians	189,000
State Board of Optometrists	257,000
State Board of Orthotics and Prosthesis	32,000
State Board of Pharmacy	1,150,000
State Board of Physical Therapy	201,000
State Board of Professional Engineers and Land Surveyors	798,000
State Board of Professional Planners	185,000
State Board of Psychological Examiners	431,000
State Board of Public Movers and Warehousemen	228,000
State Board of Real Estate Appraisers	312,000
State Board of Respiratory Care	134,000
State Board of Shorthand Reporting	76,000
State Board of Social Workers	490,000
State Board of Veterinary Medical Examiners	157,000
Escheats Settlement Recoveries	700,000
Other Boating Fees	1,000
Pleasure Boat Licenses	2,200,000
Securities Enforcement	5,398,000
State Police -- Fingerprint Fees	1,014,000
State Police -- Other Licenses.	162,000
State Police -- Private Detective Licenses	220,000
Violent Crime Compensation	3,500,000
Subtotal, Department of Law and Public Safety	$37,293,000
Department of Military and Veterans' Affairs:	
Soldiers' Homes	$20,466,000
Subtotal, Department of Military and Veterans' Affairs	$20,466,000
Department of State:	
Commercial Recording -- Expedited	$2,803,000
Commissions	1,098,000
General Revenue -- Fees	21,200,000
Subtotal, Department of State	$25,101,000
Department of Transportation:	
Air Safety Fund	$600,000
Applications and Highway Permits	1,700,000

Auto Body Repair Shop Licensing	206,000
Autonomous Transportation Authorities	24,500,000
Drunk Driving Fines	785,000
Federal Commercial Driver License Program	1,000,000
Good Driver	123,000,000
Heavy Duty Diesel	4,350,000
Interest on Purchase of Right-of-Way	26,000
Logo Sign Program Fees	575,000
Motor Vehicle Security -- Responsibility Law Administration	5,851,000
Outdoor Advertising	740,000
Parking Offenses	360,000
Petitions and Motor Carrier Inspections	145,000
Photo Licensing	1,000,000
Sale of Assets	5,300,000
Motor Vehicle Database -- Automated Access	11,000,000
Salvage Title Program	466,000
Special Plate Fees	1,174,000
Uninsured Motorists Program	3,386,000
Subtotal, Department of Transportation	$186,164,000
Department of the Treasury:	
Assessments -- Cable TV	$3,064,000
Assessments -- Public Utility	19,354,000
Casino Fines	150,000
Coin Operated Telephones	6,000,000
Equipment Leasing Fund -- Debt Service Recovery.	4,823,000
Escrow Interest -- Construction Accounts	30,000
Higher Education Bond Interest Recoveries	221,000
Investment Earnings	8,000,000
Nuclear Emergency Response Assessment	3,911,000
Public Utility Fines	100,000
Public Utility Gross Receipts and Franchise Taxes.	38,360,000
Public Utility Tax -- Administration	250,000
Railroad Tax -- Class II	4,765,000
Railroad Tax -- Franchise	3,250,000
Rate Payer Advocate	3,832,000
Sales of Real Property	4,019,000
SOIL Match	5,000,000
Surplus Property	2,000,000
Transitional Energy Facilities Assessment	361,000,000
Subtotal, Department of the Treasury.	$468,129,000
Other Sources:	
Miscellaneous Revenue	$500,000
Subtotal, Other Sources.	$500,000
Inter-Departmental Accounts:	
Administration and Investment of Health Benefit and Pension Funds - Recoveries	$35,645,000
Employee Maintenance Deductions	850,000
Fringe Benefit Recoveries from Colleges and Universities	54,150,000
Fringe Benefit Recoveries from Federal and Other Funds	71,711,000
Fringe Benefit Recoveries from School Districts	21,000,000
Indirect Cost Recovery --DEP Other Funds	13,827,000
Indirect Cost Recovery -- Federal	7,000,000
MTF Revenue Fund	54,100,000

Rent of State Building Space	1,163,000
Social Security Recoveries from Federal and Other Funds	35,000,000
Subtotal, Inter-Departmental Accounts	$294,446,000
Judicial Branch --	
Court Fees	$52,599,000
Court Unification County Reimbursements	59,656,000
Subtotal, Judicial Branch	$112,255,000
Total -- Miscellaneous Taxes, Fees, Revenues	$1,930,733,000

Interfund Transfers

Alcohol Education Rehabilitation and Enforcement Fund	$560,000
Beaches and Harbor Fund	165,000
Casino Simulcasting Fund.	2,700,000
Clean Communities Account Fund	725,000
Clean Waters Fund	40,000
Community Development Bond Fund	340,000
Correctional Facilities Construction Fund.	200,000
Correctional Facilities Construction Fund (Act of 1987)	565,000
Cultural Center and Historic Preservation Fund (Act of 1987)	425,000
Developmental Disabilities Waiting List Reduction Fund	450,000
Emergency Flood Control Fund	400,000
Energy Conservation Fund	229,000
Farmland Preservation Fund	117,000
Fund for the Support of Free Public Schools	5,700,000
Hazardous Discharge Fund (Act of 1986)	5,377,000
Hazardous Discharge Site Cleanup Fund	14,428,000
Health Care Subsidy Fund	9,000,000
Historic Preservation Fund (1992)	420,000
Housing Assistance Fund	540,000
Human Services Facilities Construction Fund	65,000
Institutional Construction Fund	1,000
Institutions Construction Fund	1,000
Jobs, Science and Technology Fund	2,000
Judiciary Bail Fund	1,800,000
Judiciary Child Support Fund	1,250,000
Judiciary Probation Fund	125,000
Judiciary Special Civil Fund	110,000
Judiciary Superior Court Miscellaneous Fund.	530,000
Legal Services Trust Fund	11,600,000
Medical Education Facilities Fund	20,000
Medical Malpractice Reinsurance Recovery Fund	14,500,000
Mortgage Assistance Fund	3,435,000
Motor Vehicle Security Responsibility Fund	8,000
Natural Resources Fund	652,000
New Home Warranty Security Fund	7,000,000
New Jersey Bridge Rehabilitation and Improvement Fund.	480,000
New Jersey Green Acres Fund (Act of 1983)	1,075,000
New Jersey Green Acres Fund (Act of 1992)	1,924,000
New Jersey Green Trust Fund (Act of 1992)	1,924,000
New Jersey Spill Compensation Fund Administrative Costs	12,977,000
Pollution Prevention Fund	1,565,000
Public Purpose Buildings Construction Fund.	67,000

Public Purpose and Community-Based Facilities Construction Fund	531,000
Resource Recovery Investment Fund	215,000
Resource Recovery and Solid Waste Disposal Facility Fund	224,000
Safe Drinking Water Fund	1,936,000
Sanitary Landfill Facility Contingency Fund	399,000
School Fund Investment Account	2,472,000
Shore Protection Fund	670,000
Solid Waste Services Tax Fund	75,000
State Disability Benefits Fund General Account	24,767,000
State Lottery Fund	670,000,000
State Lottery Fund Administration	12,044,000
State Recreation and Conservation Land Acquisition Fund (Act of 1971)	4,000
State Recreation and Conservation Land Acquisition and Development (Act of 1974)	49,000
State Recycling Fund	919,000
State of New Jersey Cash Management Fund	1,750,000
Stormwater Management and Combined Sewer Overflow Abatement Fund	475,000
Unclaimed Personal Property Trust Fund	42,700,000
Unemployment Compensation Tax Auxiliary Fund	11,609,000
Unsatisfied Claim and Judgment Fund	3,013,000
Wage and Hour Trust Fund	75,000
Water Conservation Fund	628,000
Water Supply Fund	11,067,000
Worker and Community Right to Know Fund	2,550,000
Workforce Development Partnership Fund	30,451,000
Total -- Interfund Transfers	$922,115,000
Total State Revenues, General Fund	$10,838,848,000
Less: Transfer to Gubernatorial Elections Fund	**($6,600,000)**
Total Resources, General Fund	$11,100,793,000

Surplus Revenue Fund

Undesignated Fund Balance, July 1, 1997	$327,716,000
Total Resources, Surplus Revenue Fund.	$327,716,000

Property Tax Relief Fund

Undesignated Fund Balance, July 1, 1997	$481,798,000
Gross Income Tax	5,036,000,000
Total Resources, Property Tax Relief Fund	$5,517,798,000

Casino Control Fund

Undesignated Fund Balance, July 1, 1997	$0
License Fees.	54,761,000
Total Resources, Casino Control Fund	$54,761,000

Casino Revenue Fund

Undesignated Fund Balance, July 1, 1997	$284,000
Gross Revenue Tax	328,200,000
Investment Earnings	2,500,000
Total Resources, Casino Revenue Fund	$330,984,000

Gubernatorial Elections Fund

Undesignated Fund Balance, July 1, 1997.	$0
Transfer from General Fund	6,600,000
Taxpayers' Designations	1,500,000
Total Resources, Gubernatorial Elections Fund.	$8,100,000
Total Resources, All State Funds.	$17,340,152,000

Federal Revenue

Executive Branch --	
Department of Agriculture:	
Cooperative Gypsy Moth Suppression	$180,000
Farmland Preservation -- Federal Funds	1,000,000
Fish Inspection Services	200,000
Hemlock Woolly Adelgid	10,000
Jobs Bill	1,100,000
Lab Reared Hemlock Woolly Adelgid	25,000
Various Federal Programs and Accruals	178,000
Subtotal, Department of Agriculture	$2,693,000
Department of Commerce and Economic Development:	
National Telecommunications Information Agency	$125,000
Subtotal, Department of Commerce and Economic Development	$125,000
Department of Community Affairs:	
Community Services Block Grant -- HHS	$15,000,000
Emergency Shelter Grants Program	1,545,000
HOPE for Elderly Independence Demonstration Program	1,300,000
Moderate Rehabilitation Housing Assistance	11,609,000
National Affordable Housing -- HOME Investment Partnerships	9,000,000
Opportunities Counseling	600,000
Permanent Housing for the Handicapped Homeless	3,000,000
Public Housing Drug Elimination Technical Assistance Grant	15,000
Section 8 Community Investment	501,000
Section 8 Existing Housing Rental Assistance	68,835,000
Section 8 Housing Voucher Program	42,372,000
Small Cities Block Grant Program.	11,500,000
Supplemental Assistance for Facilities to Assist the Homeless	650,000
Transitional Housing -- Homeless.	2,100,000
Weatherization Assistance Program	2,660,000
Various Federal Programs and Accruals	102,000
Subtotal, Department of Community Affairs	$170,789,000
Department of Corrections:	
State Criminal Alien Assistance Program	$9,200,000
SSA Incentive Payments	$50,000
Subtotal, Department of Corrections	$9,250,000
Department of Education:	
AIDS Prevention Education	$659,000
Adult Basic Education -- Administration/Discretionary	10,176,000
Bilingual and Compensatory Education -- Homeless Children and Youth.	549,000
Byrd Scholarship Program	784,000
Character Education Partnership	290,000
Child Nutrition -- Administration	10,543,000
Child Nutrition -- School Lunch	171,887,000

Comprehensive System of Personnel Development (CSPD)	178,000
Deaf/Blind Children Services -- Administration/Discretionary	355,000
Disability Funds NCS	155,000
Drug-Free Schools and Communities -- Administration	9,414,000
EESA, Title II -- Math/Science Training, Exemplary.	5,805,000
Eisenhower Math/Science Grant -- Critical Skills	1,120,000
Emergency Immigrants Education Assistance -- Administration.	3,291,000
Even Start Family Literacy Grant -- Discretionary	1,872,000
GOALS 2000	10,205,000
GOALS 2000 -- Administration.	742,000
Hate Crimes Prevention Program	450,000
IASA Consolidated Administration	3,628,000
IDEA -- Handicapped	106,640,000
Innovative Education., Title VI -- Discretionary	669,000
Migrant Education -- Administration/Discretionary	1,117,000
National Community Service -- Americorps	7,679,000
New Jersey Partnership for Transition	649,000
Pre-School Incentive Grant -- Administration/Discretionary	10,920,000
Program Development Assistance Training	120,000
Public Charter Schools	2,770,000
Safe & Drug-Free Schools -- Governor's Portion Discretionary.	2,514,000
School to Work Opportunities.	9,000,000
Statewide Systemic Initiative -- Administration/Discretionary	3,000,000
Technology Literacy Challenge Fund	12,425,000
Title I -- Capital Expenses	2,235,000
Title I -- LEA Disadvantaged	144,637,000
Title I, Part D -- Neglected & Delinquent	2,422,000
Title VI -- Innovative Program Strategies	7,615,000
Various Federal Programs and Accruals	592,000
Vocational Education -- Basic Grants, Administration	21,893,000
Vocational Education Technical Preparation	2,424,000
Subtotal, Department of Education	$571,424,000
Department of Environmental Protection:	
Air Pollution Maintenance Program	$6,319,000
Appalachian Trail Improvement (ISTEA)	55,000
Appalachian Trail Viewshed Acquisition (ISTEA)	600,000
Archaeological & History/GIS Inventory (ISTEA)	1,600,000
Artificial Reef Program	250,000
Biodiversity Project	100,000
Boat Access (Fish and Game)	400,000
CERCLA Grants	2,000,000
Cape May Canal Boat Access Improvements	300,000
Cape May Point State Park Bikeway (ISTEA)	200,000
Clean Lakes Program	1,500,000
Clean Vessels	3,500,000
Climate Change Action Plan (Recycling of Landfill Gases)	200,000
Coastal Zone Management Implementation	4,000,000
Consolidated Forest Management	1,174,000
Construction Grants Program	82,000,000
Delaware and Raritan Canal State Park Multi-Purpose Trail -- Phase II (ISTEA)	400,000
Delaware and Raritan Canal State Park Multi-Purpose Trail -- Phase III (ISTEA).	500,000

Delaware and Raritan Canal State Park Old Rose to Mulberry Street (ISTEA)	250,000
Delaware and Raritan Canal State Park Bordentown Outlet (ISTEA)	820,000
Ecosystem Indicators	900,000
Endangered Species E-1-6	110,000
Environmental Justice	100,000
Estuary Program	1,490,000
Forest Resource Management -- Cooperative Forest Fire Control	340,000
Forked River Annex Land Acquisition	330,000
GIS Database Development	300,000
Good Luck Point Land Acquisition	480,000
Hazardous Waste -- Resource Conservation Recovery Act	4,281,000
Historic Preservation Survey & Planning	1,425,000
Hunters' and Anglers' License Fund	5,300,000
Island Beach State Park Bikeway Extension (ISTEA)	600,000
Land and Water Conservation Fund	5,000,000
Liberty State Park Archival Facility (ISTEA)	726,000
Liberty State Park Ferry Slip Restoration (ISTEA)	1,000,000
Liberty State Park Train Sheds -- Structural Report (ISTEA)	350,000
Liberty State Park -- Bus Terminal	400,000
Marine Fisheries Investigation and Management	1,730,000
Maurice River II	1,200,000
NPDES Implementation Support Program	2,000,000
National Coastal Wetlands Conservation	775,000
National Geologic Mapping Program	200,000
National Recreational Trails	642,000
New Jersey Ecological Research Partnership	50,000
Non Point Source Implementation (319H)	2,000,000
Paulins Kill Valley Trail Improvements (ISTEA)	550,000
Pesticide Technology	660,000
Pinelands Grant -- Acquisition	6,000,000
Pollution Prevention Incentive	100,000
Preliminary Assessments/Site Inspections	3,200,000
Radon Program	600,000
Safe Drinking Water Act	29,200,000
Salem River Meadows	2,000,000
State Wetlands Conservation Plan	573,000
State/EPA Data Management Grant	500,000
Statewide Trail Implementation (ISTEA)	110,000
Superfund Grants	100,000,000
Sussex Branch Trail Connector (ISTEA)	75,000
Underground Injection Control	100,000
Underground Storage Tanks	3,300,000
Various Federal Programs and Accruals	1,199,000
Water Monitoring and Planning	1,600,000
Water Pollution Control Program	3,100,000
Subtotal, Department of Environmental Protection	$290,764,000
Department of Health and Senior Services:	
American Stop Smoking Intervention Study	$1,371,000
Applied Research in Emerging Infections -- Tickborne Diseases	115,000
Childhood Lead Poisoning	1,400,000
Clinical Laboratory Improvement Amendments Program	542,000

Comprehensive AIDS Resources Grant	35,000,000
Comprehensive Breast and Cervical Cancer	2,600,000
Coordination of Home Visits to Families with Children in New Jersey	260,000
Counseling on Health Insurance for Medicare Enrollees	300,000
Demand and Needs Assessment for Alcohol and Drug Abusers	437,000
Demonstration Program to Conduct Health Assessments	1,565,000
Domestic Violence in Women Associated with Partner Notification	110,000
Early Intervention Program for Infants and Toddlers with Disabilities (Part H)	9,055,000
Epidemiology 2000 -- Electronic Surveillance	250,000
Essex County Healthy Start Initiative	1,900,000
Family Planning Program -- Title X	2,800,000
Federal Civil Monetary Penalties	200,000
Federal Lead Abatement Program	1,175,000
Food Inspection	274,000
HIV/AIDS Prevention and Education Grant	12,800,000
HIV/AIDS Surveillance Grant	5,444,000
Housing Opportunities for Persons with AIDS	1,904,000
Immunization Project	13,692,000
Information Network for Public Health Officials	1,000,000
Injury Demonstration Projects for Evaluation of Youth Violence Prevention	396,000
Innovative Alcohol Impaired Drivers Program	170,000
Lyme Disease Research	144,000
Maternal and Child Epidemiology Programs (MCHEP)	94,000
Maternal and Child Health Block Grant	12,700,000
Medical Day Care	13,000,000
Medicare/Medicaid Inspections of Nursing Facilities	8,497,000
New Jersey Project: Providing a MED Home in a Neighborhood of Services	116,000
National Council on Aging -- Senior Employment Services Project	3,000,000
National Program of Cancer Registries	820,000
New Jersey WIN Initiative Project	340,000
Newark Targeted Cities Project -- Substance Abuse	3,805,000
Occupational Related Tuberculosis Among Health Care Workers	244,000
Older Americans Act -- Title III	28,532,000
Older Americans Act -- Title VII	600,000
Pediatric AIDS Health Care Demonstration Project	2,130,000
Preventative Health and Health Services Block Grant	7,399,000
Primary Care Service and Management Planning	300,000
Public Employees Occupational Safety and Health -- State Plan	863,000
Residential Substance Abuse Treatment for Pregnant/ Postpartum Women	970,000
Sentinel Event Notification System -- Occupational Risks	310,000
State-Based Diabetes Program	450,000
State Office of Rural Health	50,000
State-Based Birth Defects Surveillance Demonstration Project	110,000
Substance Abuse Block Grant	39,736,000

Substance Abuse Treatment Outcomes -- Pilot Study	110,000
Supplemental Food Program -- WIC	81,000,000
Toxic Substances Control Act	100,000
Tuberculosis Control Program	9,074,000
USDA Older Americans Act -- Title III	3,900,000
Various Federal Programs and Accruals	488,000
Venereal Disease Project	2,621,000
Vital Statistics Component.	615,000
WIC Farmer's Market Nutrition Program	203,000
Subtotal, Department of Health and Senior Services	$317,081,000
Department of Human Services:	
Block Grant Mental Health Services	$8,074,000
Child Care Block Grant	66,632,000
Child Support Enforcement Program	98,576,000
Community-Based Residential Program Grant	1,000,000
Community Care Waiver	97,449,000
Developmental Disabilities Council	1,571,000
Family Preservation Services (Title IV-B)	327,000
Federal Independent Living	493,000
Food Stamp Program	88,923,000
Foster Grandparents Program	835,000
Low Income Energy Assistance Block Grant	40,123,000
Office of Prevention	525,000
Projects for Assistance in Transition from Homelessness (PATH)	437,000
Refugee Resettlement Program	5,543,000
Restricted Grants	3,854,000
Social Service Block Grant	72,069,000
Supplemental Security Income -- Title XIV	150,000
Temporary Assistance to Needy Families Block Grant	404,000,000
Title IV-B Child Welfare Services	13,470,000
Title IV-E Foster Care	70,656,000
Title IV-E Foster Care Independent Living	2,298,000
Title XIX DYFS	34,616,000
Title XIX ICF/MR	190,508,000
Title XIX Medical Assistance	2,083,120,000
Title XX Urban Empowerment Zone	10,418,000
Various Federal Programs and Accruals	1,277,000
Vocational Rehabilitation Act -- Section 120	8,960,000
Subtotal, Department of Human Services.	$3,305,904,000
Department of Labor:	
Comprehensive Services for Independent Living	$600,000
Current Employment Statistics	2,028,000
Disabled Veterans' Outreach Program	2,424,000
Employment Services	23,336,000
Employment Services -- One Stop Shopping	3,765,000
Employment Services Cost Reimbursable Grants -- Migrant Housing	50,000
Employment Services Grants -- Alien Labor Certification	2,030,000
JTPA Title III D Discretionary Funding	3,011,000
Job Training Partnership Act	59,142,000
Job Training Partnership Act -- Title III Dislocated Workers	44,468,000
Local Veteran's Employment Representatives	1,300,000
Newark Collaborative	51,000

OASI (DDS) Intelligent Workstation Activities 1,000,000
OSHA Data Collection Survey 78,000
Occupational Informational Coordinating Program 143,000
Occupational Safety Health Act, On-Site Consultation 1,450,000
Occupational Wage Survey -- LMI 213,000
Occupational Wage Survey -- Alien Certification 213,000
Old Age and Survivors Insurance -- Disability Determination ... 36,814,000
One Stop LMI 527,000
Redesigned Occupational Safety and Health (ROSH) 344,000
Rehabilitation of Supplemental Security Income Beneficiaries 2,000,000
Supported Employment 1,000,000
Technology Related Assistance Project 550,000
Trade Adjustment Assistance Project 9,096,000
Unemployment Insurance 96,178,000
Various Federal Programs and Accruals 319,000
Vocational Rehabilitation Act of 1973 39,750,000
Work Opportunity Tax Credit 700,000
Subtotal, Department of Labor $332,580,000
Department of Law and Public Safety:
Aftercare Program $127,000
Alcohol Education Materials 550,000
Americorps 250,000
Challenge Grant 335,000
Community Policing Initiative Grant -- Part I 200,000
Community Policing Initiative Grant -- Part II 200,000
COPS Universal Hiring Grant 6,000,000
Criminal Justice 225,000
Drug Enforcement Administration and Grants 18,700,000
DrugFire Program 50,000
Drunk Driver Prevention 958,000
Emergency Management Training & Education. 400,000
Emergency Services 88,000
Federal Highway Safety Program -- State Match 3,764,000
Forensic DNA Lab 1,200,000
Hazardous Materials Transportation Uniform Safety Act. 275,000
High Intensity Drug Trafficking Area (HIDTA) 900,000
Incident Command (ISTEA) 400,000
Juvenile Aftercare Programs 98,000
Juvenile Boot Camp Renovation Grant 1,000,000
Juvenile Justice Delinquency Prevention 2,287,000
Juvenile Monitoring Unit 194,000
Law Enforcement Planning, Resource Development
and Evaluation. 100,000
Local Law Enforcement Block Grant 1,200,000
Medicaid Fraud Unit 2,100,000
National Criminal History Program -- OAG 700,000
New Charge Resolution Project 650,000
OP Special Traffic Safety Program 225,000
Private Industry Council -- JTPA Funds (MSW) 250,000
Recreational Boating Safety Financial Assistance 1,520,000
Residential Treatment for Substance Abuse 700,000
Risk Reduction 200,000
Seat Belt Survey Grant -- Part II 42,000

State Identification System	175,000
State and Local Assistance	4,332,000
Title III/Hazardous Materials	270,000
Title V Funding	540,000
Traffic Engineering Services Project -- FHWA Section 402	250,000
Truth In Sentencing Incentive Grant	17,600,000
Unemployment Fraud	550,000
Various Federal Programs and Accruals	820,000
Victim Assistance Grants.	18,000,000
Victim Compensation Award	1,600,000
Violence Against Women Act	18,000,000
Youth Gun Violence Initiative Grant	250,000
Subtotal, Department of Law and Public Safety	$108,275,000
Department of Military and Veterans' Affairs:	
Army Facilities -- Service Contracts	$947,000
Army National Guard Statewide Security Agreement.	575,000
Army Training Technology Lab	1,066,000
Atlantic City Air Base -- Service Contracts.	1,849,000
Facilities Management Support Contract	1,457,000
Fire Fighter/Crash Rescue Service Cooperative Funding Agreement	910,000
Hazardous Waste Environmental Protection Program	1,808,000
McGuire Air Force Base -- Service Contracts	1,472,000
National Guard Communications Agreement	330,000
New Jersey National Guard Challenge Youth Program (Federal)	2,288,000
Reefex Environmental Program.	333,000
Training and Equipment Pool Sites	1,175,000
Transitional Housing	350,000
Veterans' Education Monitoring	497,000
Subtotal, Department of Military and Veterans' Affairs	$15,057,000
Department of State:	
National Endowment for the Arts Partnership	$564,000
Various Federal Programs and Accruals	233,000
Subtotal, Department of State	$797,000
Department of Transportation:	
Airport Fund	$8,000,000
Highway Planning and Research	8,500,000
Metropolitan Planning Funds	7,000,000
Motor Carrier Safety Assistance Program	4,000,000
New Jersey Transportation Planning Assistance	3,000,000
Rail Freight Capital Projects	1,000,000
Interstate Program	52,511,000
Demonstration Program	57,275,000
Congestion Mitigation and Air Quality Program	58,050,000
National Highway System	86,450,000
Surface Transportation Program	204,600,000
Bridge Program	140,352,000
Supportive Services Program	500,000
Federal Transit Administration	268,750,000
Subtotal, Department of Transportation	$899,988,000
Department of the Treasury:	
Division of Gas Expansion	$600,000

National Health Service Corporation -- Student Loan Repayment Program	182,000
State Energy Conservation Program	1,725,000
State Student Incentive Grant Program	1,310,000
Student Loan Administrative Cost Deduction and Allowance.	13,010,000
Subtotal, Department of the Treasury	$16,827,000
Total -- Federal Revenue	$6,041,554,000
Grand Total Resources, All Funds....	$23,381,706,000

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

1. The appropriations herein or so much thereof as may be necessary are hereby appropriated out of the General Fund, or such other sources of funds specifically indicated or as may be applicable, for the respective public officers and spending agencies and for the several purposes herein specified for the fiscal year ending on June 30, 1998. Unless otherwise provided, the appropriations herein made shall be available during said fiscal year and for a period of one month thereafter for expenditures applicable to said fiscal year. Unless otherwise provided, at the expiration of said one-month period, all unexpended balances shall lapse into the State Treasury or to the credit of trust, dedicated or non-State funds as applicable, except those balances held by encumbrances on file as of June 30, 1998 with the Director of the Division of Budget and Accounting or held by pre-encumbrances on file as of June 30, 1998 as determined by the Director of the Division of Budget and Accounting. The Director of the Division of Budget and Accounting shall provide the Legislative Budget and Finance Officer with a listing of all pre-encumbrances outstanding as of July 31, 1998 together with an explanation of their status. Nothing contained in this section or in this act shall be construed to prohibit the payment due upon any encumbrance or pre-encumbrance made under any appropriation contained in any appropriation act of the previous year or years. Furthermore, balances held by pre-encumbrances as of June 30, 1997 are available for payments applicable to fiscal year 1997 as determined by the Director of the Division of Budget and Accounting. The Director of the Division of Budget and Accounting shall provide the Legislative Budget and Finance Officer with a listing of all pre-encumbrances outstanding as of July 31, 1997 together with an explanation of their status. On or before December 1, 1997, the State Treasurer, in accordance with the provisions of section 37 of article 3 of P.L.1944, c.112 (C.52:27B-46), shall transmit to the Legislature the Annual Financial Report of the State of New Jersey for the fiscal year ending June 30, 1997, depicting the financial condition of the State and the results of operation for the fiscal year ending June 30, 1997.

DIRECT STATE SERVICES
LEGISLATIVE BRANCH
01 LEGISLATURE
70 Government Direction, Management and Control
71 Legislative Activities
0001 Senate

01-0001 Senate $9,632,000
Total Appropriation, Senate $9,632,000
Personal Services:
Senators (40) ..... ($1,412,000)
Salaries and Wages ..... (3,498,000)
Members' Staff Services.. ..... (3,600,000)
Materials and Supplies ..... (141,000)
Services Other Than Personal. ..... (856,000)
Maintenance and Fixed Charges ..... (76,000)
Additions, Improvements and Equipment ..... (49,000)
The unexpended balance as of June 30, 1997 in this account is appropriated.

0002 General Assembly

02-0002 General Assembly $15,152,000
Total Appropriation, General Assembly $15,152,000
Personal Services:
Assemblypersons (80) ..... ($2,812,000)
Salaries and Wages. ..... (4,100,000)
Members' Staff Services ..... (7,260,000)
Materials and Supplies ..... (130,000)
Services Other Than Personal ..... (730,000)
Maintenance and Fixed Charges ..... (90,000)
Additions, Improvements and Equipment ..... (30,000)
The unexpended balance as of June 30, 1997 in this account is appropriated.
From the amounts appropriated hereinabove, there shall be allocated to each Assembly District Office an amount received by each Senate District Office.
Total Appropriation, Senate and General Assembly. $24,784,000

0003 Office of Legislative Services

03-0003 Legislative Support Services $21,106,000
Total Appropriation, Office of Legislative Services $21,106,000
Personal Services:
Salaries and Wages. ..... ($14,415,000)
Materials and Supplies ..... (1,106,000)
Services Other Than Personal ..... (2,608,000)
Maintenance and Fixed Charges ..... (2,819,000)
Special Purpose:
Affirmative Action and Equal Employment Opportunity ..... (23,000)
Additions, Improvements and Equipment ..... (135,000)
The unexpended balance as of June 30, 1997 in this account is appropriated.
Such sums as may be required for the cost of information system audits performed by the State Auditor are funded from the departmental data processing accounts of the department in which the audits are performed.
In addition to the amounts appropriated hereinabove, there is appropriated an amount not to exceed $2,200,000, less any funds previously appropriated for this purpose, as determined by the Computer Executive Group of the Legislative Information Systems

Committee of the Legislative Services Commission, for the continuation and expansion of data processing systems for the Legislature in order to plan, acquire and install a comprehensive electronic data processing system, including software acquisition and training in connection with the system. No amounts so determined shall be obligated, expended or otherwise made available without the written prior authorization of the Senate President and the Speaker of the General Assembly.

Receipts derived from fees and charges for public access to legislative information systems, and the unexpended balance as of June 30, 1997 of such receipts are appropriated and shall be credited to a non-lapsing revolving fund established in and administered by the Office of Legislative Services for the purpose of continuing to modernize, maintain and expand the dissemination and availability of legislative information.

Such sums as are required for master lease payments, subject to the approval of the Director of the Division of Budget and Accounting and the Legislative Budget and Finance Officer, are appropriated.

09 Legislative Commissions

0010 Intergovernmental Relations Commission

09-0010 Intergovernmental Relations Commission. $298,000
Total Appropriation, Intergovernmental Relations Commission $298,000
Special Purpose:
The Council of State Governments . . . . . ($132,000)
National Conference of State Legislatures . . . . . (123,000)
Northeast-Midwest Research Institute . . . . . (43,000)
The unexpended balance as of June 30, 1997 in this account is appropriated.

0014 Joint Committee on Public Schools

09-0014 Joint Committee on Public Schools $350,000
Total Appropriation, Joint Committee on Public Schools. $350,000
Special Purpose:
Expenses of the Committee . . . . . ($350,000)
The unexpended balance as of June 30, 1997 in this account is appropriated.

0018 State Commission of Investigation

09-0018 State Commission of Investigation $2,057,000
Total Appropriation, State Commission of Investigation $2,057,000
Special Purpose: . . . . . .
Expenses of the Commission . . . . . ($2,057,000)
The unexpended balance as of June 30, 1997 in this account is appropriated.

0026 Commission on Business Efficiency in the Public Schools

09-0026 Commission on Business Efficiency in the Public Schools $63,000
Total Appropriation, Commission on Business Efficiency in the Public Schools $63,000
Special Purpose:
Expenses of the Commission . . . . . ($63,000)
The unexpended balance as of June 30, 1997 in this account is appropriated.

0053 New Jersey Law Revision Commission

09-0053 New Jersey Law Revision Commission $285,000
Total Appropriation, New Jersey Law Revision Commission $285,000
Special Purpose:
Expenses of the Commission . . . . . ($285,000)
The unexpended balance as of June 30, 1997 in this account is appropriated.

0058 State Capitol Joint Management Commission

09-0058 State Capitol Joint Management Commission $3,709,000
Total Appropriation, State Capitol Joint Management Commission $3,709,000
Special Purpose:
Expenses of the Commission ..... ($3,709,000)
The unexpended balance as of June 30, 1997 in this account is appropriated.

0060 New Jersey Information Resources Management Commission

09-0060 New Jersey Information Resources Management Commission $50,000
Total Appropriation, New Jersey Information Resources Management Commission $50,000
Special Purpose:
Expenses of the Commission ..... ($50,000)
The unexpended balance as of June 30, 1997 in this account is appropriated.

0061 Clean Ocean and Shore Trust Committee

09-0061 Clean Ocean and Shore Trust Committee $100,000
Total Appropriation, Clean Ocean and Shore Trust Committee $100,000
Special Purpose:
Expenses of the Committee ..... ($100,000)
The unexpended balance as of June 30, 1997 in this account is appropriated.

Total Appropriation, Legislative Commissions $6,912,000

Total Appropriation, Legislature $52,802,000

EXECUTIVE BRANCH
06 OFFICE OF THE CHIEF EXECUTIVE
70 Government Direction, Management and Control
76 Management and Administration
0300 Chief Executive's Office

01-0300 Executive Management $5,057,000
Total Appropriation, Chief Executive's Office $5,057,000
Personal Services:
Salaries and Wages ..... ($3,793,000)
Materials and Supplies ..... (96,000)
Services Other Than Personal ..... (596,000)
Maintenance and Fixed Charges ..... (136,000)
Special Purpose:
National Governors Association ..... (169,000)
Coalition of Northeastern Governors ..... (46,000)
Education Commission of the States ..... (80,000)
National Conference of Commissioners On Uniform State Laws ..... (29,000)
Brian Stack Intern Program ..... (10,000)
Allowance to the Governor of Funds Not Otherwise Appropriated, For Official Reception on Behalf of the State, Operation of an Official Residence and Other Expenses ..... (75,000)
Additions, Improvements and Equipment ..... (27,000)

The unexpended balance as of June 30, 1997 in this account is appropriated.

Total Appropriation, Office of the Chief Executive $5,057,000

10 DEPARTMENT OF AGRICULTURE
40 Community Development and Environmental Management
49 Agricultural Resources, Planning, and Regulation

01-3310	Animal Disease Control	$906,000
02-3320	Plant Pest and Disease Control	1,704,000
03-3330	Resource Development Services	1,430,000
04-3340	Dairy and Commodity Regulation	978,000
06-3360	Marketing Services	2,438,000
99-3370	Management and Administrative Services	1,250,000
	Total Appropriation, Agricultural Resources, Planning, and Regulation	$8,706,000
	Personal Services:	
	Salaries and Wages	($5,324,000)
	Materials and Supplies	(198,000)
	Services Other Than Personal	(432,000)
	Maintenance and Fixed Charges	(257,000)
	Special Purpose:	
	Implement NJSPCA Rules and Training	(50,000)
	Agricultural Right-To-Farm Program	(100,000)
	Agricultural Economic Analysis and Development Program	(40,000)
	Agricultural Regulatory Mitigation/ Mediation Program	(50,000)
	Aquaculture Development	(200,000)
	Fish and Seafood Development and Promotion	(100,000)
	Future Farmers' Youth Development	(45,000)
	Promotion/Market Development	(1,166,000)
	Wine Promotion Program	(30,000)
	Temporary Emergency Food Assistance Program	(338,000)
	Expenses of State Board of Agriculture	(18,000)
	Sussex County Soil Conservation District	(65,000)
	Hudson-Essex-Passaic Soil Conservation District	(65,000)
	Dairy and Commodity Regulation	(200,000)
	Affirmative Action and Equal Employment Opportunity.	(28,000)

Receipts from laboratory test fees are appropriated to support the Animal Health Laboratory program.

Receipts from the sale or studies of beneficial insects are appropriated to support the Beneficial Insect Laboratory.

Receipts from the seed laboratory testing and certification programs are appropriated for program costs.

Receipts from Nursery Inspection fees are appropriated for Nursery Inspection program costs. The unexpended balance as of June 30, 1997 in the Nursery Inspection fee account is appropriated for the same purpose.

Receipts derived from the Soybean Integrated Pest Management Program are appropriated for the same purpose.

In addition to the amount hereinabove for Rural Development Services, such sums as may be necessary shall be transferred, pursuant to an agreement between the Department of Environmental Protection and the Department of Agriculture, from the Department of Environmental Protection's Water Resources Monitoring and Planning – Constitutional Dedication account to support non–point source pollution control programs in the Department of Agriculture, subject to the approval of the Director of the Division of Budget and Accounting.

Receipts from Stormwater Discharge Permit Program fees are appropriated for program costs. The unexpended balance as of June 30, 1997 in the Stormwater Discharge Permit Program account is appropriated for the same purpose.

Receipts from dairy licenses and inspections are appropriated for program costs.

Receipts in excess of the amount anticipated from feed, fertilizer, and liming material registrations and inspections are appropriated for program costs.

Receipts from inspection fees derived from fruit, vegetable, fish and poultry inspections are appropriated for the cost of conducting fruit, vegetable, fish and poultry inspections.

The unexpended balance as of June 30, 1997 in the Promotion/Market Development account is appropriated for the same purpose.

Receipts in excess of those anticipated, generated at the rate of $.20 per gallon of wine, vermouth and sparkling wines sold by plenary winery and farm winery licenses issued pursuant to R.S.33:1-10, and certified by the Director of the Division of Taxation, are appropriated to the Department of Agriculture from the alcoholic beverage excise tax for expenses of the Wine Promotion Program. If receipts are less than anticipated, the appropriation shall be reduced proportionately.

Receipts derived from the distribution of commodities, sale of containers, and salvage of commodities, in accordance with applicable federal regulations, are appropriated for Commodity Distribution expenses.

Total Appropriation, Department of Agriculture $8,706,000

14 DEPARTMENT OF BANKING AND INSURANCE
50 Economic Planning, Development and Security
52 Economic Regulation

01-3110	Licensing and Regulatory Affairs	$11,465,000
02-3120	Actuarial Services	3,762,000
03-3130	Regulation of the Real Estate Industry	2,352,000
04-3110	Public and Regulatory Services	1,513,000
05-3160	Unsatisfied Claims	1,696,000
06-3110	Insurance Fraud Prevention	11,333,000
07-3170	Supervision and Examination of Financial Institutions	3,605,000
99-3150	Management and Administrative Services	3,826,000
	Total Appropriation, Economic Regulation	$39,552,000
	Personal Services:	
	Salaries and Wages	($27,515,000)
	Materials and Supplies	(450,000)
	Services Other Than Personal	(7,850,000)
	Maintenance and Fixed Charges	(873,000)
	Special Purpose:	
	Additional Investigators -- Insurance Fraud Prevention	(2,250,000)

Affirmative Action and Equal
Employment Opportunity ..... (30,000)
Additions, Improvements and Equipment ..... (584,000)

Receipts derived from extraordinary financial condition examinations or actuarial certifications of loss reserves are appropriated for the conduct of such examinations or certifications, subject to the approval of the Director of the Division of Budget and Accounting.

The unexpended balance as of June 30, 1997 in the Public Adjusters' Licensing account, together with receipts derived from the "Public Adjusters' Licensing Act," P.L.1993, c.66 (C.17:22B-1 et seq.), are appropriated for the administration of the act, subject to the approval of the Director of the Division of Budget and Accounting.

The amount hereinabove for Unsatisfied Claims is appropriated out of the Unsatisfied Claim and Judgment Fund and, in addition, there are appropriated out of that fund additional sums as may be necessary for the payment of claims pursuant to section 7 of P.L.1952, c.174 (C.39:6-67), and for such additional costs as may be required to administer the fund pursuant to P.L.1952, c.174 (C.39:6-61 et seq.).

Receipts from the investigation of out-of-State land sales are appropriated for the conduct of those investigations.

There are appropriated from the assessments imposed by the New Jersey Individual Health Coverage Program Board, created pursuant to the "Individual Health Insurance Reform Act," P.L.1992, c.161 (C.17B:27A-2 et seq.), and by the New Jersey Small Employer Health Benefits Program Board, created pursuant to P.L.1992, c.162 (C.17B:27A-17 et seq.), such sums as may be necessary to carry out the provisions of those acts, subject to the approval of the Director of the Division of Budget and Accounting.

There are appropriated from the real estate guaranty fund such sums as may be necessary to pay claims.

There are appropriated out of the New Jersey Automobile Insurance Guaranty Fund such sums as may be necessary to satisfy the financial obligations of the New Jersey Automobile Full Insurance Underwriting Association, as set forth in the "Fair Automobile Insurance Reform Act of 1990," P.L.1990, c.8 (C.17:33B-1 et al.), subject to the provisions of subsection e. of section 23 of P.L.1990, c.8 (C.17:33B-5).

Notwithstanding the provisions of section 6 of P.L.1983, c.65 (C.17:29A-35), the receipts otherwise remaining prior to October 1, 1991, derived from surcharges levied on drivers in accordance with the New Jersey Automobile Insurance Reform Act of 1982 -- Merit Rating System Surcharge Program pursuant to P.L.1983, c.65 (C.17:29A-33 et al.) are appropriated to the New Jersey Automobile Full Insurance Underwriting Association. Those receipts otherwise remaining on and after October 1, 1991, are appropriated to the New Jersey Automobile Insurance Guaranty Fund.

All monies deposited in the Division of Motor Vehicles Surcharge Fund are appropriated to the Market Transition Facility Revenue Fund in accordance with the provisions of P.L. 1994, c. 57 (C.34:1B-21.1 et seq.).

The amount appropriated hereinabove for FAIR Act Administration shall be funded from the additional taxes on the taxable premiums of insurers for the payment of Department of Banking and Insurance administrative costs related to its statutory duties, pursuant to P.L.1990, c.8 (C.17:33B-1 et al.).

In addition to the sum hereinabove, such other sums as the Director of the Division of Budget and Accounting shall determine, are appropriated on behalf of the Department of Banking and Insurance with respect to the assessments of the insurance industry pursuant to P.L. 1995, c. 156 (C.17:1C-19 et seq.).

The unexpended balance as of June 30, 1997 in the Pinelands Development Credit Bank account is appropriated for the same purpose.

Receipts in excess of anticipated revenues from examination and licensing fees, bank assessments, fines and penalties, not to exceed $200,000, are appropriated to the Division of Banking, subject to the approval of the Director of the Division of Budget and Accounting.

Notwithstanding any provisions of law to the contrary, any unexpended balance remaining in the New Jersey Medical Malpractice Reinsurance Recovery Fund after all financial obligations of the New Jersey Medical Malpractice Reinsurance Association are satisfied, as determined by the Director of the Division of Budget and Accounting, are appropriated for transfer to the General Fund as State revenue.

Total Appropriation, Department of Banking and Insurance $39,552,000

20 DEPARTMENT OF COMMERCE AND ECONOMIC DEVELOPMENT

30 Educational, Cultural and Intellectual Development

37 Cultural and Intellectual Development Services

10-2920 Public Broadcasting Services $4,043,000
Total Appropriation, Cultural and Intellectual Development Services $4,043,000

Personal Services:
Salaries and Wages ..... ($3,278,000)
Materials and Supplies ..... (132,000)
Services Other Than Personal ..... (474,000)
Maintenance and Fixed Charges. ..... (110,000)
Special Purpose:
Affirmative Action and Equal Employment Opportunity ..... (20,000)
Additions, Improvements and Equipment ..... (29,000)

There are appropriated from the Emergency Services Fund such sums as may be necessary to reimburse the New Jersey Public Broadcasting Authority for the cost of its emergency broadcasts, pursuant to section 4 of P.L.1989, c.133 (C.52:14E-8.1), subject to the approval of the Director of the Division of Budget and Accounting.

50 Economic Planning, Development and Security

51 Economic Planning and Development

20-2800 Economic Development $4,045,000
21-2850 International Trade 879,000
22-2860 Travel and Tourism 5,282,000
23-2880 Research and Policy 474,000
26-2810 Development for Small Businesses and Women and Minority Businesses 1,046,000
99-2910 Management and Administrative Services 774,000
Total Appropriation, Economic Planning and Development $12,500,000

Personal Services:
Salaries and Wages ..... ($3,636,000)
Materials and Supplies ..... (75,000)
Services Other Than Personal ..... (363,000)
Maintenance and Fixed Charges ..... (74,000)
Special Purpose:
Prosperity New Jersey ..... (250,000)
New Jersey Community Development Bank ..... (1,000,000)

Office of Sustainability ..... (600,000)
Accounts Management System ..... (884,000)
Business Ombudsman and Regulatory Affairs ..... (205,000)
Trade Shows, Missions and Promotions ..... (40,000)
New Jersey Israel Commission ..... (130,000)
Travel and Tourism, Advertising
and Promotion ..... (2,773,000)
Travel and Tourism, Advertising and
Promotion - Cooperative Marketing Program .... (1,850,000)
New Jersey Council of Economic Advisors ..... (45,000)
Small Business Outreach/Technical Assistance ..... (500,000)
Export Development -- Yankee Trader Institute ..... (37,000)
Affirmative Action and Equal
Employment Opportunity. ..... (30,000)
Additions, Improvements and Equipment ..... (8,000)

The amounts hereinabove for the Travel and Tourism, Advertising and Promotion account shall be allocated between the International Trade, Economic Development and Travel and Tourism programs at the discretion of the Commissioner of Commerce and Economic Development.

There are appropriated from the Enterprise Zone Assistance Fund such sums as are necessary for administrative services provided to the New Jersey Urban Enterprise Zone Authority by the Department of Commerce and Economic Development in accordance with the provisions of section 11 of P.L.1993, c.367 (C.52:27H-65.1), subject to the approval of the Director of the Division of Budget and Accounting.

The amount necessary to provide employer rebate awards as a result of the "New Jersey Urban Enterprise Zones Act," P.L.1983, c.303 (C.52:27H-60 et seq.), are appropriated from the Enterprise Zone Assistance Fund subject to the approval of the Director of the Division of Budget and Accounting.

Of the amount hereinabove appropriated for the Travel and Tourism, Advertising and Promotion account, the Director of the Division of Travel and Tourism shall expend such amounts as the director determines will encourage the optimum effective continuing operation of each of the Tourist Welcome Centers, including but not limited to, the transfer of the operation of the centers to private, non-profit entities, whether under lease arrangements or such other agreements as the director may determine.

The Director of the Division of Travel and Tourism shall report semi-annually on the expenditure of State funds and private contributions during the preceding six months for the Travel and Tourism, Advertising and Promotion Program and the Travel and Tourism, Advertising and Promotion - Cooperative Marketing Program. The first semi-annual report covering the first six months of fiscal year 1998 shall be completed not later than January 31, 1998, the second semi-annual report covering the second six months of fiscal year 1998 shall be completed not later than July 31, 1998 and both reports shall be submitted to the Governor and the Joint Budget Oversight Committee.

The amount hereinabove for the Travel and Tourism, Advertising and Promotion - Cooperative Marketing Program shall be available for expenditure only to the extent that an amount equal to 25% of the State funds are expended from funds raised by the Division of Travel and Tourism pursuant to subsection j. of section 9 of P.L.1977, c.225 (C.34:1A-53), through contributions from private tourism industry concerns and non-State public entities, as determined by the Director of the Division of Budget and Accounting.

Fifty percent of the receipts collected from the use of the Travel and Tourism logo and slogan and the sale of related tourism promotional items are appropriated for the purpose of administering the Travel and Tourism program, subject to the approval of the Director of the Division of Budget and Accounting.

The unexpended balance as of June 30, 1997 for the Council of Economic Advisors is appropriated.

Subject to the approval of the Director of the Division of Budget and Accounting, there is appropriated to the Department of Commerce and Economic Development from the General Fund such sums as may be necessary, as certified by the Commissioner and the Director of the Division of Taxation, to fund business relocation grants made under the "Business Relocation Assistance Grant Act," the amount of which shall not exceed the new income tax revenues as defined in section 2 of P.L.1996, c.25 (C.34:1B-113). In addition to the report required pursuant to section 10 of P.L.1996, c.25 (C.34:1B-1.1), the commissioner shall provide the Joint Budget Oversight Committee, on or before November 1, 1997, with a report of the grants funded in the prior fiscal year including, but not limited to, a summary of each grant agreement and the amount of each grant funded in that year.

Subject to the approval of the Director of the Division of Budget and Accounting, there is appropriated to the New Jersey Economic Development Authority from the General Fund such sums as may be necessary to fund the Business Employment Incentive program, the amount of which shall not exceed the total amount of revenues received as withholdings, as defined in section 2 of P.L.1996, c.26 (C.34:1B-125), from all businesses receiving grants pursuant to the "Business Employment Incentive Program Act," P.L.1996 c.26 (C.34:1B-124 et seq.), as certified by the Director of the Division of Taxation. The commissioner shall provide the Joint Budget Oversight Committee, on or before November 1, 1997, with a report of the grants funded in the prior fiscal year including, but not limited to, a summary of each grant agreement and the amount of each grant funded in that year.

Subject to the approval of the Director of the Division of Budget and Accounting, of the sums hereinabove appropriated, or otherwise made available, for the Office of Sustainability, the Commissioner of the Department of Commerce and Economic Development is authorized to contract with the New Jersey Economic Development Authority which shall finance loans to sustainable businesses.

2890 New Jersey Commission on Science and Technology

24-2890 New Jersey Commission on Science and Technology.	$426,000
Total Appropriation, New Jersey Commission on Science and Technology	$426,000
Personal Services:	
Salaries and Wages	($369,000)
Materials and Supplies	(9,000)
Services Other Than Personal	(37,000)
Maintenance and Fixed Charges	(11,000)

Total Appropriation, Department of Commerce and Economic Development	$16,969,000

22 DEPARTMENT OF COMMUNITY AFFAIRS

40 Community Development and Environmental Management

41 Community Development Management

01-8010 Housing Code Enforcement	$4,436,000
02-8020 Housing Services	2,958,000
03-8040 Special Urban Services	1,450,000
04-8030 Local Government Services	3,097,000
06-8015 Uniform Construction Code	4,199,000
12-8025 Boarding Home Regulation and Assistance	1,128,000
13-8027 Codes and Standards	174,000

18-8017 Uniform Fire Code 3,321,000
Total Appropriation, Community Development Management $20,763,000
Personal Services:
Board Members (7@ $12,000) ..... ($84,000)
Salaries and Wages ..... (14,187,000)
Materials and Supplies ..... (149,000)
Services Other Than Personal ..... (990,000)
Maintenance and Fixed Charges ..... (680,000)
Special Purpose:
Prevention of Homelessness ..... (243,000)
Neighborhood Preservation-Fair Housing P.L.1985, c.222 ..... (1,050,000)
Council on Affordable Housing ..... (1,350,000)
Main Street New Jersey ..... (200,000)
Office of Neighborhood Empowerment ..... (1,000,000)
Urban Coordinating Council -- Local Support Services ..... (350,000)
Capital City Redevelopment Corporation Transition Funding ..... (100,000)
Local Fire Fighters' Training ..... (375,000)
Additions, Improvements and Equipment ..... (5,000)

The amount hereinabove for the Housing Code Enforcement program classification is payable out of the fees and penalties derived from bureau activities. If the receipts are less than anticipated, the appropriation shall be reduced proportionately.

The unexpended balance as of June 30, 1997, in the Housing Code Enforcement program classification, together with any receipts in excess of the amount anticipated, is appropriated, subject to the approval of the Director of the Division of Budget and Accounting.

The unexpended balance as of June 30, 1997 in the several Uniform Construction Code program classification fees accounts, together with any receipts in excess of the amounts anticipated, is appropriated for expenses of code enforcement activities, subject to the approval of the Director of the Division of Budget and Accounting.

The unexpended balance as of June 30, 1997 in the Planned Real Estate Development Full Disclosure Act fees account together with any receipts in excess of the amount anticipated is appropriated, subject to the approval of the Director of the Division of Budget and Accounting.

The amounts received by the Uniform Construction Code Revolving Fund attributable to that portion of the surcharge fee in excess of $0.0006, and to surcharges on other construction, shall be dedicated to the general support of the Uniform Construction Code Program, and, notwithstanding the provisions of section 2 of P.L.1979, c.121 (C.52:27D-124.1), shall be available for training and non-training purposes. Notwithstanding the provision of law to the contrary, unexpended balances as of June 30, 1997 in the Uniform Construction Code Revolving Fund are appropriated.

Such sums as may be required for the registration of builders and reviewing and paying claims under the "New Home Warranty and Builders' Registration Act," P.L.1977, c.467 (C.46:3B-1 et seq.), are appropriated from the New Home Warranty Security Fund in accordance with section 7 of P.L.1977, c.467 (C.46:3B-7), subject to the approval of the Director of the Division of Budget and Accounting.

The unexpended balance as of June 30, 1997 in the Uniform Fire Code program classification, together with any receipts in excess of the amount anticipated is appropriated, subject to the approval of the Director of the Division of Budget and Accounting.

The amounts hereinabove for the Uniform Fire Code program classification are payable out of the fees and penalties derived from code enforcement activities. If the receipts are less than anticipated, the appropriations shall be reduced proportionately.

The amount hereinabove for the Council on Affordable Housing and Neighborhood Preservation-Fair Housing accounts shall be payable from the receipts of the portion of the realty transfer tax directed to be credited to the Neighborhood Preservation Nonlapsing Revolving Fund pursuant to section 4 of P.L.1968, c.49 (C.46:15-8) and from the receipts of the portion of the realty transfer tax directed to be credited to the Neighborhood Preservation Nonlapsing Revolving Fund pursuant to section 4 of P.L.1975, c.176 (C.46:15-10.1). Any receipts in excess of the amount anticipated, and any unexpended balance as of June 30, 1997 are appropriated, subject to the approval of the Director of the Division of Budget and Accounting.

There are appropriated such sums as may be necessary, not to exceed $1,000,000, to meet the emergency and transitional shelter needs of the homeless and domestic violence victims and related costs, subject to the approval of the Director of the Division of Budget and Accounting.

Upon determination by the Commissioner that all eligible shelter assistance projects have received funding from the amount appropriated for Shelter Assistance from receipts of the portions of the realty transfer tax dedicated to the Neighborhood Preservation Nonlapsing Revolving Fund, any available balance in the Shelter Assistance account may be transferred to the Neighborhood Preservation-Fair Housing account, subject to the approval of the Director of the Division of Budget and Accounting.

Any receipts from the sale of truth in renting statements, including fees, fines, and penalties, are appropriated.

Receipts from the New Jersey Housing and Mortgage Finance Agency charges for the Affordable Housing Management Service to municipalities and the unexpended balance as of June 30, 1997 are appropriated for the operation of the Affordable Housing Management Service within the Division of Housing.

Receipts from the Division of Local Government Services are appropriated, subject to the approval of the Director of the Division of Budget and Accounting.

Fees for local government, authority, and special district audits, education program administration, debt financing, expedited budget review and other fiscal services as authorized by the Local Finance Board are appropriated for associated expenses, subject to the approval of the Director of the Division of Budget and Accounting.

Pursuant to section 15 of P.L.1983, c.530 (C.55:14K-15), the Commissioner shall determine, at least annually, the eligibility of each boarding house resident for rental assistance payments; and notwithstanding any provision of P.L.1983, c.530 (C.55:14K-1 et seq.) to the contrary, moneys held in the Boarding House Rental Assistance Fund that were originally appropriated from the General Fund may be used by the Commissioner for the purpose of providing life safety improvement loans, and any moneys held in the Boarding House Rental Assistance Fund may be used for the purpose of providing rental assistance for repayment of such loans. Notwithstanding any provision of P.L.1983, c.530, the Commissioner of the Department of Community Affairs shall have authority to disburse funds from the Boarding House Rental Assistance Fund established pursuant to section 14 of said act for the purpose of repaying, through rental assistance or otherwise, loans made to the boarding house owners for the purpose of rehabilitating boarding houses.

Receipts from repayment of loans from the Urban Multi-Family Production Program, together with the unexpended balance of such loan repayments as of June 30, 1997 are appropriated for the purpose of funding additional urban multi-family housing projects.

The unexpended balance as of June 30, 1997 in the Special Urban Services program classification is appropriated.

Notwithstanding any other law to the contrary, the amount appropriated hereinabove for Capital City Redevelopment Corporation - Transition Funding shall be allocated to provide for the continued expenses related to the betterment of the capital district during the transition period underway pursuant to P.L.1996, c.62 (C.55:19-20 et seq.).

50 Economic Planning, Development and Security
55 Social Services Programs

05-8050 Community Resources		$260,000
15-8051 Womens Programs		812,000
Total Appropriation, Social Services Programs		$1,072,000
Personal Services:		
Salaries and Wages	($688,000)	
Materials and Supplies	(70,000)	
Services Other Than Personal	(101,000)	
Maintenance and Fixed Charges	(6,000)	
Special Purpose:		
Expenses of the New Jersey Commission on Women	(7,000)	
Office on the Prevention of Violence Against Women	(200,000)	

Receipts from divorce filing fees pursuant to P.L.1993, c.188 are appropriated.

70 Government Direction, Management and Control
76 Management and Administration

99-8070 Management and Administrative Services		$2,202,000
Total Appropriation, Management and Administration		$2,202,000
Personal Services:		
Salaries and Wages	($1,833,000)	
Materials and Supplies	(10,000)	
Services Other Than Personal	(272,000)	
Maintenance and Fixed Charges	(26,000)	
Special Purpose:		
Affirmative Action and Equal Employment Opportunity	(60,000)	
Additions, Improvements and Equipment	(1,000)	
Total Appropriation, Department of Community Affairs		$24,037,000

26 DEPARTMENT OF CORRECTIONS
10 Public Safety and Criminal Justice
16 Detention and Rehabilitation
7025 System-Wide Program Support

07-7025 Institutional Control and Supervision		$13,431,000
13-7025 Institutional Program Support		24,944,000
Total Appropriation, System-Wide Program Support		$38,375,000
Personal Services:		
Salaries and Wages	($18,753,000)	
Materials and Supplies	(2,000)	
Services Other Than Personal	(449,000)	
Special Purpose:		
Central Office Transportation Unit	(296,000)	
Central Transport -- South Woods State Prison.	(382,000)	

Special Operations Group ..... (75,000)
Integrated Information Systems Development ..... (2,441,000)
Augment Medical Care At Institutions ..... (567,000)
CMS Medical Contract Escalator. ..... (1,652,000)
Social Services Block Grant Support ..... (41,000)
Inmate Work Details Program ..... (1,280,000)
Return of Escapees and Absconders ..... (176,000)
Mutual Agreement Program. ..... (4,090,000)
Recruit Screening Program ..... (171,000)
Radio Maintenance ..... (177,000)
Drug Courts ..... (500,000)
Maintenance of McCorkle Facility. ..... (470,000)
DOC/DOT Work Details ..... (500,000)
Institutional Support -- South Woods State Prison .... (630,000)
Video Teleconferencing ..... (500,000)
Increased Operating Costs. ..... 5,113,000)
Additions, Improvements and Equipment ..... (110,000)

The unexpended balance as of June 30, 1997 in the Integrated Information Systems Development account is appropriated to provide funding for the cost of replacing the Department of Corrections S/36 Correctional Management Information System subject to the approval of the Director of the Division of Budget and Accounting, the expenditures of which shall directly improve the department's ability to collect fines, restitutions, penalties, surcharges or other debts owed by inmates.

The appropriation hereinabove for Drug Courts shall be transferred to the appropriate agencies in the amounts necessary to implement this initiative, subject to the approval of the Director of the Division of Budget and Accounting.

The amount appropriated for CMS Medical Contract Escalator shall be allocated to applicable institutional accounts as shall be determined by the commissioner with the approval of the Director of the Division of Budget and Accounting.

7040 New Jersey State Prison

07-7040 Institutional Control and Supervision $53,008,000
08-7040 Institutional Care Program 15,205,000
09-7040 Institutional Treatment Program 2,224,000
10-7040 Education Program 780,000
19-7040 Physical Plant and Support Services 6,486,000
99-7040 Management and Administrative Services 1,936,000
Total Appropriation, New Jersey State Prison $79,639,000
Personal Services:
Salaries and Wages ..... ($58,570,000)
Food In Lieu of Cash ..... (130,000)
Materials and Supplies ..... (9,842,000)
Services Other Than Personal ..... (9,884,000)
Maintenance and Fixed Charges ..... (1,087,000)
Special Purpose:
Other Special Purpose ..... (1,000)
Additions, Improvements and Equipment ..... (125,000)

7050 East Jersey State Prison

07-7050 Institutional Control and Supervision $33,438,000
08-7050 Institutional Care Program 12,311,000
09-7050 Institutional Treatment Program 1,978,000
10-7050 Education Program 472,000

19-7050	Physical Plant and Support Services	4,191,000
22-7050	Northern Regional Pre-Release Center	3,621,000
99-7050	Management and Administrative Services	1,480,000
	Total Appropriation, East Jersey State Prison	$57,491,000
Personal Services:		
	Salaries and Wages	($39,422,000)
	Food In Lieu of Cash	(87,000)
Materials and Supplies		(7,441,000)
Services Other Than Personal		(9,303,000)
Maintenance and Fixed Charges		(1,113,000)
Additions, Improvements and Equipment		(125,000)

7055 South Woods State Prison

07-7055	Institutional Control and Supervision	$31,111,000
08-7055	Institutional Care Program	11,321,000
09-7055	Institutional Treatment Program	2,420,000
10-7055	Education Program	1,806,000
19-7055	Physical Plant and Support Services	7,251,000
99-7055	Management and Administrative Services	10,999,000
	Total Appropriation, South Woods State Prison	$64,908,000
Personal Services:		
	Salaries and Wages	($37,674,000)
	Food In Lieu of Cash	(123,000)
Materials and Supplies		(8,976,000)
Services Other Than Personal		(7,585,000)
Maintenance and Fixed Charges		(794,000)
Special Purpose:		
	State Match -- Edward Byrne Drug Treatment Grant	(250,000)
	Start-Up Equipment	(9,381,000)
Additions, Improvements and Equipment		(125,000)

7060 Bayside State Prison

07-7060	Institutional Control and Supervision	$24,530,000
08-7060	Institutional Care Program	11,645,000
09-7060	Institutional Treatment Program	1,753,000
10-7060	Education Program	647,000
19-7060	Physical Plant and Support Services	4,318,000
23-7060	Bayside Reception Unit	3,291,000
99-7060	Management and Administrative Services	1,183,000
	Total Appropriation, Bayside State Prison	$47,367,000
Personal Services:		
	Salaries and Wages	($30,553,000)
	Food In Lieu of Cash	(73,000)
Materials and Supplies		(6,994,000)
Services Other Than Personal		(8,048,000)
Maintenance and Fixed Charges		(1,573,000)
Special Purpose:		
	Other Special Purpose	(1,000)
Additions, Improvements and Equipment		(125,000)

7065 Southern State Correctional Facility

07-7065	Institutional Control and Supervision	$28,238,000
08-7065	Institutional Care Program	7,400,000

09-7065 Institutional Treatment Program 1,755,000
10-7065 Education Program 488,000
19-7065 Physical Plant and Support Services 2,766,000
99-7065 Management and Administrative Services 1,254,000
Total Appropriation, Southern State Correctional Facility $41,901,000
Personal Services:
Salaries and Wages. ..... ($31,319,000)
Food In Lieu of Cash ..... (63,000)
Materials and Supplies ..... (3,859,000)
Services Other Than Personal ..... (5,496,000)
Maintenance and Fixed Charges ..... (1,038,000)
Special Purpose:
Other Special Purpose ..... (1,000)
Additions, Improvements and Equipment ..... (125,000)

7070 Mid-State Correctional Facility

07-7070 Institutional Control and Supervision $9,010,000
08-7070 Institutional Care Program 3,570,000
09-7070 Institutional Treatment Program 951,000
10-7070 Education Program 236,000
19-7070 Physical Plant and Support Services 1,420,000
99-7070 Management and Administrative Services 611,000
Total Appropriation, Mid-State Correctional Facility. $15,798,000
Personal Services:
Salaries and Wages ..... ($11,314,000)
Food In Lieu of Cash ..... (29,000)
Materials and Supplies ..... (1,768,000)
Services Other Than Personal ..... (2,342,000)
Maintenance and Fixed Charges ..... (220,000)
Additions, Improvements and Equipment ..... (125,000)
In addition to the sums appropriated hereinabove for Salaries and Wages for Institutional Control and Supervision, the Commissioner of the Department of Corrections, with the approval of the Director of the Division of Budget and Accounting, may transfer or credit to these accounts, an amount up to $1,000,000 from other appropriations to reflect savings from commissary operations.

7075 Riverfront State Prison

07-7075 Institutional Control and Supervision $17,150,000
08-7075 Institutional Care Program 6,478,000
09-7075 Institutional Treatment Program 1,622,000
10-7075 Education Program 342,000
19-7075 Physical Plant and Support Services 1,932,000
99-7075 Management and Administrative Services 825,000
Total Appropriation, Riverfront State Prison $28,349,000
Personal Services:
Salaries and Wages ..... ($20,144,000)
Food In Lieu of Cash ..... (48,000)
Materials and Supplies ..... (3,000,000)
Services Other Than Personal ..... (4,689,000)
Maintenance and Fixed Charges ..... (339,000)
Special Purpose:
Other Special Purpose ..... (4,000)
Additions, Improvements and Equipment ..... (125,000)

7080 Edna Mahan Correctional Facility for Women

07-7080	Institutional Control and Supervision	$18,175,000
08-7080	Institutional Care Program	6,666,000
09-7080	Institutional Treatment Program	1,048,000
10-7080	Education Program	275,000
19-7080	Physical Plant and Support Services	3,101,000
99-7080	Management and Administrative Services	973,000
	Total Appropriation, Edna Mahan Correctional Facility for Women	$30,238,000
Personal Services:		
	Salaries and Wages	($21,943,000)
	Food In Lieu of Cash	(61,000)
Materials and Supplies		(3,472,000)
Services Other Than Personal		(3,997,000)
Maintenance and Fixed Charges		(640,000)
Additions, Improvements and Equipment		(125,000)

In addition to the amounts appropriated hereinabove, upon the final disposition of an independent audit of Cogeneration costs and upon the approval of the Director of the Division of Budget and Accounting and the Joint Budget Oversight Committee, there is appropriated $512,000 for increased utility costs.

7085 Northern State Prison

07-7085	Institutional Control and Supervision	$33,483,000
08-7085	Institutional Care Program	15,515,000
09-7085	Institutional Treatment Program	2,042,000
10-7085	Education Program	553,000
19-7085	Physical Plant and Support Services	4,146,000
21-7085	Minimum Security Unit	5,524,000
99-7085	Management and Administrative Services	1,275,000
	Total Appropriation, Northern State Prison	$62,538,000
Personal Services:		
	Salaries and Wages	($41,065,000)
	Food In Lieu of Cash	(98,000)
Materials and Supplies		(8,234,000)
Services Other Than Personal		(11,847,000)
Maintenance and Fixed Charges		(1,036,000)
Special Purpose:		
	State Match -- Edward Byrne Drug Treatment Grant	(133,000)
Additions, Improvements and Equipment.		(125,000)

7090 Adult Diagnostic and Treatment Center, Avenel

07-7090	Institutional Control and Supervision	$11,816,000
08-7090	Institutional Care Program	5,065,000
09-7090	Institutional Treatment Program	1,148,000
10-7090	Education Program	189,000
19-7090	Physical Plant and Support Services	1,396,000
99-7090	Management and Administrative Services	806,000
	Total Appropriation, Adult Diagnostic and Treatment Center, Avenel.	$20,420,000
Personal Services:		
	Salaries and Wages	($14,017,000)
	Food In Lieu of Cash	(33,000)
Materials and Supplies		(1,958,000)

Services Other Than Personal ..... (3,916,000)
Maintenance and Fixed Charges ..... (368,000)
Special Purpose:
Other Special Purpose ..... (3,000)
Additions, Improvements and Equipment ..... (125,000)

7110 Garden State Reception and Youth Correctional Facility

07-7110 Institutional Control and Supervision $21,627,000
08-7110 Institutional Care Program 11,098,000
09-7110 Institutional Treatment Program 2,869,000
10-7110 Education Program 144,000
19-7110 Physical Plant and Support Services 2,115,000
99-7110 Management and Administrative Services 1,024,000
Total Appropriation, Garden State Reception and Youth Correctional Facility $38,877,000
Personal Services:
Salaries and Wages. ..... ($25,594,000)
Food In Lieu of Cash ..... (64,000)
Materials and Supplies ..... (4,659,000)
Services Other Than Personal ..... (7,670,000)
Maintenance and Fixed Charges ..... (613,000)
Special Purpose:
State Match -- Residential Substance Abuse Treatment Grant ..... (151,000)
Other Special Purpose ..... (1,000)
Additions, Improvements and Equipment ..... (125,000)

7120 Albert C. Wagner Youth Correctional Facility

07-7120 Institutional Control and Supervision $26,612,000
08-7120 Institutional Care Program 8,010,000
09-7120 Institutional Treatment Program 1,490,000
10-7120 Education Program 288,000
19-7120 Physical Plant and Support Services 2,645,000
99-7120 Management and Administrative Services 806,000
Total Appropriation, Albert C. Wagner Youth Correctional Facility $39,851,000
Personal Services:
Salaries and Wages ..... ($25,915,000)
Food In Lieu of Cash ..... (58,000)
Materials and Supplies ..... (3,988,000)
Services Other Than Personal ..... (5,336,000)
Maintenance and Fixed Charges ..... (455,000)
Special Purpose:
Adult Offender Boot Camp ..... (3,964,000)
Other Special Purpose ..... (10,000)
Additions, Improvements and Equipment ..... (125,000)
Receipts derived from the Upholstery Program at the Albert C. Wagner Youth Correctional Facility, and any unexpended balance as of June 30, 1997 are appropriated for the operation of the program with surplus funds being credited to the institution's Inmate Welfare Fund, subject to the approval of the Director of the Division of Budget and Accounting.

7130 Mountainview Youth Correctional Facility

07-7130 Institutional Control and Supervision $19,357,000
08-7130 Institutional Care Program 7,961,000
09-7130 Institutional Treatment Program 1,766,000
10-7130 Education Program 176,000
19-7130 Physical Plant and Support Services 2,844,000
99-7130 Management and Administrative Services 1,039,000
Total Appropriation, Mountainview Youth Correctional Facility. . . $33,143,000
Personal Services:
Salaries and Wages ..... ($22,102,000)
Food In Lieu of Cash ..... (57,000)
Materials and Supplies ..... (4,178,000)
Services Other Than Personal ..... (5,905,000)
Maintenance and Fixed Charges ..... (615,000)
Special Purpose:
Sewage Hauling and Disposal Costs ..... (161,000)
Additions, Improvements and Equipment. ..... (125,000)

17 Parole

7010 Office of Parole and Community Programs

03-7010 Parol $30,171,0000
Total Appropriation, Office of Parole and Community Programs . . $30,171,000
Personal Services:
Salaries and Wages ..... ($20,967,000)
Materials and Supplies ..... (149,000)
Services Other Than Personal ..... (431,000)
Maintenance and Fixed Charges ..... (248,000)
Special Purpose:
Payments To Inmates Discharged From Facilities ..... (94,000)
Parolee Electronic Monitoring Program ..... (3,921,000)
Expanded Intensive Supervision/Surveillance Program ..... (2,510,000)
High Impact Diversion Program ..... (714,000)
Parolee Drug Treatment. ..... (800,000)
State Match -- Truth in Sentencing Grant ..... (317,000)
Additions, Improvements and Equipment ..... (20,000)
No State funds shall be utilized for any expense related to a county electronic monitoring program.

7280 State Parole Board

05-7280 State Parole Board $8,294,000
Total Appropriation, State Parole Board $8,294,000
Personal Services:
Salaries and Wages ..... ($7,347,000)
Materials and Supplies ..... (157,000)
Services Other Than Personal ..... (354,000)
Maintenance and Fixed Charges ..... (116,000)
Special Purpose:
South Woods State Prison ..... (195,000)
Video Teleconferencing ..... (30,000)
Additions, Improvements and Equipment ..... (95,000)

10 Public Safety and Criminal Justice
19 Central Planning, Direction and Management

01-7000	Planning, Management and General Support	$2,199,000
02-7000	Program Operations Support	2,372,000
19-7000	Physical Plant and Support Services	1,112,000
99-7000	Management and Administrative Services	8,592,000
	Total Appropriation, Central Planning, Direction and Management	$14,275,000
	Personal Services:	
	Salaries and Wages	($11,573,000)
	Materials and Supplies	(454,000)
	Services Other Than Personal	(1,620,000)
	Maintenance and Fixed Charges	(314,000)
	Special Purpose:	
	Affirmative Action and Equal Employment Opportunity	(213,000)
	Additions, Improvements and Equipment	(101,000)
	Total Appropriation, Department of Corrections	$651,635,000

The Commissioner of the Department of Corrections may transfer from the New Jersey State Prison and the Garden State Reception and Youth Correctional Facility budgets, such sums as are necessary to create the Vroom Central Reception and Assignment Facility as a separate organization, subject to the approval of the Director of the Division of Budget and Accounting.

Balances on hand as of June 30, 1997 of funds held for the benefit of inmates in the several institutions, and such funds as may be received, are appropriated for the use of such inmates.

Payments received by the State from employers of prisoners on their behalf, as part of any work release program, are appropriated for the purposes provided under P.L.1969, c.22 (C:30:4-91.4 et seq.).

Of the amount hereinabove for the Department of Corrections, such sums as the Director of the Division of Budget and Accounting shall determine from the schedule at page K-40 in the Governor's Budget Recommendation Document dated January 29, 1997 first shall be charged to the State Lottery Fund.

34 DEPARTMENT OF EDUCATION
30 Educational, Cultural and Intellectual Development
31 Direct Educational Services and Assistance

04-5064	Adult and Continuing Education	$102,000
05-5064	Bilingual Education	217,000
06-5064	Programs for Disadvantaged Youths	8,000
07-5065	Special Education	165,000
54-5010	Support of the Arts	81,000
	Total Appropriation, Direct Educational Services and Assistance	$573,000
	Personal Services:	
	Salaries and Wages	($461,000)
	Materials and Supplies	(27,000)
	Services Other Than Personal	(85,000)

Receipts derived from tuition charges at the New Jersey School of the Arts and the unexpended balance as of June 30, 1997 of such receipts, are appropriated for the cost of operation.

32 Operation and Support of Educational Institutions

12-5011	Marie H. Katzenbach School for the Deaf	$8,973,000
13-5011	Program For Behaviorally Difficult Deaf Pupils	486,000
	Total Appropriation, State and All Other Funds	$9,459,000
Less:		
All Other Funds		
	Marie H. Katzenbach School for the Deaf	***$6,426,000***
	Program for Behaviorally Difficult Deaf Pupils	***486,000***
	Total Deductions	***$6,912,000***
	Total Appropriation, Operation and Support of Educational Institutions	$2,547,000
Personal Services:		
	Salaries and Wages	($7,734,000)
	Employee Benefits	(67,000)
Materials and Supplies		(743,000)
Services Other Than Personal		(269,000)
Maintenance and Fixed Charges		(568,000)
Special Purpose:		
	Transportation Expenses for Students	(39,000)
Additions, Improvements and Equipment		(39,000)
Less:		
	All Other Funds	***6,912,000***

Notwithstanding the provisions of N.J.S.18A:61-1 and N.J.S.18A:46-13, or any other statute, for the 1997-98 academic year, local boards of education shall reimburse the Marie H. Katzenbach School for the Deaf at an annual rate and payment schedule adopted by the Commissioner of Education and the Director of the Division of Budget and Accounting.

Any income from the rental of vacant space at the Marie H. Katzenbach School for the Deaf is appropriated for costs associated with the school's facilities.

The unexpended balance as of June 30, 1997, in the receipt account of the Marie H. Katzenbach School for the Deaf is appropriated for expenses of operating the school.

Receipts derived from tuition for behaviorally difficult students are appropriated for the operation of the program.

The unexpended balance as of June 30, 1997, of receipts derived from charges at the regional schools for the handicapped is appropriated for the costs associated with the regional schools' facilities.

33 Supplemental Education and Training Programs

20-5062	General Vocational Education	$297,000
	Total Appropriation, Supplemental Education and Training Programs	$297,000
Personal Services:		
	Salaries and Wages	($250,000)
Materials and Supplies		(16,000)
Services Other Than Personal		(31,000)

34 Educational Support Services

30-5063	Academic Programs and Standards	$7,938,000
31-5060	Grants Management and Development	584,000
32-5061	Professional Development and Licensure	1,578,000
33-5067	Service to Local Districts	6,262,000
34-5067	Equal Educational Opportunity	141,000

35-5069 Urban Education 327,000
36-5120 Pupil Transportation 266,000
37-5120 School Nutrition 134,000
38-5120 Facilities Planning and School Building Aid 277,000
40-5064 Health, Safety and Community Services 1,803,000
Total Appropriation, Educational Support Services $19,310,000
Personal Services:
Salaries and Wages ..... ($10,198,000)
Materials and Supplies ..... (340,000)
Services Other Than Personal ..... (729,000)
Maintenance and Fixed Charges ..... (52,000)
Special Purpose:
Improved Basic Skills/Special Review Assessment ..... (95,000)
Statewide Assessment Program (Grades 4, 8, 11) ..... (6,587,000)
Student Services -- State Mandated 4th Grade Civics Program ..... (20,000)
Core Curriculum Standards. ..... (100,000)
Advisory Council On Holocaust Education ..... (144,000)
Blueprint For A Drug-Free New Jersey ..... (30,000)
Demonstrably Effective Program Resource Team .. (1,000,000)
Additions, Improvements and Equipment ..... (15,000)

Receipts from the State Board of Examiners' fees in excess of those anticipated and the unexpended balances of such receipts as of June 30, 1997 are appropriated for the operation of the Professional Development and Licensure programs.

Receipts derived from charges at the Regional Training Centers in excess of those anticipated and the unexpended balance as of June 30, 1997 of such receipts are appropriated for the costs of operation.

Receipts derived from special training initiatives of the Regional Training Centers to assist school districts in meeting new standards established by the Department of Education are appropriated for the operation of the program.

The unexpended balance as of June 30, 1997, in the Inspection of school construction account and receipts in excess of the amount anticipated, are appropriated for the operation of the school construction inspection program.

35 Education Administration and Management

42-5120 School Finance $1,110,000
43-5092 Compliance and Auditing 1,376,000
99-5010 Management and Administrative Services 7,501,000
Total Appropriation, Education Administration and Management .. $9,987,000
Personal Services:
Salaries and Wages. ..... ($7,562,000)
Materials and Supplies ..... (242,000)
Services Other Than Personal ..... (817,000)
Maintenance and Fixed Charges ..... (75,000)
Special Purpose:
Comprehensive Compliance Audits ..... (75,000)
State Board of Education Expenses ..... (62,000)
Affirmative Action and Equal Employment Opportunity ..... (46,000)
Comprehensive Plan Implementation--Technology ... (798,000)
Additions, Improvements and Equipment ..... (310,000)

Such sums as may be necessary for the operating costs of the audit of enrollment registers are appropriated from revenues that may be received or are receivable for this program, subject to the recommendation of the Commissioner of Education and the approval of the Director of the Division of Budget and Accounting.

In addition to the amount appropriated, such sums as may be necessary for the Department of Education to conduct comprehensive compliance investigations are appropriated, subject to the recommendation of the Commissioner of Education and the approval of the Director of the Division of Budget and Accounting.

Additional sums as may be necessary for the Department of Education in preparation for implementation of P.L.1987, c.399 (C.18A:7A-34 et seq.) are appropriated, subject to the recommendation of the Commissioner of Education and the approval of the Director of the Division of Budget and Accounting and the Joint Budget Oversight Committee or its successor.

Additional sums as may be necessary for the Department of Education for the cost of the internal audit function in a State-operated school district pursuant to section 8 of P.L.1987, c.399 (C.18A:7A-41) are appropriated, subject to the recommendation of the Commissioner of Education and the approval of the Director of the Division of Budget and Accounting.

Receipts derived from fees for school district personnel background checks and the unexpended balances as of June 30, 1997 of such receipts are appropriated for the cost of operation.

Total Appropriation, Department of Education $32,714,000

In addition to the amounts appropriated hereinabove, an amount not to exceed $2,500,000 is appropriated for the costs of implementing the "Comprehensive Educational Improvement and Financing Act of 1996," P.L.1996, c.138 (C.18A:7F-1 et seq.), in accordance with the New Jersey Supreme Court decision in Abbott v. Burke dated May 14, 1997, subject to the approval of the Director of the Division of Budget and Accounting.

Of the amount appropriated hereinabove for the Department of Education, such sums as the Director of the Division of Budget and Accounting shall determine from the schedule at page K-40 in the Governor's Budget Recommendation Document dated January 29, 1997 first shall be charged to the State Lottery Fund.

42 DEPARTMENT OF ENVIRONMENTAL PROTECTION

40 Community Development and Environmental Management

42 Natural Resource Management

10-4865	Marina Operations	$692,000
11-4870	Forest Resource Management	5,656,000
12-4875	Parks Management	28,480,000
13-4880	Hunters and Anglers License Fund	10,945,000
14-4885	Shellfish and Marine Fisheries Management	1,366,000
20-4880	Wildlife Management	312,000
21-4895	Natural Resources Engineering	1,847,000
24-4876	Palisades Interstate Park Commission	1,813,000
	Total Appropriation, Natural Resource Management	$51,111,000
Personal Services:		
	Salaries and Wages	($33,820,000)
Materials and Supplies		(4,283,000)
Services Other Than Personal		(2,038,000)
Maintenance and Fixed Charges		(2,785,000)

Special Purpose:
- Fire Fighting Costs ..... (1,025,000)
- Historic Trust Administrative Costs ..... (420,000)
- New Jersey Trails Expansion ..... (350,000)
- Green Acres Administration ..... (3,848,000)
- Liberty State Park Commission ..... (22,000)
- Expenses of the Delaware and Raritan Canal Commission ..... (178,000)
- Delaware and Raritan Canal Commission, Canal Corridor Base Maps ..... (65,000)
- Natural Lands Trust ..... (90,000)
- Natural Areas Council ..... (5,000)
- Historic Trust ..... (95,000)
- Endangered Species Tax Check-Off Donations ..... (312,000)
- Emergency Flood Control Administrative Costs ..... (242,000)
- Dam Repair Administrative Costs. ..... (263,000)
- Harbor Cleanup Administrative Costs ..... (143,000)
- Atlantic States Marine Fisheries Commission, Past Dues ..... (83,000)

Additions, Improvements and Equipment ..... (1,044,000)

An amount equivalent to 75% of receipts in excess of the amount anticipated from fees and permit receipts from the use of State park and marina facilities, and the unexpended balance as of June 30, 1997 of such receipts, are appropriated for Parks Management, subject to the approval of the Director of the Division of Budget and Accounting.

Notwithstanding the provisions of P.L.1985, c.533 (C.13:1E-99.1 et seq.) or any other law to the contrary, of the amount hereinabove for Parks Management, $725,000 is appropriated from the Clean Communities Fund to offset the cost of Parks' litter pickup program.

The amount hereinabove for the Historic Trust Administrative Costs account is appropriated from the Historic Preservation Fund established pursuant to the "Green Acres, Clean Water, Farmland and Historic Preservation Bond Act of 1992," P.L.1992, c.88, and the "Green Acres, Farmland and Historic Preservation, and Blue Acres Bond Act of 1995," P.L.1995, c.204, together with an amount not to exceed $209,000 subject to the approval of the Director of the Division of Budget and Accounting, for costs attributable to planning, administrative, organization, and operating expenses related to historic preservation projects.

The amount hereinabove for the Green Acres Administration account is appropriated from the 1992 New Jersey Green Acres Fund and the 1992 New Jersey Green Trust Fund pursuant to the "Green Acres, Clean Water, Farmland and Historic Preservation Bond Act of 1992," P.L.1992, c.88, and the 1995 New Jersey Green Acres Fund and the 1995 New Jersey Green Trust Fund pursuant to the "Green Acres, Farmland and Historic Preservation, and Blue Acres Bond Act of 1995," P.L.1995, c.204, together with an amount not to exceed $2,083,000 subject to the approval of the Director of the Division of Budget and Accounting, for the administration of the Green Acres program.

Receipts from police court, stands, concessions and self-sustaining activities operated or supervised by the Palisades Interstate Park Commission, and the unexpended balance as of June 30, 1997 of such receipts, are appropriated.

The amount hereinabove for the Hunters' and Anglers' License Fund is payable out of said Fund and any amount remaining therein and the unexpended balance as of June 30, 1997 in the Hunters' and Anglers' License Fund, together with any receipts in excess of the amount anticipated, are appropriated. If receipts to that fund are less than anticipated, the appropriation shall be reduced proportionately.

The amount hereinabove for the Endangered Species Tax Check-Off Donations account is payable out of receipts, and the unexpended balances in the Endangered Species Tax Check-Off Donations account as of June 30, 1997, together with receipts in excess of the amount anticipated, are appropriated. If receipts are less than anticipated, the appropriation shall be reduced proportionately.

An amount to not exceed $1,122,000 is allocated from the capital construction appropriation for Shore Protection Fund Projects for costs attributable to planning, operation, and administration of the shore protection program, subject to the approval of the Director of the Division of Budget and Accounting.

An amount not to exceed $280,000 is allocated from the capital construction appropriation for Shore Protection Fund Projects for the operation and maintenance of the Bayshore Flood Control facility.

The amount hereinabove for the Emergency Flood Control Administrative Costs account is appropriated from funds previously appropriated from the Emergency Flood Control Fund created pursuant to P.L.1978, c.78, together with an amount not to exceed $158,000 subject to the approval of the Director of the Division of Budget and Accounting, for administrative costs related to this bond fund.

The amounts hereinabove for the Harbor Cleanup Administrative Costs and the Dam Repair Administrative Costs accounts are appropriated from funds previously appropriated from the Natural Resources Fund created pursuant to P.L.1980, c.70, together with an amount not to exceed $181,000 subject to the approval of the Director of the Division of Budget and Accounting, for administrative costs related to these bond funds.

43 Science and Technical Programs

01-4820	Radiation Protection	$3,994,000
02-4801	Air Pollution Control	7,004,000
04-4835	Pesticide Control	2,826,000
05-4810	Water Supply and Watershed Management	479,000
07-4850	Water Monitoring and Planning	1,197,000
18-4810	Science and Research	2,554,000
22-4861	Water Quality Management	369,000
29-4815	Environmental Remediation and Monitoring	5,000,000
90-4801	Management Policy and Planning	1,306,000
	Total Appropriation, Science and Technical Programs	$24,729,000
Personal Services:		
	Salaries and Wages	($7,939,000)
Materials and Supplies		(522,000)
Services Other Than Personal		(1,578,000)
Maintenance and Fixed Charges		(374,000)
Special Purpose:		
	Nuclear Emergency Response	(1,658,000)
	Toxic Catastrophe Prevention	(809,000)
	Worker and Community Right to Know Act	(911,000)
	Oil Spill Prevention	(2,174,000)
	Farmworker Protection	(375,000)
	Quality Assurance	(873,000)
	Safe Drinking Water Fund	(479,000)
	Monmouth County Clam Depuration and Relay	(150,000)
	Environmental Indicators and Monitoring	(700,000)
	Aquatic Life-Toxics Study	(200,000)
	Open Space -- Wetlands Assessment	(255,000)
	Hazardous Waste Research	(500,000)

Water Resources Monitoring and
Planning -- Constitutional Dedication ..... (5,000,000)
Additions, Improvements and Equipment ..... (232,000)

There is allocated from the Commercial Vehicle Enforcement Fund, established pursuant to section 17 of P.L.1995, c.157 (C.39:8-75), such sums as may be necessary to fund the costs of the regulation of the Diesel Exhaust Emissions program, subject to the approval of the Director of the Division of Budget and Accounting.

There is allocated from the Motor Vehicle Inspection Fund, established in subsection j. of R.S.39:8-2 such sums as may be necessary to administer and implement the Inspection and Maintenance program, subject to the approval of the Director of the Division of Budget and Accounting.

The amount hereinabove for the Hazardous Waste Research account is appropriated from interest earned by the New Jersey Spill Compensation Fund for research on the prevention and the effects of discharges of hazardous substances on the environment and organisms, on methods of pollution prevention and recycling of hazardous substances, and on the development of improved cleanup, removal and disposal operations, subject to the approval of the Director of the Division of Budget and Accounting.

The amount hereinabove for the Nuclear Emergency Response account is payable from receipts received pursuant to the assessments of electrical utility companies under P.L.1981, c.302 (C.26:2D-37 et seq.), and the unexpended balances as of June 30, 1997 in the Nuclear Emergency Response account, together with receipts in excess of the amount anticipated, not to exceed $1,098,000, are appropriated, subject to the approval of the Director of the Division of Budget and Accounting.

Notwithstanding the provisions of the "Worker and Community Right to Know Act," P.L.1983, c.315 (C.34:5A-1 et seq.), the amount hereinabove for the Worker and Community Right to Know Act account is payable out of the Worker and Community Right to Know Trust Fund, and that receipts in excess of the amount anticipated, not to exceed $267,000, are appropriated. If receipts to that fund are less than anticipated, the appropriation shall be reduced proportionately.

The amount hereinabove for the Oil Spill Prevention program is payable out of the New Jersey Spill Compensation Fund, and the receipts in excess of those anticipated, not to exceed $1,193,000, from the New Jersey Spill Compensation Fund for the Oil Spill Prevention program are appropriated, in accordance with the provisions of P.L.1990, c.76 (C.58:10-23.11f2 et seq.), P.L.1990, c.78 (C.58:10-23.11d1 et seq.), and P.L.1990, c.80 (C.58:10-23.11f1), subject to the approval of the Director of the Division of Budget and Accounting.

The amount hereinabove for the Environmental Remediation and Monitoring program classification shall be provided from revenue received from the Corporation Business Tax, pursuant to the "Corporation Business Tax Act (1945)," P.L.1945, c.162 (C.54:10A–1 et seq.), as dedicated by Article VIII, Section II, paragraph 6 of the State Constitution.

44 Site Remediation

19-4815 Publicly-Funded Site Remediation	$11,491,000
27-4815 Responsible Party Site Remediation	19,714,000
29-4815 Environmental Remediation and Monitoring	5,600,000
Total Appropriation, Site Remediation	$36,805,000
Personal Services:	
Salaries and Wages	($4,910,000)
Materials and Supplies	(379,000)
Services Other Than Personal	(2,609,000)
Maintenance and Fixed Charges	(624,000)

Special Purpose:
Hazardous Waste Bond Administrative Costs. ..... (5,377,000)
Spill Prevention, Response and Site Cleanup,
Non-Site Specific Costs ..... (1,280,000)
Hazardous Discharge Site Cleanup Fund --
Responsible Party ..... (14,428,000)
Industrial Site Recovery Act ..... (399,000)
Underground Storage Tanks ..... (698,000)
Cleanup Projects Administrative Costs --
Constitutional Dedication ..... (5,600,000)
Additions, Improvements and Equipment ..... (501,000)

In addition to site specific charges, the amounts hereinabove for the Publicly-Funded Site Remediation and the Responsible Party Site Remediation program classifications, excluding the Hazardous Waste Bond Administrative Costs, the Hazardous Discharge Site Cleanup Fund-Responsible Party, the Industrial Site Recovery Act, and the Underground Storage Tanks accounts, are appropriated from the New Jersey Spill Compensation Fund, in accordance with the provisions of P.L.1976, c.141 (C.58:10-23.11 et seq.), together with an amount not to exceed $5,030,000, for administrative costs associated with the cleanup of hazardous waste sites, subject to the approval of the Director of the Division of Budget and Accounting.

The amount hereinabove for the Hazardous Waste Bond Administrative Costs account is appropriated from the Hazardous Discharge Fund of 1986, created pursuant to section 14 of the "Hazardous Discharge Bond Act of 1986," P.L.1986, c.113, together with an amount not to exceed $4,388,000 for administrative costs associated with the cleanup of hazardous waste sites, subject to the approval of the Director of the Division of Budget and Accounting.

The amount hereinabove for the Spill Prevention, Response and Site Cleanup, Non-Site Specific Costs account is appropriated from the New Jersey Spill Compensation Fund, together with receipts in excess of those anticipated, not to exceed $844,000, subject to the approval of the Director of the Division of Budget and Accounting.

There are appropriated from the New Jersey Spill Compensation Fund such sums as may be required for cleanup operations, adjusters and paying approved claims for damages in accordance with the provisions of P.L.1976, c.141 (C.58:10-23.11 et seq.), subject to the approval of the Director of the Division of Budget and Accounting.

The amount hereinabove for the Hazardous Discharge Site Cleanup Fund-Responsible Party account is appropriated from responsible party cost recoveries deposited in the Hazardous Discharge Site Cleanup Fund, together with an amount not to exceed $8,659,000, for administrative costs associated with the cleanup of hazardous waste sites, subject to the approval of the Director of the Division of Budget and Accounting.

The amount hereinabove for the Environmental Remediation and Monitoring program classification shall be provided from revenue received from the Corporation Business Tax, pursuant to the "Corporation Business Tax Act (1945)," P.L.1945, c.162 (C.54:10A–1 et seq.), as dedicated by Article VIII, Section II, paragraph 6 of the State Constitution.

Receipts derived from the sale of salvaged materials are appropriated to offset costs incurred in the cleanup and removal of hazardous substances.

45 Environmental Regulation

02-4892 Air Pollution Control $5,498,000
05-4840 Water Supply and Watershed Management 7,135,000
08-4891 Water Pollution Control 7,409,000
09-4860 Public Wastewater Facilities. 628,000
15-4890 Land Use Regulation 6,001,000

17-4900 Solid Waste Resource Management 6,324,000
23-4910 Hazardous Waste Management 3,402,000
Total Appropriation, Environmental Regulation $36,397,000
Personal Services:
Salaries and Wages ..... ($19,630,000)
Materials and Supplies ..... (561,000)
Services Other Than Personal ..... (4,966,000)
Maintenance and Fixed Charges ..... (325,000)
Special Purpose:
Administrative Costs Water Supply
Bond Act of 1981 -- Management ..... (954,000)
Administrative Costs Water Supply
Bond Act of 1981 -- Watershed and Aquifer ..... (1,213,000)
Administrative Costs Water Supply
Bond Act of 1981 -- Planning and Standards ..... (800,000)
Water/Wastewater Operators Licenses ..... (43,000)
Office of the Rivermaster. ..... (58,000)
Safe Drinking Water Fund ..... (1,457,000)
Public Waste Water Facilities Bond ..... (628,000)
Tidelands Resource Council ..... (25,000)
Tidelands Peak Demands ..... (1,799,000)
Office of Permit Information and Assistance ..... (502,000)
Sanitary Landfill Facility Contingency
Fund -- Administration ..... (399,000)
Administration of Resource Recovery and
Solid Waste Disposal Facility Fund ..... (224,000)
Recycling of Solid Waste ..... (919,000)
Pollution Prevention ..... (1,565,000)
Major Hazardous Waste Facilities Siting
Act -- Siting Commission ..... (60,000)
Additions, Improvements and Equipment ..... (269,000)

The amounts hereinabove for the Administrative Costs Water Supply Bond Act of 1981 - Water Supply Management; Watershed and Aquifer; and Planning and Standards accounts are appropriated from the "Water Supply Bond Act of 1981," P.L.1981, c.261, together with an amount, not to exceed $1,347,000, for costs attributable to administration of water supply programs, subject to the approval of the Director of the Division of Budget and Accounting.

Any funds received by the Wastewater Treatment Trust from any State agency to offset the Trust's annual operating expenses are appropriated.

The amount hereinabove for the Public Waste Water Facilities Bond account is appropriated from funds previously appropriated from the Water Conservation Fund, together with an amount not to exceed $347,000 subject to the approval of the Director of the Division of Budget and Accounting, for costs attributable to planning, engineering, developing and constructing regional wastewater treatment facilities.

There is appropriated from the 1992 Wastewater Treatment Fund, created pursuant to the "Green Acres, Clean Water, Farmland and Historic Preservation Bond Act of 1992," P.L.1992, c.88, such sums as may be necessary for costs attributable to the administration of wastewater treatment system projects, subject to the approval of the Director of the Division of Budget and Accounting.

The amount hereinabove for the Sanitary Landfill Facility Contingency Fund - Administration account is appropriated from the Sanitary Landfill Facility Contingency Fund, together with an amount not to exceed $182,000, subject to the approval of the Director of the Division of Budget and Accounting.

The amount hereinabove for the Administration of Resource Recovery and Solid Waste Disposal Facility Fund account is appropriated from the Resource Recovery and Solid Waste Disposal Facility Fund, together with an amount not to exceed $92,000, for administrative costs related to the Resource Recovery and Solid Waste Disposal Facility program, subject to the approval of the Director of the Division of Budget and Accounting.

Notwithstanding the provisions of P.L.1981, c.278 (C.13:1E-92 et seq.), as amended by P.L.1985, c.533, the amount hereinabove for the Recycling of Solid Waste account is appropriated from the balances in the State Recycling Fund, together with an amount not to exceed $503,000, for the administration of the Recycling of Solid Waste program, subject to the approval of the Director of the Division of Budget and Accounting. If receipts are less than anticipated, the appropriation shall be reduced proportionately.

Notwithstanding the provisions of P.L.1985, c.533 (C.13:1E-99.1 et seq.) or any other law to the contrary, all sums in the Clean Communities Account Fund, other than the amount appropriated from the fund for Parks Management to offset the cost of Parks' litter pickup program, shall be distributed as grants to municipalities and counties in accordance with the same criteria used for distribution of grants from the fund pursuant to the fiscal year 1996 appropriations act, P.L.1995, c.164, as determined by the Director of the Division of Budget and Accounting in consultation with the Commissioner of the Department of Environmental Protection.

There are appropriated from the State Recycling Fund and the Clean Communities Account Fund such sums as may be required to carry out the provisions of the "Clean Communities and State Recycling Act," P.L.1981, c.278, as amended by P.L.1985, c.533 (C.13:1E-92 et seq.).

There are appropriated from the Sanitary Landfill Facility Contingency Fund such sums as may be required to carry out the provisions of the "Sanitary Landfill Facility Closure and Contingency Fund Act," P.L.1981, c.306 (C.13:1E-100 et seq.).

Receipts deposited to the Resource Recovery Investment Tax Fund and the Solid Waste Services Tax Fund are appropriated.

The unexpended balance as of June 30, 1997 in the Major Hazardous Waste Facilities Siting Act-Siting Commission account is appropriated.

The amount hereinabove for the Pollution Prevention account is appropriated from receipts received pursuant to the "Pollution Prevention Act," P.L.1991, c.235 (C.13:1D-35 et seq.), together with an amount not to exceed $584,000, subject to the approval of the Director of the Division of Budget and Accounting, for administration of the Pollution Prevention program. If receipts are less than anticipated, the appropriation shall be reduced proportionately.

Notwithstanding the provisions of sections 5 and 6 of P.L.1995, c.188 (C.26:2C-9.5 and 26:2C-9.6), Air Surcharge Reengineering fees, and the unexpended balance as of June 30, 1997 not to exceed $100,000, are appropriated for costs attributable to Air Reengineering Projects.

46 Environmental Planning and Administration

26-4805 Regulatory and Governmental Affairs	$1,755,000
99-4800 Management and Administrative Services	16,443,000
Total Appropriation, Environmental Planning and Administration	$18,198,000
Personal Services:	
Salaries and Wages	($12,541,000)
Materials and Supplies	(525,000)
Services Other Than Personal	(1,735,000)
Maintenance and Fixed Charges	(579,000)

Special Purpose:
Affirmative Action and Equal Employment Opportunity. . . . . (98,000)
Additions, Improvements and Equipment . . . . . (2,720,000)
The unexpended balance as of June 30, 1997, in the Environmental Enhancement and Ecosystem Improvement account is appropriated, of which an amount not to exceed $1,500,000 is transferred to the Department of Commerce and Economic Development for the Office of Sustainability, subject to the approval of the Director of the Division of Budget and Accounting.

47 Enforcement Policy

02-4855	Air Pollution Control	$2,590,000
08-4855	Water Pollution Control	5,831,000
15-4855	Land Use Regulation	1,529,000
17-4855	Solid Waste Resource Management	2,317,000
23-4855	Hazardous Waste Management	1,347,000
	Total Appropriation, Enforcement Policy.	$13,614,000

Personal Services:
Salaries and Wages. . . . . ($10,460,000)
Materials and Supplies . . . . . (171,000)
Services Other Than Personal . . . . . .(1,464,000)
Maintenance and Fixed Charges . . . . . (404,000)
Special Purpose:
Operation Clean Shores . . . . . (360,000)
Tidelands Peak Demands . . . . . (673,000)
Additions, Improvements and Equipment . . . . . (82,000)
The amount hereinabove for the Operations Clean Shores account, and the unexpended balance as of June 30, 1997 is appropriated for that purpose and for the purposes itemized in P.L. , c. (C.) (now pending before the Legislature as Senate Bill No.2214 of 1997).
Receipts deposited into the Coastal Protection Trust Fund pursuant to P.L.1993, c.168 (C.39:3-27.47 et seq.) are appropriated in an amount not to exceed $600,000 for the cleanup or maintenance of beaches or shores, an amount not to exceed $200,000 for the cost of providing monitoring, surveillance and enforcement activities for the Cooperative Coastal Monitoring Program, an amount not to exceed $50,000 for the implementation of the "New Jersey Adopt a Beach Act," P.L.1992, c.213 (C.13:19-22 et seq.), and an amount not to exceed $150,000 for a program of grants for the construction of sewage pump-out devices for marine sanitation devices and portable toilet emptying receptacles at public and private marinas and boatyards in furtherance of the provisions of P.L.1988, c.117 (C.58:10A-56 et seq.). Receipts deposited to the Coastal Protection Trust Fund in excess of $1,000,000 are appropriated to finance emergency shore protection projects and the cleanup of discharges into the ocean.

Total Appropriation, Department of Environmental Protection . . . $180,854,000

The amounts hereinabove for the Safe Drinking Water Fund account are payable out of receipts, and receipts in excess of the amount anticipated, not to exceed $1,246,000, are appropriated, subject to the approval of the Director of the Division of Budget and Accounting. If receipts are less than anticipated, the appropriation shall be reduced proportionately.

The amounts hereinabove for the Tidelands Peak Demands account are appropriated from receipts derived from the sales, grants, leases, licensing, and rentals of State riparian lands, together with an amount not to exceed $1,508,000, subject to the approval of the Director of the Division of Budget and Accounting. If receipts are less than anticipated, the appropriation shall be reduced proportionately.

Notwithstanding any other law, the Commissioner of the Department of Environmental Protection shall obtain concurrence from the Director of the Division of Budget and Accounting before altering fee schedules or any other revenue-generating mechanism under the department's purview.

Notwithstanding the provisions of the "Environmental Fee Fund Accountability Act of 1991," P.L.1991, c.426 (C.52:27B-20.1 et seq.) and P.L.1991, c.427 (C.13:1D-9.1 et seq.), all revenues from fees and fines collected by the Department of Environmental Protection, unless otherwise dedicated herein, shall be deposited into the State General Fund without regard to their specific dedication.

Notwithstanding the provisions of any other law to the contrary, such sums as are necessary, but not to exceed $20,000,000, are appropriated to subsidize county or county authority debt service payments for environmental investments incurred as of June 30, 1997, pursuant to the "Solid Waste Management Act," P.L.1970, c.39 (C.13:1E-1 et seq.) and the "Solid Waste Utility Control Act," P.L.1970, c.40 (C.48:13A-1 et seq.) in accordance with criteria and program guidelines established by the Commissioner of the Department of Environmental Protection, the Commissioner of the Department of Community Affairs and the State Treasurer, and subject to the approval of the Director of the Division of Budget and Accounting. Expenditure of such funds are conditioned upon the State Treasurer having conducted or contracted for an operational audit of such county or county authority, and such county or county authority having implemented the audit recommendations to the satisfaction of the State Treasurer. Prior to the distribution of any amounts to a county or county authority the State Treasurer shall notify the Joint Budget Oversight Committee of the amount and recipient of each distribution and the progress of each county or county authority in implementing the audit recommendations.

46 DEPARTMENT OF HEALTH AND SENIOR SERVICES
20 Physical and Mental Health
21 Health Services

01-4215	Vital Statistics	$1,101,000
02-4220	Family Health Services	1,152,000
03-4230	Epidemiology, Environmental and Occupational Health Services	13,080,000
04-4240	Alcoholism, Drug Abuse and Addiction Services	494,000
08-4280	Laboratory Services	4,278,000
12-4245	AIDS Services	2,679,000
	Total Appropriation, Health Services	$22,784,000
Personal Services:		
	Salaries and Wages.($14,207,000)	
Materials and Supplies		(2,495,000)
Services Other Than Personal		(1,242,000)
Maintenance and Fixed Charges		(203,000)
Special Purpose:		
	WIC Farmers Market Program	(87,000)
	Cancer Registry	(400,000)
	New Jersey State Commission on Cancer Research	(1,000,000)
	Medical Waste Management Program	(813,000)
	Rabies Control Program	(453,000)

Animal Population Control Program . . . . . (550,000)
Worker and Community Right to Know Program. . . (1,334,000)

Receipts in excess of those anticipated for the HealthStart Program are appropriated, subject to the approval of the Director of the Division of Budget and Accounting.

The unexpended balance as of June 30, 1997, in the Comprehensive Regulated Medical Waste Management Act account, together with any receipts received by the Department of Health and Senior Services pursuant to the provisions of the "Comprehensive Regulated Medical Waste Management Act," P.L.1989, c.34 (C.13:1E-48.1 et seq.), are appropriated.

The unexpended balance as of June 30, 1997 in the Rabies Control Program account, together with any receipts in excess of the amount anticipated, are appropriated.

The amount hereinabove for the Rabies Control Program account is payable out of the Rabies Control Fund. If receipts to that fund are less than anticipated, the appropriation shall be reduced proportionately.

The unexpended balance as of June 30, 1997 in the Animal Population Control Program account, together with any receipts in excess of the amount anticipated, are appropriated.

The amount hereinabove for the Animal Population Control Program account is payable out of the Animal Population Control Fund. If receipts to that fund are less than anticipated, the appropriation shall be reduced proportionately.

Notwithstanding the provisions of the "Worker and Community Right to Know Act," P.L.1983, c.315 (C.34:5A-1 et seq.), the amount hereinabove for the Worker and Community Right to Know account is payable out of the Worker and Community Right to Know Fund. If receipts to that fund are less than anticipated, the appropriation shall be reduced proportionately.

In addition to the amount appropriated above, an amount not to exceed $1,400,000 is appropriated from the Worker and Community Right to Know Fund, subject to the approval of the Director of the Division of Budget and Accounting.

The amount hereinabove for the New Jersey State Commission on Cancer Research is charged to the Cancer Research Fund pursuant to section 5 of P.L.1982, c.40 (C.54:40A-37.1).

The unexpended balance as of June 30, 1997 in the New Jersey State Commission on Cancer Research account is appropriated.

Amounts deposited in the "New Jersey Breast Cancer Research Fund" from gross income tax check-offs pursuant to the provisions of P.L.1995, c.26 (C.54A:9-25.7 et al.) are appropriated to the New Jersey State Commission on Cancer Research for breast cancer research projects, subject to the approval of the Director of the Division of Budget and Accounting.

The Division of Alcoholism, Drug Abuse and Addiction Services is authorized to bill a patient, a patient's estate, or the person chargeable for a patient's support, or the county of residence for institutional, residential and out-patient support of patients treated for alcoholism or drug abuse or both. Receipts derived from billings or fees and unexpended balances as of June 30, 1997 from these billings and fees are appropriated to the Department of Health and Senior Services, Division of Alcoholism, Drug Abuse and Addiction Services, for the support of the alcohol and drug abuse programs.

There are appropriated from the Alcohol Education, Rehabilitation and Enforcement Fund such sums as may be necessary to carry out the provisions of P.L.1983, c.531 (C.26:2B-32 et al.).

The Director of the Division of Budget and Accounting is empowered to transfer or credit appropriations to the Department of Health and Senior Services for diagnostic laboratory services provided to any other agency or department; provided further, however, that funds have been appropriated or allocated to such agency or department for the purpose of purchasing these services.

Receipts from fees established by the Commissioner of Health and Senior Services for licensing of clinical laboratories pursuant to P.L.1975, c.166 (C.45:9-42.26 et seq.), and blood banks pursuant to P.L.1963, c.33 (C.26:2A-2 et seq.), and the unexpended balance of such fees as of June 30, 1997 are appropriated.

Receipts from licenses, permits, fines, penalties and fees collected by the Department of Health and Senior Services in Health Services, in excess of those anticipated, are appropriated.

The unexpended balance as of June 30, 1997 in the Interagency Council on Osteoporosis account is appropriated.

22 Health Planning and Evaluation

06-4260 Health Facilities Evaluation	$5,385,000
Total Appropriation, Health Planning and Evaluation	$5,385,000
Personal Services:	
Salaries and Wages	($3,915,000)
Materials and Supplies	(73,000)
Services Other Than Personal	(247,000)
Maintenance and Fixed Charges	(100,000)
Special Purpose:	
Implementation of Statewide Health Information Network	(1,000,000)
Emergency Medical Services for Children Program	(50,000)

Receipts from fees established by the Commissioner of Health and Senior Services for licensing of clinical laboratories pursuant to P.L.1975, c.166 (C.45:9-42.26 et seq.), and blood banks pursuant to P.L.1963, c.33 (C.26:2A-2 et seq.), and the unexpended balance of such fees as of June 30, 1997, are appropriated.

Receipts derived from fees charged for the review of uniform construction code plans for health facilities, and the unexpended balances of such receipts as of June 30, 1997, are appropriated for the costs of this program.

Available funds are appropriated to the Health Care Facilities Improvement Fund to provide available resources in an emergency situation at a health care facility, as defined by the Commissioner of Health and Senior Services, or for closure of a health care facility, subject to the approval of the Director of the Division of Budget and Accounting.

Receipts derived from fees charged for processing Certificate of Need applications and the unexpended balances of such receipts as of June 30, 1997 are appropriated for the cost of this program, subject to the approval of the Director of the Division of Budget and Accounting.

From the amount appropriated for Implementation of Statewide Health Information Network, $250,000 may be allocated for a grant to the New Jersey Institute of Technology and $250,000 may be allocated for a grant to Thomas A. Edison State College.

From the amount appropriated for Implementation of Statewide Health Information Network, no amount shall be expended for costs of administrative services within the Department of Health and Senior Services.

The unexpended balance as of June 30, 1997, in the New Jersey Emergency Medical Service Helicopter Response Program account is appropriated.

Receipts from licenses, permits, fines, penalties and fees collected by the Department of Health and Senior Services in Health Planning and Evaluation, in excess of those anticipated, are appropriated.

In addition to the amount appropriated above for Implementation of Statewide Health Information Network, $1,000,000 is appropriated from the annual .53 percent

assessment on New Jersey hospitals established pursuant to section 12 of P.L.1992, c.160 (C.26:2H-18.62) for the same purpose.

In addition to the amount appropriated above for Emergency Medical Services for Children Program, $150,000 is appropriated from the annual .53 percent assessment on New Jersey hospitals established pursuant to section 12 of P.L.1992, c.160 (C.26:2H-18.62) for the same purpose.

25 Health Administration

99-4210 Management and Administrative Services	$1,204,000
Total Appropriation, Health Administration	$1,204,000
Personal Services:	
Salaries and Wages	($823,000)
Materials and Supplies	(49,000)
Services Other Than Personal	(210,000)
Maintenance and Fixed Charges	(38,000)
Special Purpose:	
Affirmative Action and Equal Employment Opportunity	(84,000)

26 Senior Services

22-4275 Medical Services for the Aged	$3,167,000
24-4275 Pharmaceutical Assistance to the Aged and Disabled	6,168,000
28-4275 Lifeline	1,760,000
55-4275 Programs for the Aged	886,000
56-4275 Office of the Ombudsman	296,000
57-4275 Office of the Public Guardian	716,000
Total Appropriation, Senior Services	$12,993,000
Personal Services:	
Salaries and Wages.	($7,638,000)
Materials and Supplies	(314,000)
Services Other Than Personal	(1,406,000)
Maintenance and Fixed Charges	(741,000)
Special Purpose:	
Payment to Fiscal Agent -- PAA	(2,134,000)
New Jersey East Access Single Point-of-Entry (NJEASE)	(100,000)
Federal Programs for the Aging (State Share)	(410,000)
Additions, Improvements and Equipment	(250,000)

In addition to the amount hereinabove for the Ombudsman's Office, there is appropriated, subject to the approval of the Director of the Division of Budget and Accounting, additional sums as may be required, if any, equal to the difference between $543,000 and the amount of federal funds received, whereby the total funds available to the Office equals $847,000.

Receipts from the Office of Public Guardian are appropriated.

When any action by a county welfare agency, whether alone or in combination with the Division of Medical Assistance and Health Services or the Department of Health and Senior Services, results in a recovery of improperly granted medical assistance, the Division of Medical Assistance and Health Services or the Department of Health and Senior Services may reimburse the county welfare agency in the amount of 25% of the gross recovery.

Notwithstanding any State law to the contrary, any third party as defined in subsection m. of section 3 of P.L.1968, c.413 (C.30:4D-3), writing health, casualty, or malpractice insurance policies in the State or covering residents of this State, shall permit and assist

the Department of Health and Senior Services to match Medicaid's Eligibility file or files against that third party's file or files utilizing, if necessary, social security numbers as common identifiers.

Such sums as may be necessary for the administration of the homestead property tax reimbursement established pursuant to P.L. ,c. (now pending before the Legislature as Assembly Bill No. 3 of 1997) are appropriated subject to the approval of the Director of the Division of Budget and Accounting.

Total Appropriation, Department of Health and Senior Services . . $42,366,000

There is appropriated to the Department of Health and Senior Services from the Health Care Subsidy Fund established pursuant to section 8 of P.L.1992, c.160 (C.26:2H-18.58) an amount to continue to fund programs established pursuant to section 25 of P.L.1991, c.187 (C.26:2H-18.47) through the annual .53 percent assessment on New Jersey hospitals established pursuant to section 12 of P.L.1992, c.160 (C.26:2H-18.62). However, available funding shall first provide for the Community Care Program for the Elderly and Disabled, the expansion of Medicaid to 185 percent of poverty, and the Infant Mortality Reduction Program. The remaining available funds may be used to fund programs established by section 25 of P.L.1991, c.187 (C.26:2H-18.47), as determined by the Commissioner of Health and Senior Services, subject to the approval of the Director of the Division of Budget and Accounting. Any unexpended balance as of June 30, 1997 in the Health Care Subsidy Fund received through the .53 percent annual assessment on hospitals made during fiscal year 1997 is appropriated. Furthermore, notwithstanding any other law to the contrary, the established program to provide local health planning shall be limited to a maximum of three specific geographic regions to be designated by the Commissioner of Health and Senior Services.

Receipts from licenses, permits, fines, penalties and fees collected by the Department of Health and Senior Services, in excess of those anticipated, are appropriated, subject to the approval of the Director of the Division of Budget and Accounting.

Notwithstanding the provisions of P.L.1995, c.133, or any other law to the contrary, the first $1,200,000 in per adjusted admission charge assessment revenues, attributable to $10.00 per adjusted admission charge assessments made by the Department of Health and Senior Services shall be anticipated as revenue in the General Fund available for health-related purposes. Furthermore, it is recommended that the remaining revenue attributable to this fee shall be available to carry out the provisions of P.L.1995, c.133 as determined by the Commissioner of Health and Senior Services and subject to the approval of the Director of the Division of Budget and Accounting.

Notwithstanding the provisions of any law to the contrary, the State Treasurer shall transfer to the Health Care Subsidy Fund established pursuant to section 8 of P.L.1992, c.160 (C.26:2H-18.58), only those additional revenues generated from third party liability recoveries, excluding Medicaid, by the State arising from a review by the Director of the Division of Budget and Accounting of hospital payments reimbursed from the Health Care Subsidy Fund with service dates that are after the date of enactment of P.L.1996, c.29.

Notwithstanding the provisions of any other law to the contrary, the commissioner shall devise, at his discretion, rules or guidelines that allocate reductions in health service grants to the extent possible toward administration and not client services.

The Department of Health and Senior Services shall transfer funds from the Cost of Living Adjustment, Health Care Service Providers allocation account that was provided in the Alcoholism, Drug Abuse and Addiction Services program classification, to other program classifications within the department to effectuate the distribution of the cost

of living adjustments. Furthermore, the allocation and transfer of the cost of living adjustments is subject to the approval of the Director of the Division of Budget and Accounting.

54 DEPARTMENT OF HUMAN SERVICES
20 Physical and Mental Health
23 Mental Health Services
7700 Division of Mental Health Services

08-7700 Community Services	$3,797,000
99-7700 Management and Administrative Services	3,723,000
Total Appropriation, Division of Mental Health Services	$7,520,000
Personal Services:	
Salaries and Wages.	($6,564,000)
Materials and Supplies	(41,000)
Services Other Than Personal	(383,000)
Maintenance and Fixed Charges	(155,000)
Additions, Improvements and Equipment	(377,000)

7710 Greystone Park Psychiatric Hospital

10-7710 Patient Care and Health Services	$33,529,000
98-7710 Physical Plant and Support Services	8,574,000
99-7710 Management and Administrative Services	7,001,000
Total Appropriation, Greystone Park Psychiatric Hospital	$49,104,000
Personal Services:	
Salaries and Wages	($41,385,000)
Materials and Supplies	(4,432,000)
Services Other Than Personal	(2,025,000)
Maintenance and Fixed Charges	(892,000)
Special Purpose:	
Interim Assistance	(54,000)
Additions, Improvements and Equipment	(316,000)

7720 Trenton Psychiatric Hospital

10-7720 Patient Care and Health Services	$25,553,000
98-7720 Physical Plant and Support Services.	4,465,000
99-7720 Management and Administrative Services	3,508,000
Total Appropriation, Trenton Psychiatric Hospital.	$33,526,000
Personal Services:	
Salaries and Wages	($28,343,000)
Materials and Supplies	(2,427,000)
Services Other Than Personal	(1,526,000)
Maintenance and Fixed Charges	(799,000)
Special Purpose:	
Interim Assistance	(22,000)
Additions, Improvements and Equipment	(409,000)

7725 The Forensic Psychiatric Hospital

10-7725 Patient Care and Health Services	$10,086,000
98-7725 Physical Plant and Support Services	1,004,000
99-7725 Management and Administrative Services	1,202,000
Total Appropriation, The Forensic Psychiatric Hospital	$12,292,000
Personal Services:	
Salaries and Wages.	($11,227,000)
Materials and Supplies	(672,000)

Services Other Than Personal ..... (267,000)
Maintenance and Fixed Charges ..... (70,000)
Additions, Improvements and Equipment ..... (56,000)

7730 Marlboro Psychiatric Hospital

10-7730 Patient Care and Health Services $43,726,000
98-7730 Physical Plant and Support Services 8,296,000
99-7730 Management and Administrative Services 6,689,000
Total Appropriation, Marlboro Psychiatric Hospital $58,711,000
Personal Services:
Salaries and Wages. ..... ($48,145,000)
Materials and Supplies ..... (5,834,000)
Services Other Than Personal ..... (2,571,000)
Maintenance and Fixed Charges ..... (1,360,000)
Special Purpose:
Interim Assistance ..... (183,000)
Additions, Improvements and Equipment ..... (618,000)

Savings realized by the Marlboro closure initiative shall be transferred to other State operated mental health institutions, developmental centers and community programs in the Divisions of Mental Health Services and Developmental Disabilities, subject to the approval of the Director of the Division of Budget and Accounting of an itemized closure and client placement plan for the achievement of such savings, as shall be submitted by the Commissioner of the Department of Human Services.

An amount, not to exceed $1,000,000 may be transferred from the Department of Human Services grant accounts to the Marlboro Psychiatric Hospital to the Salary and Wages account from savings generating by salary screens and a rate based reimbursement system, subject to the Director of Budget and Accounting.

7740 Ancora Psychiatric Hospital

10-7740 Patient Care and Health Services $33,660,000
98-7740 Physical Plant and Support Services 5,988,000
99-7740 Management and Administrative Services 4,203,000
Total Appropriation, Ancora Psychiatric Hospital $43,851,000
Personal Services:
Salaries and Wages ..... ($36,774,000)
Materials and Supplies ..... (3,691,000)
Services Other Than Personal ..... (1,798,000)
Maintenance and Fixed Charges ..... (934,000)
Special Purpose:
Interim Assistance ..... (250,000)
Additions, Improvements and Equipment ..... (404,000)

7750 Arthur Brisbane Child Treatment Center

10-7750 Patient Care and Health Services $7,384,000
98-7750 Physical Plant and Support Services 677,000
99-7750 Management and Administrative Services 805,000
Total Appropriation, Arthur Brisbane Child Treatment Center $8,866,000
Personal Services:
Salaries and Wages ..... ($7,651,000)
Materials and Supplies ..... (504,000)
Services Other Than Personal ..... (347,000)
Maintenance and Fixed Charges ..... (113,000)
Additions, Improvements and Equipment ..... (251,000)

7760 Senator Garrett W. Hagedorn Gero-Psychiatric Hospital

10-7760	Patient Care and Health Services	$7,480,000
98-7760	Physical Plant and Support Services	1,662,000
99-7760	Management and Administrative Services	1,253,000
	Total Appropriation, Senator Garrett W. Hagedorn Gero-Psychiatric Hospital	$10,395,000
	Personal Services:	
	Salaries and Wages.	($8,536,000)
	Materials and Supplies	(1,013,000)
	Services Other Than Personal.	(495,000)
	Maintenance and Fixed Charges	(244,000)
	Special Purpose:	
	Interim Assistance	(8,000)
	Additions, Improvements and Equipment	(99,000)

Division of Mental Health Services

Receipts recovered from advances made under the interim assistance program in the mental health institutions during the fiscal year ending June 30, 1998 are appropriated for the same purpose.

The unexpended balances as of June 30, 1997 in the interim assistance program accounts in the mental health institutions are appropriated for the same purpose.

The amount appropriated for the Division of Mental Health Services for State facility operations and the amount appropriated as State aid for the costs of county facility operations first are charged to the federal disproportionate share hospital reimbursements anticipated as Medicaid Uncompensated Care.

24 Special Health Services
7540 Division of Medical Assistance and Health Services

21-7540	Health Services Administration and Management.	$30,802,000
	Total Appropriation, Division of Medical Assistance and Health Services	$30,802,000
	Personal Services:	
	Salaries and Wages	($11,629,000)
	Materials and Supplies	(200,000)
	Services Other Than Personal.	(3,404,000)
	Maintenance and Fixed Charges	(568,000)
	Special Purpose:	
	Payments to Fiscal Agents	(4,773,000)
	Eligibility Determination	(5,600,000)
	Master Lease Debt Service Payments.	(23,000)
	Professional Standards Review Organization--Utilization Review.	(1,179,000)
	Medicaid Managed Care Initiative (Health Benefits Coordinator)	(3,239,000)
	Additions, Improvements and Equipment	(187,000)

The unexpended balances as of June 30, 1997 in the Payments to Fiscal Agents account are appropriated.

The unexpended balances as of June 30, 1997 in the Managed Health Care Initiative account are appropriated to the Medicaid Managed Care Initiative (Health Benefits Coordinator) account.

When any action by a county welfare agency, whether alone or in combination with the Division of Medical Assistance and Health Services, results in a recovery of improperly

granted medical assistance, the Division of Medical Assistance and Health Services may reimburse the county welfare agency in the amount of 25% of the gross recovery.

Sufficient funds from the Health Care Subsidy Fund are appropriated to the Division of Medical Assistance and Health Services for payment to disproportionate share hospitals for uncompensated care costs as defined in P.L.1992, c.160 (C.26:2H-18.51 et al.) and P.L.1996, c.28.

Additional federal Title XIX revenue generated from the claiming of uncompensated care payments made to disproportionate share hospitals shall be deposited in the General Fund as anticipated revenue.

Notwithstanding any State law to the contrary, any third party as defined in subsection m. of section 3 of P.L.1968, c.413 (C.30:4D-3), writing health, casualty, or malpractice insurance policies in the State or covering residents of this State, shall permit and assist the Division of Medical Assistance and Health Services to match its Medicaid Eligibility file or files against that third party's file or files utilizing, if necessary, social security numbers as common identifiers.

The Division of Medical Assistance and Health Services, in coordination with the county welfare agencies, shall continue a program to outstation eligibility workers in disproportionate share hospitals and federally qualified health centers.

Payment to the vendor for its efforts in federal maximizing initiatives is appropriated and shall be paid from the Maximization of Federal HCFA Reimbursement or the School Based Medicaid revenues received, subject to the approval of the Director of the Division of Budget and Accounting.

Notwithstanding the provisions of any law to the contrary, all past, present and future revenues representing federal financial participation received by the State from the United States and that is based on payments made by the State to hospitals that serve a disproportionate share of low-income patients shall be deposited in the General Fund and may be expended only upon appropriation by law.

30 Educational, Cultural and Intellectual Development
32 Operation and Support of Educational Institutions
7600 Division of Developmental Disabilities

99-7600	Management and Administrative Services	$9,299,000
	Total State and Federal Appropriation.	$9,299,000
Less:		
Federal Funds		
	Management and Administrative Services.	***$5,386,000***
	Total Federal Funds	***$5,386,000***
	Total Appropriation, Division of Developmental Disabilities	$3,913,000
Personal Services:		
	Salaries and Wages.	($7,530,000)
Materials and Supplies		(33,000)
Services Other Than Personal.		(213,000)
Maintenance and Fixed Charges		(162,000)
Special Purpose:		
	Foster Grandparents Program	(669,000)
	Developmental Disabilities Council	(306,000)
Additions, Improvements and Equipment		(386,000)
Less:		
	Federal Funds	***5,386,000***

7601 Community Programs

01-7601	Purchased Residential Care	$959,000
02-7601	Social Supervision and Consultation	5,708,000

03-7601 Adult Activities.		933,000
04-7601 Education and Day Training		8,817,000
Total Appropriation, Community Programs.		$16,417,000
Personal Services:		
Salaries and Wages	($10,201,000)	
Materials and Supplies	(1,324,000)	
Services Other Than Personal	(1,007,000)	
Maintenance and Fixed Charges.	(3,259,000)	
Special Purpose:		
Guardianship Program	(285,000)	
Homemaker Services (State Share)	(167,000)	
Additions, Improvements and Equipment	(174,000)	

7610 Green Brook Regional Center

05-7610 Residential Care and Habilitation Services		$4,973,000
98-7610 Physical Plant and Support Services		1,473,000
99-7610 Management and Administrative Services		1,482,000
Total State and Federal Funds Appropriation		$7,928,000
Less:		
Federal Funds		
Residential Care and Habilitation Services	***$4,485,000***	
Physical Plant and Support Services	***963,000***	
Management and Administrative Services	***725,000***	
Total Federal Funds		***$6,173,000***
Total Appropriation, Green Brook Regional Center.		$1,755,000
Personal Services:		
Salaries and Wages.	($6,173,000)	
Materials and Supplies	(862,000)	
Services Other Than Personal.	(272,000)	
Maintenance and Fixed Charges	(210,000)	
Special Purpose:		
Green Brook Mortgage	(393,000)	
Additions, Improvements and Equipment	(18,000)	
Less:		
Federal Funds.	***6,173,000***	

7620 Vineland Developmental Center

05-7620 Residential Care and Habilitation Services		$49,559,000
98-7620 Physical Plant and Support Services		6,750,000
99-7620 Management and Administrative Services		5,338,000
Total State and Federal Funds Appropriation		$61,647,000
Less:		
Federal Funds		
Residential Care and Habilitation Services	***$19,203,000***	
Physical Plant and Support Services.	***1,389,000***	
Management and Administrative Services	***455,000***	
Total Federal Funds		***$21,047,000***
Total Appropriation, Vineland Developmental Center		$40,600,000
Personal Services:		
Salaries and Wages	($53,960,000)	
Materials and Supplies	(5,198,000)	
Services Other Than Personal	(1,612,000)	
Maintenance and Fixed Charges	(826,000)	

Special Purpose:
Family Care ..... (6,000)
Additions, Improvements and Equipment ..... (45,000)
Less:
Federal Funds 21,047,000
The unexpended balances as of June 30, 1997 in the Reward for Identification of Person(s) Responsible for the Assault on Client account are appropriated for the same purpose.

7630 North Jersey Developmental Center

05-7630 Residential Care and Habilitation Services	$27,774,000
98-7630 Physical Plant and Support Services	3,575,000
99-7630 Management and Administrative Services	3,385,000
Total State, Federal and All Other Funds Appropriation	$34,734,000
Less:	
Federal Funds	
Residential Care and Habilitation Services $11,305,000	
Physical Plant and Support Services 725,000	
Management and Administrative Services 696,000	
Total Federal Funds $12,726,000	
All Other Funds	
Residential Care and Habilitation Services $210,000	
Total All Other Funds $210,000	
Total Appropriation, North Jersey Developmental Center	$21,798,000
Personal Services:	
Salaries and Wages ..... ($28,928,000)	
Materials and Supplies ..... (3,025,000)	
Services Other Than Personal ..... (2,174,000)	
Maintenance and Fixed Charges ..... (587,000)	
Additions, Improvements and Equipment ..... (20,000)	
Less:	
Federal Funds 12,726,000	
All Other Funds 210,000	

7640 Woodbine Developmental Center

05-7640 Residential Care and Habilitation Services	$32,758,000
98-7640 Physical Plant and Support Services	4,796,000
99-7640 Management and Administrative Services	5,391,000
Total State and Federal Funds Appropriation	$42,945,000
Less:	
Federal Funds	
Residential Care and Habilitation Services $11,296,000	
Physical Plant and Support Services 1,544,000	
Management and Administrative Services 896,000	
Total Federal Funds $13,736,000	
Total Appropriation, Woodbine Developmental Center	$29,209,000
Personal Services:	
Salaries and Wages ..... ($36,044,000)	
Materials and Supplies ..... (4,523,000)	
Services Other Than Personal ..... (1,672,000)	
Maintenance and Fixed Charges ..... (576,000)	
Additions, Improvements and Equipment ..... (130,000)	

Less:
Federal Funds ***13,736,000***

7650 New Lisbon Developmental Center

05-7650 Residential Care and Habilitation Services	$38,429,000
98-7650 Physical Plant and Support Services	5,363,000
99-7650 Management and Administrative Services	3,051,000
Total State, Federal and All Other Funds Appropriation	$46,843,000
Less:	
Federal Funds	
Residential Care and Habilitation Services ***$21,895,000***	
Physical Plant and Support Services ***2,285,000***	
Management and Administrative Services ***979,000***	
Total Federal Funds	***$25,159,000***
All Other Funds	
Residential Care and Habilitation Service ***$258,000***	
Total All Other Funds	***$258,000***
Total Appropriation, New Lisbon Developmental Center	$21,426,000
Personal Services:	
Salaries and Wages	($41,818,000)
Materials and Supplies	(3,389,000)
Services Other Than Personal	(1,105,000)
Maintenance and Fixed Charges	(511,000)
Additions, Improvements and Equipment	(20,000)
Less:	
Federal Funds	***25,159,000***
All Other Funds	***258,000***

7660 Woodbridge Developmental Center

05-7660 Residential Care and Habilitation Services	$32,154,000
98-7660 Physical Plant and Support Services	4,284,000
99-7660 Management and Administrative Services	3,228,000
Total State, Federal and All Other Funds Appropriation	$39,666,000
Less:	
Federal Funds	
Residential Care and Habilitation Services ***$13,528,000***	
Physical Plant and Support Services ***484,000***	
Management and Administrative Services ***1,308,000***	
Total Federal Funds	***$15,320,000***
All Other Funds	
Residential Care and Habilitation Services ***$100,000***	
Total All Other Funds	***$100,000***
Total Appropriation, Woodbridge Developmental Center.	$24,246,000
Personal Services:	
Salaries and Wages.	($34,312,000)
Materials and Supplies	(3,782,000)
Services Other Than Personal	(1,050,000)
Maintenance and Fixed Charges	(468,000)
Additions, Improvements and Equipment	(54,000)
Less:	
Federal Funds	***15,320,000***
All Other Funds	***100,000***

7670 Hunterdon Developmental Center

05-7670 Residential Care and Habilitation Services $32,382,000
98-7670 Physical Plant and Support Services 6,470,000
99-7670 Management and Administrative Services 2,560,000
Total State, Federal and All Other Funds Appropriation $41,412,000
Less:
Federal Funds
Residential Care and Habilitation Services $9,168,000
Physical Plant and Support Services 1,745,000
Management and Administrative Services 807,000
Total Federal Funds $11,720,000
All Other Funds
Residential Care and Habilitation Services $200,000
Total All Other Funds. $200,000
Total Appropriation, Hunterdon Developmental Center $29,492,000
Personal Services:
Salaries and Wages ..... ($35,696,000)
Materials and Supplies ..... (4,093,000)
Services Other Than Personal .....(1,030,000)
Maintenance and Fixed Charges ..... (567,000)
Additions, Improvements and Equipment ..... (26,000)
Less:
Federal Funds 11,720,000
All Other Funds 200,000

In addition to the amounts appropriated hereinabove, upon the final disposition of an independent audit of Cogeneration costs and upon the approval of the Director of the Division of Budget and Accounting and the Joint Budget Oversight Committee, there is appropriated $737,000 for increased utility costs.

7690 North Princeton Developmental Center

05-7690 Residential Care and Habilitation Services $32,858,000
98-7690 Physical Plant and Support Services 6,442,000
99-7690 Management and Administrative Services. 3,074,000
Total State, Federal and All Other Funds Appropriation $42,374,000
Less:
Federal Funds
Residential Care and Habilitation Services $8,268,000
Physical Plant and Support Services 1,012,000
Management and Administrative Services 822,000
Total Federal Funds $10,102,000
Total Appropriation, North Princeton Developmental Center. $32,272,000
Personal Services:
Salaries and Wages ..... ($35,982,000)
Materials and Supplies ..... (3,132,000)
Services Other Than Personal ..... (2,180,000)
Maintenance and Fixed Charges ..... (707,000)
Additions, Improvements and Equipment ..... (373,000)
Less:
Federal Funds 10,102,000

Division of Developmental Disabilities

In addition to the amount hereinabove for Operation and Support of Educational Institutions of the Division of Developmental Disabilities, such other sums as the Director of the Division of Budget and Accounting shall determine, provided in Inter-Departmental accounts for Employee Benefits, are considered as appropriated on behalf of the Developmental Centers and are available for matching federal funds.

The State appropriation is based on ICF/MR revenues of $190,508,000, provided that if the ICF/MR revenues exceed $190,508,000, there will be placed in reserve a portion of the State appropriation equal to the excess amount of ICF/MR revenues, subject to the approval of the Director of the Division of Budget and Accounting.

Operating savings realized by the North Princeton Developmental Center closure initiative shall be transferred to other State operated mental health institutions, developmental centers and community programs in the Divisions of Mental Health Services and Developmental Disabilities, subject to the approval of the Director of the Division of Budget and Accounting of an itemized closure and client placement plan for the achievement of such savings, as shall be submitted by the Commissioner of Human Services.

Notwithstanding R.S.30:1-1 et seq. or any other law or regulation to the contrary, the Director of the Division of Developmental Disabilities is authorized to waive statutory, regulatory. or licensing requirements for the placement of individuals funded by a self determination pilot program included in the Community Services Waiting List Reduction Initiatives - FY 1997 account, subject to the approval of a plan by the Director of the Division of Developmental Disabilities which will allow an individual to be removed from the waiting list.

33 Supplemental Education and Training Programs
7560 Commission for the Blind and Visually Impaired

11-7560	Habilitation and Rehabilitation	$3,264,000
12-7560	Instruction, Community Programs and Prevention	2,154,000
99-7560	Management and Administrative Services	1,224,000
	Total Appropriation, Commission for the Blind and Visually Impaired	$6,642,000
Personal Services:		
	Salaries and Wages	($5,344,000)
Materials and Supplies		(125,000)
Services Other Than Personal		(575,000)
Maintenance and Fixed Charges		(80,000)
Special Purpose:		
	Technology for the Visually Impaired	(500,000)
Additions, Improvements and Equipment		(18,000)

Notwithstanding the provisions of N.J.S.18A:61-1 and N.J.S.18A:46-13, or any other law to the contrary, local boards of education shall reimburse the Commission for the Blind and Visually Impaired for the documented costs of providing services to children who are classified as "educationally handicapped," provided however, that each local board shall pay that portion of cost which the number of children classified "educationally handicapped" bears to the total number of such children served; provided further, however, that payments shall be made by each local board in accordance with a schedule adopted by the Commissioners of Education and Human Services; and further, the Director of the Division of Budget and Accounting is authorized to deduct such reimbursements from the State aid payments to the local boards of education.

There is appropriated from funds recovered from audits or other collection activities an amount sufficient to pay vendors fees to compensate the recoveries, and the administration of the State's vending machine program, subject to the approval of the Director of the Division of

Budget and Accounting. Receipts in excess of $130,000 are appropriated for the purpose of expanding vision screening services and other prevention services, subject to the approval of the Director of the Division of Budget and Accounting. The unexpended balance of such receipts as of June 30, 1997 is appropriated.

50 Economic Planning, Development and Security
53 Economic Assistance and Security
7550 Division of Family Development

15-7550 Income Maintenance Management $98,530,000
Total Appropriation, State and Federal Appropriation $98,530,000
Less:
Federal Funds
Income Maintenance Management $55,543,000
Total Federal Funds $55,543,000
Total Appropriation, Division of Family Development $42,987,000
Personal Services:
Salaries and Wages ..... ($19,324,000)
Materials and Supplies ..... (484,000)
Services Other Than Personal ..... (16,991,000)
Maintenance and Fixed Charges ..... (1,304,000)
Special Purpose:
Income Maintenance Management ..... (1,976,000)
Electronic Benefit Transfer/Distribution System .... (6,112,000)
General Assistance: Finger Imaging ..... (314,000)
Non Public Assistance Legal Services, Child Support . (441,000)
Work First New Jersey -- Breaking the Cycle Pilots . (4,000,000)
Hospital Paternity Program ..... (1,661,000)
Work First New Jersey Child Support Initiatives ....(15,075,000)
Work First New Jersey -- Implementation Supports .. (2,115,000)
Work First New Jersey -- Technology Investment . (28,712,000)
Additions, Improvements and Equipment ..... (21,000)
Less:
Federal Funds 55,543,000

The unexpended balance as of June 30, 1997 in the Electronic Benefit Transfer/Distribution System account is appropriated.

Any federal funds received by the Division of Family Development for the direct or indirect costs incurred by the Department of Labor for the operation of the Wage Reporting System shall be deposited in the General Treasury.

Receipts derived from counties and local governments for data processing services and the unexpended balance of such receipts as of June 30, 1997 are appropriated.

The unexpended balances as of June 30, 1997 in the above accounts are appropriated for Work First New Jersey, subject to the approval of the Director of the Division of Budget and Accounting.

The unexpended balance as of June 30, 1997 in the Legal Alien Citizenship Assistance account is appropriated.

55 Social Services Programs
7570 Division of Youth and Family Services

16-7570 Initial Response/Case Management $111,797,000
17-7570 Substitute Care 9,426,000
18-7570 General Social Services 4,332,000
99-7570 Management and Administrative Services 20,330,000
Total State and Federal Appropriation $145,885,000

Less:
Federal Funds
Initial Response/Case Management $46,617,000
Substitute Care 5,739,000
General Social Services 3,368,000
Management and Administrative Services 13,723,000
Total Federal Funds $69,447,000
Total Appropriation, Division of Youth and Family Services $76,438,000
Personal Services:
Salaries and Wages . . . . . ($111,884,000)
Materials and Supplies . . . . . (1,924,000)
Services Other Than Personal . . . . . (8,185,000)
Maintenance and Fixed Charges . . . . . (8,742,000)
Special Purpose:
Child Protection Initiative . . . . . (13,755,000)
Additions, Improvements and Equipment . . . . . (1,395,000)
Less:
Federal Funds 69,447,000

7580 Division of the Deaf and Hard of Hearing

23-7580 Services for the Deaf $420,000
Total Appropriation, Division of the Deaf and Hard of Hearing $420,000
Personal Services:
Salaries and Wages . . . . . ($240,000)
Materials and Supplies . . . . . (42,000)
Services Other Than Personal . . . . . (41,000)
Maintenance and Fixed Charges . . . . . (1,000)
Special Purpose:
Services to Deaf Clients . . . . . (40,000)
Communication Access Services . . . . . (55,000)
Additions, Improvements and Equipment . . . . . (1,000)

70 Government Direction, Management and Control
76 Management and Administration
7500 Division of Management and Budget

87-7500 Research, Policy and Planning $690,000
96-7500 Institutional Security Services 3,701,000
99-7500 Management and Administrative Services 21,251,000
Total Appropriation, Division of Management and Budget $25,642,000
Personal Services:
Salaries and Wages . . . . . ($7,439,000)
Materials and Supplies . . . . . (59,000)
Services Other Than Personal . . . . . (862,000)
Maintenance and Fixed Charges . . . . . (72,000)
Special Purpose:
Rehabilitation Services Scholarships . . . . . (150,000)
Essex I and II Settlement . . . . . (16,549,000)
Affirmative Action and Equal Employment Opportunity . . . . . (255,000)
Transfer to State Police for Fingerprinting/ Background Checks of Job Applicants . . . . . (200,000)
Additions, Improvements and Equipment . . . . . (56,000)

Notwithstanding the provision of any law to the contrary, the Department of Human Services is authorized to identify opportunities for increased recoveries to the General Fund and to the department. Such funds collected shall be appropriated, subject to the approval of the Director of the Division of Budget and Accounting, in accordance with a plan approved by the Director of the Division of Budget and Accounting.

Revenues representing receipts to the General Fund from charges to Residents' trust accounts for maintenance costs are appropriated for use as personal needs allowances for patients/residents who have no other source of funds for these purposes; except that the total amount herein for these allowances shall not exceed $1,375,000 and that any increase in the maximum monthly allowance shall be approved by the Director of the Division of Budget and Accounting.

Total Appropriation, Department of Human Services. $628,324,000

A pro-rata share of all Low Income Energy Assistance Block Grant funds received by the Department of Human Services is to be allocated immediately upon receipt to the Departments of Community Affairs and Health and Senior Services to enable these departments to implement programs funded by this block grant.

Of the amount appropriated hereinabove for the Department of Human Services, such sums as the Director of the Division of Budget and Accounting shall determine from the schedule at page K-40 in the Governor's Budget Recommendation Document dated January 29, 1997 first shall be charged to the State Lottery Fund.

Balances on hand as of June 30, 1997 of funds held for the benefit of patients in the several institutions, and such funds as may be received, are appropriated for the use of the patients.

Funds received from the sale of articles made in occupational therapy departments of the several institutions are appropriated for the purchase of additional material and other expenses incidental to such sale or manufacture.

Any change in program eligibility criteria and increases in the types of services or rates paid for services to or on behalf of clients for all programs under the purview of the Department of Human Services, not mandated by federal law, shall first be approved by the Director of the Division of Budget and Accounting.

Notwithstanding any other provision of law to the contrary, receipts from payments collected from clients receiving services from the department, and collected from their chargeable relatives, are appropriated to offset administrative and contract expenses related to the charging, collecting and accounting of payments from clients receiving services from this department and from their chargeable relatives pursuant to R.S.30:1-12 subject to the approval of the Director of the Division of Budget and Accounting.

From the amounts appropriated for Payments for Medical Assistance Recipients -- Prescription Drugs, Pharmaceutical Assistance to the Aged -- Claims, and Pharmaceutical Assistance to the Aged and Disabled -- Claims, there is allocated to the Division of Medical Assistance and Health Services up to $100,000 from savings realized in these programs for personnel costs for the monitoring of prescription drug utilization in these programs, subject to the approval of the Director of the Division of Budget and Accounting.

62 DEPARTMENT OF LABOR

50 Economic Planning, Development and Security

51 Economic Planning and Development

18-4570	Planning and Research	$257,000
99-4565	Management and Administrative Services	360,000
	Total Appropriation, Economic Planning and Development	$617,000

Personal Services:
Salaries and Wages ..... ($430,000)
Materials and Supplies ..... (12,000)
Services Other Than Personal ..... (82,000)
Maintenance and Fixed Charges ..... (28,000)
Special Purpose:
Affirmative Action and Equal
Employment Opportunity ..... (62,000)
Additions, Improvements and Equipment ..... (3,000)

Such sums as may be necessary to collect the contributions to the Health Care Subsidy Fund pursuant to section 29 of the "Health Care Reform Act of 1992," P.L. 1992, c.160 (C.43:21-7b), are appropriated from the Health Care Subsidy Fund, subject to the approval of the Director of the Division of Budget and Accounting.

The amount hereinabove for the Planning and Research program classification is appropriated from the Unemployment Compensation Auxiliary Fund.

The amount necessary to provide administrative costs incurred by the Department of Labor to meet the statutory requirements of the "New Jersey Urban Enterprise Zones Act," P.L.1983, c.303 (C.52:27H-60 et seq.) is appropriated from the Enterprise Zone Assistance Fund, subject to the approval of the Director of the Division of Budget and Accounting.

Notwithstanding the provisions of the "1992 New Jersey Employment and Workforce Development Act," P.L. 1992, c. 43 (C. 34:15D-1 et seq.), in addition to the amounts hereinabove appropriated for Planning and Research, there shall be made available from the Workforce Development Partnership Fund an amount of $168,000 to fund planning and research activities related to the Workforce Development Partnership Program, subject to the approval of the Director of the Division of Budget and Accounting.

In addition to the amounts appropriated hereinabove for Management and Administration, there are appropriated from the New Jersey Redevelopment Investment Fund and the Economic Development Fund an amount of $142,000 to provide for administrative costs incurred by the Department of Labor for activities related to the New Jersey Redevelopment Authority and the New Jersey Economic Development Authority programs, as determined by the Director of the Division of Budget and Accounting.

52 Economic Regulation

12-4550 Workplace Standards $5,312,000
Total Appropriation, Economic Regulation $5,312,000
Personal Services:
Salaries and Wages ..... .($4,922,000)
Materials and Supplies ..... (84,000)
Services Other Than Personal ..... (119,000)
Maintenance and Fixed Charges ..... (82,000)
Special Purpose:
Worker and Community Right To Know Act ..... (35,000)
Carnival Amusement Ride Safety
Advisory Board ..... (1,000)
Safety Commission ..... (3,000)
Additions, Improvements and Equipment ..... (66,000)

Receipts in excess of the amount anticipated for the Workplace Standards program are appropriated, subject to the approval of the Director of the Division of Budget and Accounting.

Notwithstanding the provisions of the "Worker and Community Right to Know Act," P.L.1983, c.315 (C.34:5A-1 et seq.), the amount hereinabove for the Worker and Community Right to Know Act account is payable out of the Worker and Community

Right to Know Fund. If receipts to that fund are less than anticipated, the appropriation shall be reduced proportionately. In addition to the amounts hereinabove, there are appropriated out of the Worker and Community Right to Know Fund such additional sums, not to exceed $8,400, to administer the Right to Know program, subject to the approval of the Director of the Division of Budget and Accounting.

There are appropriated out of the Wage and Hour Trust Fund and the Prevailing Wage Act Trust Fund such sums as may be necessary for payments.

53 Economic Assistance and Security

03-4520	State Disability Insurance Plan	$21,324,000
04-4520	Private Disability Insurance Plan	3,443,000
05-4525	Workers' Compensation	11,029,000
06-4530	Special Compensation	1,540,000
	Total Appropriation, Economic Assistance and Security	$37,336,000
Personal Services:		
	Salaries and Wages	($23,297,000)
Materials and Supplies		(374,000)
Services Other Than Personal		(4,055,000)
Maintenance and Fixed Charges		(1,995,000)
Special Purpose:		
	Reimbursement to Unemployment Insurance for Joint Tax Functions	(6,700,000)
	Other Special Purpose	(60,000)
Additions, Improvements and Equipment		(855,000)

The amounts hereinabove for the State Disability Insurance Plan and Private Disability Insurance Plan are payable out of the State Disability Benefits Fund and, in addition to the amounts hereinabove, there are appropriated out of the State Disability Benefits Fund such additional sums as may be required to administer the Disability Insurance Program and to pay disability benefits, subject to the approval of the Director of the Division of Budget and Accounting.

Receipts in excess of the amount anticipated for the Workers' Compensation program are appropriated, subject to the approval of the Director of the Division of Budget and Accounting.

The amount hereinabove for Special Compensation is payable out of the Second Injury Fund and, notwithstanding the $12,500 limitation set forth in R.S.34:15-95, in addition to the amounts hereinabove, there are appropriated out of the Second Injury Fund such additional sums as may be required for costs of administration and beneficiary payments.

The State Treasurer is directed to transfer to the General Fund the sum of $50,000 from the excess in the Second Injury Fund over the sum of $1,250,000 accumulated as of June 30, 1997, pursuant to R.S.34:15-94.

There is appropriated out of the balance in the Second Injury Fund an amount not to exceed $1,000,000 to be deposited to the credit of the uninsured employers' fund for the payment of benefits as determined in accordance with section 11 of P.L.1966, c.126 (C.34:15-120.2). Any amount so transferred shall be included in the next uninsured employers' fund surcharge imposed in accordance with section 10 of P.L.1966, c.126 (C.34:15-120.1) and such amount shall be returned to the Second Injury Fund without interest. Furthermore, any amount so transferred shall be included in "net assets" pursuant to R.S.34:15-94c.(4).

Amounts to administer the uninsured employers' fund are appropriated from the uninsured employers' fund, subject to the approval of the Director of the Division of Budget and Accounting.

54 Manpower and Employment Services

07-4535 Vocational Rehabilitation Services $2,348,000
09-4545 Employment Services 6,451,000
16-4556 Public Sector Labor Relations 2,625,000
17-4560 Private Sector Labor Relations 468,000
Total Appropriation, Manpower and Employment Services $11,892,000
Personal Services:
Salaries and Wages ..... ($4,941,000)
Materials and Supplies ..... (34,000)
Services Other Than Personal ..... (268,000)
Maintenance and Fixed Charges ..... (28,000)
Special Purpose:
Workforce Development Partnership Program ..... (4,405,000)
Workforce Development Partnership--Counselors .. (2,046,000)
Additions, Improvements and Equipment ..... (170,000)

Notwithstanding the provisions of the "New Jersey Employer-Employee Relations Act," P.L.1941, c.100 (C.34:13A-1 et seq.), the cost of fact-finding shall be borne equally by the public employer and the exclusive employee representative.

The sum hereinabove for the Vocational Rehabilitation Services program classification is available for the payment of obligations applicable to prior fiscal years.

The amount hereinabove for the Vocational Rehabilitation Services program classification is appropriated from the unemployment compensation auxiliary fund.

The amounts hereinabove for the Workforce Development Partnership Program shall be appropriated from receipts received pursuant to P.L.1992, c.44 (C.34:15D-12 et seq.), together with such additional sums as may be required to administer the Workforce Development Partnership Program, subject to the approval of the Director of the Division of Budget and Accounting.

Pursuant to the provisions of the "1992 New Jersey Employment and Workforce Development Act," P.L.1992, c.43 (C.34:15D-1 et seq.), funds shall be made available to the Department of Labor and the State Employment and Training Commission, subject to the approval of the Director of the Division of Budget and Accounting.

The amount hereinabove for the Private Sector Labor Relations program classification is appropriated from the unemployment compensation auxiliary fund.

Total Appropriation, Department of Labor $55,157,000

66 DEPARTMENT OF LAW AND PUBLIC SAFETY

10 Public Safety and Criminal Justice

12 Law Enforcement

06-1200 Patrol Activities and Crime Control $111,065,000
07-1200 Police Services and Public Order 19,590,000
08-1200 Emergency Services 3,965,000
09-1020 Criminal Justice 17,469,000
11-1050 State Medical Examiner 200,000
23-1200 State Capitol Complex Security 5,783,000
24-1200 Marine Police Operations 8,186,000
99-1200 Management and Administrative Services 13,503,000
Total Appropriation, Law Enforcement $179,761,000
Personal Services:
Salaries and Wages ..... ($136,344,000)
Cash In Lieu of Maintenance ..... (16,015,000)
Materials and Supplies ..... (5,173,000)
Services Other Than Personal ..... (5,087,000)

Maintenance and Fixed Charges ..... (3,768,000)
Special Purpose:
Drunk Driver Fund Program ..... (962,000)
Noncriminal Record Checks ..... (1,014,000)
Nuclear Emergency Response Program ..... (1,988,000)
Health Insurance Fraud Unit ..... (1,500,000)
Expenses of State Grand Jury ..... (356,000)
Medicaid Fraud Investigation--State Match ..... (375,000)
State Police Recruit Training ..... (900,000)
Affirmative Action and Equal Employment Opportunity ..... (193,000)
Additions, Improvements and Equipment ..... (6,086,000)

The unexpended balance as of June 30, 1997, in the Victim Witness Advocacy Fund account, together with receipts derived pursuant to section 2 of P.L.1979, c.396 (C.2C:43-3.1), is appropriated.

There are appropriated such sums as are collected pursuant to section 19 of P.L.1981, c.279 (C.13:1E-67); section 3 of P.L.1988, c.61 (C.58:10A-49); section 9 of P.L.1970, c.39 (C.13:1E-9); section 2 of P.L.1987, c.158 (C.13:1E-9.2); sections 20 and 24 of P.L.1989, c.34 (C.13:1E-48.20 and 13:1E-48.24); and section 15 of P.L.1987, c.333 (C.13:1E-191) as are required to pay awards authorized by these laws and for public awareness programs, subject to the approval of the Director of the Division of Budget and Accounting.

Notwithstanding the provisions of any law or regulation to the contrary, funds obtained through seizure, forfeiture, or abandonment pursuant to any federal or State statutory or common law and the proceeds of the sale of any such confiscated property or goods, except for such funds as are dedicated pursuant to P.L.1993, c.227, are appropriated for law enforcement purposes designated by the Attorney General.

Notwithstanding the provisions of P.L.1993, c.220, the amount hereinabove for the Safe and Secure Communities Program shall be used for police officers and other law enforcement personnel salaries.

The unexpended balance as of June 30, 1997, in the revolving fund established under the "New Jersey Antitrust Act," P.L.1970, c.73 (C.56:9-1 et seq.) is appropriated for the administration of the act and any expenditures therefrom shall be subject to the approval of the Director of the Division of Budget and Accounting.

Such additional amounts as may be required to carry out the provisions of the "New Jersey Antitrust Act" are appropriated from the General Fund; provided however, that any expenditures therefrom shall be subject to the approval of the Director of the Division of Budget and Accounting.

Receipts in excess of the amount anticipated from license fees and/or audits conducted to ensure compliance with the "Private Detective Act of 1939," P.L.1939, c.369 (C.45:19-8 et seq.), are appropriated to defray the cost of this activity.

Notwithstanding the provisions of section 14 of P.L.1992, c.188 (C.33:1-4.1), that in addition to the amounts hereinabove, all fees and penalties collected by the Director of the Division of Alcoholic Beverage Control in excess of $2,000,000 are appropriated for the purpose of offsetting additional operational costs of the Alcoholic Beverage Control Enforcement Bureau in the Division of State Police and the Division of Alcoholic Beverage Control, subject to the approval of the Director of the Division of Budget and Accounting.

In addition to the amount hereinabove for Patrol Activities and Crime Control, there is appropriated an amount not to exceed $1,200,000 from indirect cost recoveries, for the purpose of offsetting the costs of the provision of State Police services.

New Jersey State Library

The unexpended balance as of June 30, 1997, in the Drunk Driver Fund program account, together with any receipts in excess of the amount anticipated, is appropriated, subject to the approval of the Director of the Division of Budget and Accounting.

The amount hereinabove for the Drunk Driver Fund program is payable out of the dedicated fund designated for this purpose and any amount remaining therein. If receipts to the fund are less than anticipated, the appropriation shall be reduced proportionately.

Receipts derived pursuant to the New Jersey Medical Service Helicopter Response Act under section 1 of P.L.1992, c.87 (C.39:3-8.2) are appropriated to the Division of State Police and the Department of Health and Senior Services to defray the operating costs of the program as authorized under P.L.1986, c.106 (C.26:2K-35 et seq.). The unexpended balance as of June 30, 1997, is appropriated to the special capital maintenance reserve account for capital replacement and major maintenance of helicopter equipment and any expenditures therefrom shall be subject to the approval of the Director of the Division of Budget and Accounting.

The amount hereinabove for the Noncriminal Record Checks account is payable out of the dedicated fund designated for this purpose. If receipts to the fund are less than anticipated, the appropriation shall be reduced proportionately.

The unexpended balance as of June 30, 1997, in the Noncriminal Record Checks account, together with any receipts in excess of the amount anticipated, is appropriated to defray the costs of this activity and for the purchase and equipping of new or replacement State Police vehicles, subject to the approval of the Director of the Division of Budget and Accounting.

The amount hereinabove for the Nuclear Emergency Response Program account is payable from receipts received pursuant to the assessment of electrical utility companies under P.L.1981, c.302 (C.26:2D-37 et seq.). The unexpended balance as of June 30, 1997, in the Nuclear Emergency Response Program account is appropriated.

Such sums as may be necessary are appropriated from the Special Fund for Civil Defense Volunteers established pursuant to section 15 of P.L.1952, c.12 (C.App. A:9-57.15).

All registration fees, tuition fees, training fees, all receipts collected through division mess hall operations and all other fees received for reimbursement for attendance at courses conducted by Division of State Police and Division of Criminal Justice personnel are appropriated, subject to the approval of the Director of the Division of Budget and Accounting.

The unexpended balance as of June 30, 1997 in the State Police Recruit Training account is appropriated for the same purposes, subject to the approval of the Director of the Division of Budget and Accounting.

In addition to the amounts hereinabove to the Divisions of State Police and Criminal Justice and the Office of the State Medical Examiner, there are appropriated to the respective State departments and agencies such sums as may be received or receivable from any instrumentality, municipality, or public authority for direct and indirect costs of all services furnished thereto, except as to such costs for which funds have been included in appropriations otherwise made to the respective State departments and agencies as the Director of the Division of Budget and Accounting shall determine; provided however, that payments from such instrumentalities, municipalities, or authorities for employer contributions to the State Police and Public Employees' Retirement Systems shall not be appropriated and shall be paid into the General Fund.

Receipts in the "Commercial Vehicle Enforcement Fund" established pursuant to section 17 of P.L.1995, c.157 (C.39:8-75), are appropriated to offset all reasonable and necessary expenses of the Division of State Police and Department of Transportation-Division of Motor Vehicles in the performance of commercial truck safety and emission inspections, subject to the approval of the Director of the Division of Budget and Accounting.

All fees and receipts collected, pursuant to paragraph (7) of subsection l. of N.J.S.2C:39-6, and the unexpended balance as of June 30, 1997, are appropriated to the Division of State Police to offset the costs of administering the application process subject to the approval of the Director of the Division of Budget and Accounting.

Notwithstanding the provisions of any law or regulation to the contrary, receipts derived from the recovery of costs associated with the implementation of the "Criminal Justice Act of 1970," P.L.1970, c.74 (C.52:17B-97 et seq.), are appropriated for the purpose of offsetting the costs of the Division of Criminal Justice, subject to the approval of the Director of the Division of Budget and Accounting.

Excess receipts not to exceed $3,000,000 derived from licenses, permits, fines, penalties and fees collected or subject to allocation by the Attorney General for criminal justice purposes including the Division of State Police are appropriated, as the Director of the Division of Budget and Accounting shall determine.

13 Special Law Enforcement Activities

03-1160	Office of Highway Traffic Safety	$338,000
17-1420	Election Law Enforcement	2,552,000
20-1450	Review and Enforcement of Ethical Standards	437,000
21-1400	Regulation of Alcoholic Beverages	1,116,000
	Total Appropriation, Special Law Enforcement Activities	$4,443,000
Personal Services:		
	Salaries and Wages	($2,868,000)
Materials and Supplies		(102,000)
Services Other Than Personal		(350,000)
Maintenance and Fixed Charges		(40,000)
Special Purpose:		
	Federal Highway Safety Programs -- State Match	(338,000)
	Gubernatorial Public Finance Program	(630,000)
	Per Diem Payment to Members of the Election Law Enforcement Commission	(15,000)
Additions, Improvements and Equipment		(100,000)

The unexpended balance in the Federal Highway Safety Program -- State Match account, including the accounts of the several departments, as of June 30, 1997, is appropriated for such highway safety projects.

Notwithstanding the provisions of section 14 of P.L.1992, c.188 (C.33:1-4.1), in addition to the amounts hereinabove, all fees and penalties collected by the Director of the Division of Alcoholic Beverage Control in excess of $2,000,000 are appropriated for the purpose of offsetting additional operational costs of the Alcoholic Beverage Control Enforcement Bureau in the Division of State Police and the Division of Alcoholic Beverage Control, subject to the approval of the Director of the Division of Budget and Accounting.

Registration fees, tuition fees, training fees, and other fees received for reimbursement for attendance at courses administered or conducted by the Division of Alcoholic Beverage Control are appropriated for program costs.

From the receipts derived from uncashed pari-mutuel winning tickets, the regulation, supervision, licensing and enforcement of all New Jersey Racing Commission activities and functions and any unexpended balance as of June 30, 1997, such sums as may be required are appropriated for the purpose of offsetting the costs of the administration and operation of the New Jersey Racing Commission, subject to the approval of the Director of the Division of Budget and Accounting.

All fees, fines, and penalties collected pursuant to P.L.1973, c.83 (C.19:44A-1 et al.) and section 11 of P.L.1991, c.244 (C.52:13C-23.1) are appropriated for the purpose of

offsetting additional operational costs of the Election Law Enforcement Commission, subject to the approval of the Director of the Division of Budget and Accounting.

Notwithstanding the provision hereinabove, amounts received pursuant to P.L.1971, c.183 (C.52:13C-18 et seq.) are appropriated for the purpose of offsetting additional operational costs of the Election Law Enforcement Commission, subject to the approval of the Director of the Division of Budget and Accounting.

Of the receipts derived from the regulation, supervision, and licensing of all State Athletic Control Board activities and functions and the unexpended balance as of June 30, 1997, an amount is appropriated for the purpose of offsetting the costs of the administration and operation of the State Athletic Control Board, subject to the approval of the Director of the Division of Budget and Accounting.

18 Juvenile Services
1500 Division of Juvenile Services

34-1500	Juvenile Community Programs	$18,996,000
99-1500	Management and Administrative Services	3,024,000
	Total Appropriation, Division of Juvenile Services	$22,020,000
Personal Services:		
	Salaries and Wages	($12,170,000)
Materials and Supplies.		(1,376,000)
Services Other Than Personal.		(950,000)
Maintenance and Fixed Charges		(594,000)
Special Purpose:		
	Juvenile Justice Initiatives	(4,352,000)
	Community Residential Programs Staff Increase	(1,000,000)
	Social Services Block Grant -- State Match	(42,000)
	Cedar Grove Residential Program	(1,000,000)
	Court Liaison/Mobile Classification Unit..	(440,000)
Additions, Improvements and Equipment.		(96,000)

Notwithstanding the provisions of any law to the contrary, amounts that become available as a result of the contracting of community programs may be transferred to the Contract Services account, subject to the approval of the Director of the Division of Budget and Accounting.

Notwithstanding the provisions of any law to the contrary, amounts that become available as a result of the contracting of community programs shall be transferred from the Inter-Departmental Employee Benefits program classification to the Contract Services account, subject to the approval of the Director of the Division of Budget and Accounting.

Notwithstanding the provisions of any law to the contrary, amounts that become available as a result of the contracting of community programs shall be transferred from the Inter-Departmental Salary and Other Benefits program classification to the Contract Services account, subject to the approval of the Director of the Division of Budget and Accounting.

In addition to the sums appropriated hereinabove for Salaries and Wages within Management and Administrative Services, the Director of the Juvenile Justice Commission, with the approval of the Director of the Division of Budget and Accounting, may transfer or credit to this account an amount up to $226,000 from other appropriations in Juvenile Community Programs to reflect savings from the contracting of community programs.

The unexpended balance as of June 30, 1997 in the Juvenile Justice Initiatives account is appropriated, subject to the approval of the Director of the Division of Budget and Accounting.

1505 New Jersey Training School for Boys

35-1505	Institutional Control and Supervision	$10,858,000
36-1505	Institutional Care	2,687,000
37-1505	Institutional Treatment	2,474,000
39-1505	Physical Plant and Support Services	2,426,000
99-1505	Management and Administrative Services	852,000
	Total Appropriation, New Jersey Training School for Boys	$19,297,000
Personal Services:		
	Salaries and Wages	($13,883,000)
	Food In Lieu of Cash	(72,000)
Materials and Supplies		(1,746,000)
Services Other Than Personal.		(1,849,000)
Maintenance and Fixed Charges		(524,000)
Special Purpose:		
	Jamesburg Staffing Increase	(1,100,000)
	Other Special Purpose	(2,000)
Additions, Improvements and Equipment		(121,000)

Receipts derived from the Eyeglass program at the New Jersey Training School for Boys and any unexpended balance as of June 30, 1997 are appropriated for the operation of the program.

1510 Juvenile Medium Security Center

35-1510	Institutional Control and Supervision	$11,303,000
36-1510	Institutional Care	702,000
37-1510	Institutional Treatment	451,000
39-1510	Physical Plant and Support Services	1,708,000
99-1510	Management and Administrative Services	486,000
	Total Appropriation, Juvenile Medium Security Center	$14,650,000
Personal Services:		
	Salaries and Wages	($6,202,000)
	Food In Lieu of Cash	(30,000)
Materials and Supplies		(289,000)
Services Other Than Personal		(461,000)
Maintenance and Fixed Charges		(112,000)
Special Purpose:		
	Juvenile Boot Camp	(3,933,000)
	Female Secure Care Program -- Johnstone	(2,800,000)
	Johnstone Facility Maintenance	(702,000)
Additions, Improvements and Equipment		(121,000)

19 Central Planning, Direction and Management

88-1000	Central Library Services	$582,000
99-1000	Management and Administrative Services	5,197,000
	Total Appropriation, Central Planning, Direction and Management	$5,779,000
Personal Services:		
	Salaries and Wages	($4,618,000)
Materials and Supplies		(362,000)
Services Other Than Personal		(430,000)
Maintenance and Fixed Charges		(88,000)

Special Purpose:
Affirmative Action and Equal
Employment Opportunity ..... (198,000)
Additions, Improvements and Equipment ..... (83,000)

Notwithstanding the provisions of any law or regulation to the contrary, funds obtained through seizure, forfeiture, or abandonment pursuant to any federal or State statutory or common law and the proceeds of the sale of any such confiscated property or goods, except for such funds as are dedicated pursuant to P.L.1993, c.227, are appropriated for law enforcement purposes designated by the Attorney General.

The Attorney General shall provide the Director of the Division of Budget and Accounting, the Senate Budget and Appropriations Committee and the Assembly Appropriations Committee, or the successor committees thereto, with written reports on August 1, 1997 and February 1, 1998, of the use and disposition by State law enforcement agencies of any interest in property or money seized, or proceeds resulting from seized or forfeited property, and any interest or income earned thereon, arising from any State law enforcement agency involvement in a surveillance, investigation, arrest or prosecution involving offenses under N.J.S.2C:35-1 et seq. and N.J.S.2C:36-1 et seq. leading to such seizure or forfeiture. The reports shall specify for the preceding period of the fiscal year the type, approximate value, and disposition of the property seized and the amount of any proceeds received or expended, whether obtained directly or as contributive share, including but not limited to the use thereof for asset maintenance, forfeiture prosecution costs, costs of extinguishing any perfected security interest in seized property and the contributive share of property and proceeds of other participating local law enforcement agencies.

Penalties, fines, and other fees collected pursuant to N.J.S.2C:35-20 and deposited in the State Forensic Laboratory Fund, together with the unexpended balance as of June 30, 1997, are appropriated to defray additional laboratory related administration and operational expenses of the "Comprehensive Drug Reform Act of 1987," P.L.1987, c.106 (C.2C:35-1 et seq.), subject to the approval of the Director of the Division of Budget and Accounting.

70 Government Direction, Management and Control
74 General Government Services

12-1010 Legal Services $40,765,000
Total All Operations $40,765,000
Less:
Reimbursement From Other Sources $27,087,000
Total Deductions $27,087,000
Total Appropriation, General Government Services $13,678,000
Personal Services:
Salaries and Wages ..... ($12,468,000)
Materials and Supplies ..... (122,000)
Services Other Than Personal ..... (793,000)
Maintenance and Fixed Charges ..... (262,000)
Additions, Improvements and Equipment ..... (33,000)
Expense:
Reimbursement From Other Sources ..... (27,087,000)
Less:
Reimbursement From Other Sources 27,087,000

In addition to the $27,087,000 attributable to Reimbursements from Other Sources and the corresponding additional amount associated with employee fringe benefit costs, there are appropriated such sums as may be received or receivable from any State agency, instrumentality or public authority for direct or indirect costs of legal services furnished

thereto and attributable to a change in or the addition of a client agency agreement, subject to the approval of the Director of the Division of Budget and Accounting.

The Director of the Division of Budget and Accounting is empowered to credit or transfer to the General Fund from any other department, branch or non-State fund source, out of funds appropriated thereto, such funds as may be required to cover the costs of legal services attributable to that other department, branch or non-State fund source as the Director of the Division of Budget and Accounting shall determine. Receipts in any non-State fund are appropriated for the purpose of such transfer.

The unexpended balances as of June 30, 1997 in the Division of Law Legal Services Client Agency Agreement program accounts are appropriated, subject to the approval of the Director of the Division of Budget and Accounting.

80 Special Government Services
82 Protection of Citizens' Rights

14-1310	Consumer Affairs	$12,395,000
15-1320	Board of Accountancy	691,000
15-1321	Board of Architects and Certified Landscape Architects	435,000
15-1322	Board of Dentistry	725,000
15-1323	Board of Mortuary Science	244,000
15-1324	Board of Professional Engineers and Land Surveyors	798,000
15-1325	Board of Medical Examiners	3,670,000
15-1326	Board of Nursing	2,835,000
15-1327	Board of Optometrists	257,000
15-1328	Board of Pharmacy	1,150,000
15-1329	Board of Veterinary Medical Examiners	157,000
15-1330	Board of Shorthand Reporting	76,000
15-1331	Board of Examiners of Ophthalmic Dispensers and Ophthalmic Technicians	189,000
15-1332	Board of Cosmetology and Hairstyling	2,029,000
15-1333	Board of Professional Planners	185,000
15-1334	Board of Examiners of Electrical Contractors	481,000
15-1335	Board of Psychological Examiners	431,000
15-1335	Board of Examiners of Master Plumbers	331,000
15-1337	Board of Marriage Counselor Examiners	150,000
15-1338	Board of Chiropractic Examiners	481,000
15-1339	Board of Public Movers and Warehousemen	228,000
15-1340	Board of Physical Therapy	201,000
15-1341	Audiology and Speech-Language Pathology Advisory Committee	87,000
15-1342	State Real Estate Appraiser Board	312,000
15-1343	State Board of Respiratory Care	134,000
15-1344	State Board of Social Work Examiners	490,000
15-1345	Orthotics and Prosthetics Board	32,000
15-1346	Occupational Therapy and Therapy Assistants	92,000
15-1347	New Jersey Cemetery Board	150,000
16-1350	Protection of Civil Rights	4,472,000
19-1440	Victims of Crime Compensation Board	5,148,000
	Total Appropriation, Protection of Citizens' Rights	$39,056,000
Personal Services:		
	Salaries and Wages	($9,999,000)
Materials and Supplies		(465,000)
Services Other Than Personal		(12,341,000)
Maintenance and Fixed Charges		(1,752,000)

Special Purpose:
Consumer Affairs Legalized Games of Chance .... (1,390,000)
Securities Enforcement Fund ..... (5,398,000)
Consumer Affairs Weights and Measures Program . (2,612,000)
Consumer Affairs Charitable Registrations Program .. (695,000)
Additional Staffing -- Civil Rights ..... (600,000)
Claims --Victims of Crime ..... (3,630,000)
Additions, Improvements and Equipment ..... (174,000)

Receipts derived from the assessment and recovery of costs, fines, and penalties pursuant to the consumer fraud act, P.L.1960, c.39 (C.56:8-1 et seq.), are appropriated for additional operational costs of the Division of Consumer Affairs, subject to the approval of the Director of the Division of Budget and Accounting.

All fees, penalties, and costs collected pursuant to P.L.1988, c.123 (C.56:12-29 et seq.) are appropriated for the purpose of offsetting costs associated with the handling and resolution of consumer automotive complaints.

In addition to the amount appropriated hereinabove for Consumer Affairs, receipts in excess of the amount anticipated, attributable to changes in fee structure or fee increases, are appropriated, subject to the approval of the Director of the Division of Budget and Accounting.

Fees and cost recoveries collected pursuant to P.L.1989, c.331 (C.34:8-43 et al.) are appropriated in an amount not to exceed additional expenses associated with mandated duties, subject to the approval of the Director of the Division of Budget and Accounting.

Receipts in excess of the amount anticipated are appropriated to the Controlled Dangerous Substance Registration program for the purpose of offsetting the costs of the administration and operation of the program, subject to the approval of the Director of the Division of Budget and Accounting. If receipts are less than anticipated, the appropriation shall be reduced proportionately.

Receipts in excess of the amount anticipated derived pursuant to R.S.51:1-1 et seq. from the operations of the Division of Consumer Affairs Office of Weights and Measures program and the unexpended balances as of June 30, 1997, are appropriated for the purposes of offsetting the operational costs of the program, subject to the approval of the Director of the Division of Budget and Accounting.

Receipts in excess of the amount anticipated derived pursuant to P.L.1954, c.7 (C.5:8-1 et seq.) from the operations of the Division of Consumer Affairs Legalized Games of Chance program and the unexpended balances as of June 30, 1997, are appropriated for the purposes of offsetting the operational costs of the program, subject to the approval of the Director of the Division of Budget and Accounting.

Receipts in excess of the amount anticipated derived pursuant to P.L.1994, c.16 (C.45:17A-18 et seq.) from the operations of the Division of Consumer Affairs Charitable Registration and Investigative program and the unexpended balances as of June 30, 1997, are appropriated for the purposes of offsetting the operational costs of the program, subject to the approval of the Director of the Division of Budget and Accounting.

The amount hereinabove for the Securities Enforcement Fund account is payable from receipts from fees and penalties deposited in the Securities Enforcement Fund pursuant to section 15 of P.L.1985, c.405 (C.49:3-66.1). If receipts are less than anticipated, the appropriation shall be reduced proportionately.

Receipts in excess of the amount anticipated are appropriated to the Securities Enforcement Fund program account to offset the cost of operating this program, subject to the approval of the Director of the Division of Budget and Accounting.

The amount hereinabove for each of the several State professional boards, advisory boards, and committees shall be provided from receipts of those entities, and any receipts in excess of the amounts specifically provided to each of the entities are appropriated. The

unexpended balances as of June 30, 1997 are appropriated subject to the approval of the Director of the Division of Budget and Accounting.

Receipts derived from the sale of films, pamphlets, and other educational materials developed or produced by the Division on Civil Rights are appropriated to defray production costs.

Receipts derived from the provision of copies of transcripts and other materials related to officially docketed cases are appropriated.

Notwithstanding the provisions of section 2 of P.L.1983, c.412 (C.10:5-14.1a), any receipts derived from the assessment of fines and penalties pursuant to P.L.1945, c.169 (C.10:5-1 et seq.), are appropriated to the Division on Civil Rights for additional operational costs, subject to the approval of the Director of the Division of Budget and Accounting.

The sum hereinabove for Claims -- Victims of Crime is available for payment of awards applicable to claims filed in prior fiscal years.

Receipts derived from assessments under section 2 of P.L.1979, c.396 (C.2C:43-3.1) in excess of the amount anticipated and the unexpended balance as of June 30, 1997, are appropriated for payment of claims of victims of crimes pursuant to P.L.1971, c.317 (C.52:4B-1 et seq.) and additional board operational costs up to $1,250,000, subject to the approval of the Director of the Division of Budget and Accounting.

Receipts derived from licensing fees pursuant to section 9 of P.L.1990, c.32 (C.2C:58-5) and registration fees pursuant to section 11 of P.L.1990, c.32 (C.2C:58-12) and the unexpended balance as of June 30, 1997, are appropriated for payment of claims for victims of crimes pursuant to P.L.1971, c.317 (C.52:4B-1 et seq.) and additional board operational costs, subject to the approval of the Director of the Division of Budget and Accounting.

Receipts derived from assessments pursuant to section 2 of P.L.1979, c.396 (C.2C:43-3.1) and the unexpended balance as of June 30, 1997, in the Criminal Disposition and Revenue Collection Fund program account are appropriated for the purpose of offsetting the costs of the design, development, implementation and operation of the Criminal Disposition and Revenue Collection program, subject to the approval of the Director of the Division of Budget and Accounting.

The unexpended balances as of June 30, 1997 in the Office of Victim-Witness Assistance and in the Victim and Witness Advocacy Fund pursuant to section 2 of P.L.1979, c.396 (C.2C:43-3.1) are appropriated.

Total Appropriation, Department of Law and Public Safety $298,684,000

67 DEPARTMENT OF MILITARY AND VETERANS' AFFAIRS

10 Public Safety and Criminal Justice

14 Military Services

30-3620	Physical Plant and Support Services	$4,366,000
40-3620	New Jersey National Guard Support Services	420,000
60-3600	Joint Training Center Management and Operations	412,000
99-3600	Management and Administration	3,871,000
	Total Appropriation, Military Services	$9,069,000
Personal Services:		
	Salaries and Wages	($5,650,000)
Materials and Supplies		(1,335,000)
Services Other Than Personal		(619,000)
Maintenance and Fixed Charges		(715,000)
Special Purpose:		
	Joint Federal-State Operations and Maintenance Contracts (State share)	(568,000)

Affirmative Action and Equal
Employment Opportunity ..... (3,000)
Additions, Improvements and Equipment ..... (179,000)
Receipts derived from the rental and use of armories and the unexpended balance of such receipts as of June 30, 1997 are appropriated for the operation and maintenance thereof, subject to the approval of the Director of the Division of Budget and Accounting.
The unexpended balance as of June 30, 1997 in the Joint Federal-State Operations and Maintenance Contracts (State share) account is appropriated for the same purpose.
The unexpended balance as of June 30, 1997 in the National Guard State Active Duty account is appropriated for the same purpose.

80 Special Government Services
83 Services to Veterans
3610 Veterans' Program Support

50-3610 Veterans' Outreach and Assistance $2,901,000
70-3610 Burial Services 1,136,000
Total Appropriation, Veterans' Program Support $4,037,000
Personal Services:
Salaries and Wages. ..... ($2,856,000)
Materials and Supplies ..... (379,000)
Services Other Than Personal ..... (130,000)
Maintenance and Fixed Charges ..... (91,000)
Special Purpose:
Governor's Veterans' Service Council ..... (5,000)
Transitional Housing ..... (400,000)
Vietnam Memorial Perpetual Care ..... (150,000)
Additions, Improvements and Equipment. ..... (26,000)
The unexpended balance as of June 30, 1997 in the Guardianship Program for Veterans account is appropriated for the same purpose.
The unexpended balance as of June 30, 1997 in the Korean Veterans Memorial account is appropriated for the same purpose.
The unexpended balance as of June 30, 1997 in the Transitional Housing account is appropriated for the same purpose.
Funds received for Veterans' Transitional Housing from the federal Department of Veterans' Affairs and the individual residents are appropriated for the same purpose.
Funds received for plot interment allowances from the federal Department of Veterans' Affairs, burial fees collected, and the unexpended balances as of June 30, 1997 are appropriated for perpetual care and maintenance of burial plots and grounds at the Brigadier General Doyle Veterans' Memorial Cemetery.
The unexpended balance as of June 30, 1997 in the Vietnam Memorial Perpetual Care account is appropriated for the same purpose.

3630 Menlo Park Veterans' Memorial Home

20-3630 Domiciliary and Treatment Services $8,887,000
30-3630 Physical Plant and Support Services 2,159,000
99-3630 Management and Administration 1,282,000
Total Appropriation, Menlo Park Veterans' Memorial Home $12,328,000
Personal Services:
Salaries and Wages ..... ($10,060,000)
Materials and Supplies ..... (1,233,000)
Services Other Than Personal ..... (772,000)
Maintenance and Fixed Charges ..... (143,000)
Additions, Improvements and Equipment ..... (120,000)

3640 Paramus Veterans' Memorial Home

20-3640 Domiciliary and Treatment Services	$10,558,000
30-3640 Physical Plant and Support Services	1,799,000
99-3640 Management and Administration	1,618,000
Total Appropriation, Paramus Veterans' Memorial Home	$13,975,000
Personal Services:	
Salaries and Wages	($10,999,000)
Materials and Supplies	(1,624,000)
Services Other Than Personal	(1,052,000)
Maintenance and Fixed Charges	(221,000)
Additions, Improvements and Equipment	(79,000)

3650 Vineland Veterans' Memorial Home

20-3650 Domiciliary and Treatment Services	$10,225,000
30-3650 Physical Plant and Support Services	2,346,000
99-3650 Management and Administration	1,256,000
Total Appropriation, Vineland Veterans' Memorial Home	$13,827,000
Personal Services:	
Salaries and Wages	($11,416,000)
Materials and Supplies	(1,502,000)
Services Other Than Personal	(604,000)
Maintenance and Fixed Charges	(208,000)
Additions, Improvements and Equipment	(97,000)

Balances on hand as of June 30, 1997 of funds held for the benefit of residents in the several veterans' homes, and such funds as may be received, are appropriated for the use of such residents.

Revenues representing receipts to the General Fund from charges to residents' trust accounts for maintenance costs are appropriated for use as personal needs allowances for patients/residents who have no other source of funds for such purposes; provided however, that the allowance shall not exceed $50 per month for any eligible resident of an institution and provided further, that the total amount herein for such allowances shall not exceed $100,000, and that any increase in the maximum monthly allowance shall be approved by the Director of the Division of Budget and Accounting.

Funds received from the sale of articles made in occupational therapy departments of the several veterans' homes are appropriated for the purchase of additional material and other expenses incidental to such sale or manufacture.

Forty percent of the receipts in excess of the amount anticipated derived from resident contributions and federal reimbursements, as of June 30, 1998, are appropriated for veterans' program initiatives, subject to the approval of the Director of the Division of Budget and Accounting of an itemized plan for the expenditure of these amounts, as shall be submitted by the Adjutant General.

Unexpended balances as of June 30, 1997 in the Equipment for Alzheimer's Facility Zone account for each veterans' home are appropriated for the same purpose.

Total Appropriation, Department of Military and Veterans' Affairs	$53,236,000

Of the amount appropriated hereinabove for the Department of Military and Veterans' Affairs, such sums as the Director of the Division of Budget and Accounting shall determine from the schedule at page K-40 in the Governor's Budget Recommendation Document dated January 29, 1997 first shall be charged to the State Lottery Fund.

68 DEPARTMENT OF PERSONNEL
70 Government Direction, Management and Control
74 General Government Services

01-2710	Personnel Policy Development and General Administration	$2,699,000
02-2720	State and Local Government Operations	14,211,000
04-2740	Merit Services	2,108,000
05-2750	Equal Employment Opportunity and Affirmative Action	858,000
07-2770	Human Resource Development Institute	5,538,000
	Total Appropriation, General Government Services	$25,414,000

Personal Services:
- Merit System Board ($52,000)
- Salaries and Wages (19,357,000)

Materials and Supplies (543,000)
Services Other Than Personal (3,692,000)
Maintenance and Fixed Charges (247,000)
Special Purpose:
- Affirmative Action and Equal Employment Opportunity (93,000)
- Microfilm Service Charges (29,000)
- Test Validation/Police Testing (434,000)
- Americans with Disabilities Act (60,000)
- Purchase of Alternative Training Methods (336,000)

Additions, Improvements and Equipment (571,000)

Receipts derived from fees charged to applicants for open competitive or promotional examinations are appropriated.

Receipts derived from training services and any unexpended balance as of June 30, 1997 are appropriated.

Receipts derived from Employee Advisory Services are appropriated.

The Director of the Division of Budget and Accounting is authorized to transfer or credit to the Department of Personnel all or part of any appropriation made to any account to fund the State's unemployment insurance liability for the purpose of creating a pilot "displaced workers pool" and funding the salaries of State employees scheduled to be laid off.

In addition to the amount appropriated hereinabove, receipts in excess of the amount anticipated, attributable to changes in the fee structure or fee increases charged to applicants for open competitive or promotional examinations, are appropriated to fund a pilot "displaced workers pool" for State employees scheduled to be laid off.

In addition to the amount appropriated hereinabove, appropriations made to the various spending agencies for personnel functions shall be transferred to the Department of Personnel, subject to an itemized plan for the consolidation of personnel functions, as shall be submitted by the Commissioner of the Department of Personnel and approved by the Director of the Division of Budget and Accounting.

Notwithstanding the provisions of N.J.S.11A:6-32, cash awards for suggestions shall be paid from the operating budget of the agency from savings generated by the suggestion, subject to the approval of the Director of the Division of Budget and Accounting.

Total Appropriation, Department of Personnel $25,414,000

74 DEPARTMENT OF STATE
30 Educational, Cultural and Intellectual Development
37 Cultural and Intellectual Development Services

05-2530	Support of the Arts	$429,000
06-2535	Museum Services	1,734,000

07-2540 Development of Historical Resources 343,000
Total Appropriation, Cultural and Intellectual Development Services $2,506,000
Personal Services:
Salaries and Wages ..... ($2,276,000)
Materials and Supplies ..... (93,000)
Services Other Than Personal ..... (82,000)
Maintenance and Fixed Charges ..... (52,000)
Special Purpose:
Council Member Expenses ..... (3,000)
Funds derived from the sale of collections and museum materials, which have been approved by the Secretary of State, are appropriated to and shall be used for the benefit of the State Museum.

30 Educational, Cultural and Intellectual Development
37 Cultural and Intellectual Development Services
2541 Division of State Library

51-2541 Library Services $2,502,000
Total Appropriation, Division of State Library $2,502,000
Personal Services:
Salaries and Wages ..... ($1,802,000)
Materials and Supplies ..... (392,000)
Services Other Than Personal ..... (269,000)
Maintenance and Fixed Charges ..... (23,000)
Additions, Improvements and Equipment ..... (16,000)

70 Government Direction, Management and Control
74 General Government Services
2505 Office of the Secretary of State

01-2505 Office of the Secretary of State $516,000
08-2545 Records Management 931,000
09-2506 Commercial Recording 2,315,000
Total Appropriation, Office of the Secretary of State $3,762,000
Personal Services:
Salaries and Wages ..... ($2,907,000)
Materials and Supplies ..... (55,000)
Services Other Than Personal. ..... (190,000)
Maintenance and Fixed Charges ..... (77,000)
Special Purpose:
Statewide Voter Registration and Election Coordination ..... (285,000)
Voter Declaration ..... (4,000)
Affirmative Action and Equal Employment Opportunity ..... (34,000)
Martin Luther King Jr. Commemorative Commission . (193,000)
Additions, Improvements and Equipment ..... (17,000)
Receipts derived from the examination of voting machines by the Secretary of State and the unexpended balance as of June 30, 1997 of those receipts are appropriated for the costs of making such examinations.
The unexpended balance as of June 30, 1997 in the Martin Luther King, Jr. Commemorative Commission is appropriated for the same purpose.
The unexpended balance as of June 30, 1997 in the National Voter Registration Act-Implementation account is appropriated for the same purpose.

The Director of the Division of Budget and Accounting shall transfer from departmental accounts and credit to the Records Management program classification a sum up to $303,000 for cost recoveries in the Division of Records.

Receipts in excess of those anticipated from the over-the-counter service surcharges are appropriated to meet the costs of the Division of Commercial Recording, subject to the approval of the Director of the Division of Budget and Accounting.

The Director of the Division of Budget and Accounting is empowered to transfer or credit to the Microfilm Section any appropriation made to any department for microfilming costs which had been appropriated or allocated to such department for its share of the costs of the Microfilm Section.

Receipts derived from fees charged for microfilming services provided to local governments are appropriated for the same purpose.

The unexpended balance in the Secretary of State Fund as of June 30, 1997 and, notwithstanding the provisions of P.L.1987, c.435, receipts in excess of the amount anticipated from fees are appropriated to meet the costs of information processing and the Office of the Secretary of State.

2515 Office of Administrative Law

03-2515 Adjudication of Administrative Appeals	$6,680,000
Total All Appropriations	$6,680,000
Less:	
Adjudication of Administrative Appeals	***$4,028,000***
Total Deductions	***$4,028,000***
Total Appropriation, Office of Administrative Law	$2,652,000
Personal Services:	
Salaries and Wages	($5,713,000)
Employee Benefits	(150,000)
Materials and Supplies	(151,000)
Services Other Than Personal	(504,000)
Maintenance and Fixed Charges	(130,000)
Special Purpose:	
Affirmative Action and Equal Employment Opportunity	(6,000)
Additions, Improvements and Equipment	(26,000)
Less:	
Adjudication of Administrative Appeals	***4,028,000***

Notwithstanding any law to the contrary, the salary of the Director of the Office of Administrative Law shall be established by the Commissioner of Personnel in the "State Compensation Plan."

In addition to the amount hereinabove, such sums as may be received or receivable from any department or non-State fund source for administrative hearing costs by the Office of Administrative Law and the unexpended balance as of June 30, 1997 of such sums are appropriated, subject to the approval of the Director of the Division of Budget and Accounting.

The Director of the Division of Budget and Accounting is empowered to transfer or credit to the Office of Administrative Law any appropriation made to any department for administrative hearing costs which had been appropriated or allocated to such department for its share of such costs.

Receipts derived from the annual license fee payable to the Office of Administrative Law and the unexpended balance as of June 30, 1997 of such receipts are appropriated.

Receipts derived from the royalty payable to the Office of Administrative Law and the unexpended balance as of June 30, 1997 of such receipts are appropriated.

80 Special Government Services
82 Protection of Citizens' Rights

17-2581 Mental Health Screening Services $2,048,000
19-2583 Dispute Settlement 124,000
20-2584 Trial Services to Indigents and Special Programs 47,076,000
21-2585 Appellate Services to Indigents 6,030,000
22-2586 Public Defender Management and Administrative Services ... 1,968,000
Total Appropriation, Protection of Citizens' Rights $57,246,000

Personal Services:
Salaries and Wages ..... ($41,872,000)
Materials and Supplies ..... (571,000)
Services Other Than Personal ..... (13,206,000)
Maintenance and Fixed Charges ..... (338,000)
Special Purpose:
Public Defender Special Hearings Unit -- Megan's Law ..... (690,000)
Affirmative Action and Equal Employment Opportunity ..... (64,000)
Additions, Improvements and Equipment ..... (505,000)

Sums provided for legal and investigative services are available for payment of obligations applicable to prior fiscal years.

Receipts from clients including Office of Dispute Settlement fees and the unexpended balances as of June 30, 1997 are appropriated.

In addition to the amount hereinabove for the operation of the Public Defender's office there are appropriated additional sums as may be required for Trial and Appellate services to indigents, the expenditure of which shall be subject to the approval of the Director of the Division of Budget and Accounting.

The funds appropriated to the Office of the Public Defender are available for expenses associated with the defense of pool attorneys hired by the Public Defender for the representation of indigent clients.

Notwithstanding any provision of section 2 of P.L.1974, c.33 (C.2A:158A-5.1), or any other provision of law, or any other provision of this appropriations act, no State funds are appropriated to fund the expenses associated with the legal representation of persons before the State Parole Board or the Parole Bureau.

Lawsuit settlements and legal costs awarded by any court to the Office of the Public Defender are appropriated for the expenses associated with the representation of indigent clients.

30 Educational, Cultural and Intellectual Development
36 Higher Educational Services
2600 Commission on Higher Education

60-2600 Statewide Planning and Coordination for Higher Education ... $903,000
61-2600 Educational Opportunity Fund Programs 387,000
Total Appropriation, Commission on Higher Education $1,290,000

Personal Services:
Salaries and Wages ..... ($1,031,000)
Materials and Supplies ..... (18,000)
Services Other Than Personal ..... (214,000)
Maintenance and Fixed Charges ..... (19,000)
Additions, Improvements and Equipment ..... (8,000)

Of the amount hereinabove for Higher Educational Services, such sums as the Director of the Division of Budget and Accounting shall determine from the schedule at page K-40

in the Governor's Budget Recommendation Document dated January 29, 1997 first shall be charged to the State Lottery Fund.

2610 Rutgers, The State University
Rutgers University Programs

65-2610 Instruction		$220,081,000
66-2610 Sponsored Programs and Research		21,635,000
67-2610 Extension and Public Service		4,628,000
69-2610 Academic Support.		24,288,000
70-2610 Student Services		49,509,000
71-2610 Institutional Support		79,575,000
72-2610 Physical Plant and Support Services		79,241,000
Sub-Total General Operations		$478,957,000
Auxiliary Funds Expense		138,522,000
Special Funds Expense		343,698,000
Employee Fringe Benefits Expense		79,673,000
Total All Operations		$1,040,850,000
Less:		
General Services Income	***$218,667,000***	
Auxiliary Funds Income	***138,522,000***	
Special Funds Income	***343,698,000***	
Employee Fringe Benefits Income	***79,673,000***	
Total Income Deductions		***$780,560,000***
Total Appropriation, Rutgers University Programs		$260,290,000
Personal Services:		
Salaries and Wages	($333,047,000)	
Materials and Supplies	(38,887,000)	
Services Other Than Personal	(25,443,000)	
Maintenance and Fixed Charges	(13,131,000)	
Special Purpose:		
Masters in Government Accounting	(180,000)	
Tomato Technology Transfer Program	(100,000)	
Haskin Shellfish Laboratory	(95,000)	
Statewide Privatization (Contracting Out) Survey, Newark	(60,000)	
Forum on Policy Research and Public Service, Rutgers -- Camden	(75,000)	
Camden Law School Clinical Legal Programs for the Poor	(200,000)	
Newark Law School Clinical Legal Programs for the Poor	(200,000)	
College Work-Study (State Share)	(750,000)	
Affirmative Action and Equal Employment Opportunity	(97,000)	
Retirement Allowances	(425,000)	
Special Projects	(6,790,000)	
Capital Debt Service	(19,242,000)	
In Lieu of Tax Payments to New Brunswick	(700,000)	
Civic Square Project -- Debt Service	(740,000)	
Student Aid	(24,589,000)	
Additions, Improvements and Equipment	(14,206,000)	
Auxiliary Funds Expense	(138,522,000)	

Special Funds Expense	(343,698,000)	
Employee Fringe Benefits Expense	(79,673,000)	
Less:		
Income Deductions	***780,560,000***	

Receipts in excess of the amount hereinabove for the Camden Law School Clinical Legal Programs for the Poor and Newark Law School Clinical Legal Programs for the Poor are appropriated for the same purpose, subject to the approval of the Director of the Division of Budget and Accounting.

2615 Agricultural Experiment Station

66-2615 Sponsored Programs and Research		$14,679,000
67-2615 Extension and Public Service		7,794,000
Sub-Total General Operations		$22,473,000
Federal Research and Extension Funds Expense		6,700,000
Special Funds Expense		20,308,000
Employee Fringe Benefits Expense		4,237,000
Total All Operations		$53,718,000
Less:		
Federal Research and Extension Funds Income	***$6,700,000***	
Special Funds Income	***20,308,000***	
Employee Fringe Benefits Income	***4,237,000***	
Total Income Deductions		***$31,245,000***
Total Appropriation, Agricultural Experiment Station		$22,473,000
Personal Services:		
Salaries and Wages	($17,500,000)	
Materials and Supplies	(342,000)	
Services Other Than Personal	(1,548,000)	
Maintenance and Fixed Charges	(211,000)	
Special Purpose:		
Pari-mutuel Programs	(900,000)	
Blueberry and Cranberry Research	(250,000)	
Snyder Farm Planning and Operation	(691,000)	
Fruit Research and Extension	(500,000)	
Additions, Improvements and Equipment	(531,000)	
Federal Research and Extension Funds Expense	(6,700,000)	
Special Funds Expense	(20,308,000)	
Employee Fringe Benefits Expense	(4,237,000)	
Less:		
Income Deductions	***31,245,000***	
Total Appropriation, Rutgers, The State University		$282,763,000

2620 University of Medicine and Dentistry of New Jersey

65-2620 Instruction	$86,797,000
65-2623 UMDNJ Educational Units	750,000
67-2620 Extension and Public Service	269,928,000
69-2620 Academic Support	3,680,000
70-2620 Student Services	9,631,000
71-2620 Institutional Support	38,528,000
72-2620 Physical Plant and Support Services	36,303,000
73-2520 Core Affiliates	5,212,000
Sub-Total General Operations	$450,829,000
Special Funds Expense	121,865,000
Auxiliary Funds Expense	5,077,000

Robert Wood Johnson Community		
Mental Health Center Expense		34,307,000
New Jersey Medical School Community		
Mental Health Center Expense		13,559,000
Employee Fringe Benefits Expense		87,354,000
Total All Operations		$712,991,000
Less:		
Hospital Services Income	***$229,890,000***	
Core Affiliates Income	***5,212,000***	
General Services Income	***53,048,000***	
Special Funds Income	***121,865,000***	
Auxiliary Funds Income	***5,077,000***	
Robert Wood Johnson Community		
Mental Health Center Income	***34,307,000***	
New Jersey Medical School Community		
Mental Health Center Income	***13,559,000***	
Employee Fringe Benefits Income	***87,354,000***	
Total Income Deductions		***$550,312,000***
Total Appropriation, University of Medicine and Dentistry of New Jersey.		$162,679,000
Personal Services:		
Salaries and Wages	($299,907,000)	
Materials and Supplies	(42,820,000)	
Services Other Than Personal	(64,007,000)	
Maintenance and Fixed Charges	(13,882,000)	
Special Purpose:		
Dental Residency Program	(750,000)	
Area Health Education Center	(290,000)	
Regional Health Education Center - Educational Units	(525,000)	
Sexual Abuse Diagnostic Center	(300,000)	
Graduate Medical Education	(126,000)	
University Hospital Debt Service -- Equipment and Renovations	(2,495,000)	
Emergency Medical Service -- Camden	(800,000)	
University Student Aid	(4,919,000)	
Debt Service -- High Technology Initiative.	(2,089,000)	
Debt Service -- School of Osteopathic Medicine Academic Center, Stratford	(2,700,000)	
Regional Health Education Center -- Physical Plant	(1,797,000)	
Core Affiliate--Robert Wood Johnson Medical School--Piscataway	(3,498,000)	
Core Affiliate--New Jersey School of Osteopathic Medicine	(1,714,000)	
Inflammatory Bowel Disease Center	(100,000)	
Violence Institute of New Jersey at UMDNJ	(750,000)	
Additions, Improvements and Equipment.	(7,360,000)	
Special Funds Expense	(121,865,000)	
Auxiliary Funds Expense	(5,077,000)	
Robert Wood Johnson Community Mental Health Center Expense	(34,307,000)	

New Jersey Medical School Community
Mental Health Center Expense ..... (13,559,000)
Employee Fringe Benefits Expense ..... (87,354,000)
Less:
Income Deductions ***550,312,000***

The University of Medicine and Dentistry of New Jersey is authorized to operate its continuing medical-dental education program as a revolving fund and the revenue collected therefrom, and any unexpended balance therein, is retained for such fund.

The unexpended balances as of June 30, 1997 in the accounts hereinabove are appropriated for the purposes of the University of Medicine and Dentistry of New Jersey.

The appropriations for the University are made to Support Units, Educational Units, University Hospital, and Community Mental Health Centers.

In addition to the sums hereinabove appropriated to the University of Medicine and Dentistry of New Jersey, all revenues from lease agreements between the University and contracted organizations are appropriated.

From the amount hereinabove for the University of Medicine and Dentistry of New Jersey, the Director of the Division of Budget and Accounting may transfer such amounts as deemed necessary to the Division of Medical Assistance and Health Services to maximize Federal Medicaid funds.

2630 New Jersey Institute of Technology

65-2630 Instruction	$33,117,000
66-2630 Sponsored Programs and Research	1,612,000
67-2630 Extension and Public Service	966,000
69-2630 Academic Support	11,372,000
70-2630 Student Services	10,249,000
71-2630 Institutional Support	16,693,000
72-2630 Physical Plant and Support Services	12,755,000
Sub-Total General Operations	$86,764,000
Auxiliary Funds Expense	4,861,000
Special Funds Expense	46,200,000
Employee Fringe Benefits Expense	11,671,000
Total All Operations	$149,496,000
Less:	
General Services Income	***$41,158,000***
Auxiliary Funds Income	***4,861,000***
Special Funds Income	***46,200,000***
Employee Fringe Benefits Income	***11,671,000***
Total Income Deductions	***$103,890,000***
Total Appropriation, New Jersey Institute of Technology	$45,606,000
Personal Services:	
Salaries and Wages	($54,787,000)
Materials and Supplies	(9,467,000)
Services Other Than Personal	(6,271,000)
Maintenance and Fixed Charges	(975,000)
Special Purpose:	
NJIT/Burlington County College Engineering Program	($100,000)
Separately Budgeted Research	(586,000)
Continuing Education	(966,000)
Scholarships, Grants, Fellowships.	(5,216,000)
Student Activities.	(196,000)

Affirmative Action and Equal Employment Opportunity	(60,000)	
Board of Trustees	(4,000)	
Mandatory Debt Transfer	(2,350,000)	
Fringe Benefits/Retirement Allowances	(1,516,000)	
Additions, Improvements and Equipment	(4,270,000)	
Auxiliary Funds Expense	(4,861,000)	
Special Funds Expense	(46,200,000)	
Employee Fringe Benefits Expense	(11,671,000)	
Less:		
Income Deductions	***103,890,000***	

2640 Thomas A. Edison State College

71-2640 Institutional Support		$13,234,000
Sub-Total General Operations		$13,234,000
Employee Fringe Benefits Expense		1,958,000
Total All Operations		$15,192,000
Less:		
Fee Increase	***$231,000***	
Self Sustaining Income	***1,656,000***	
General Services Income	***5,774,000***	
Employee Fringe Benefits Income	***1,958,000***	
Total Income Deductions		***$9,619,000***
Total Appropriation, Thomas A. Edison State College		$5,573,000
Personal Services:		
Salaries and Wages	($8,023,000)	
Materials and Supplies	(952,000)	
Services Other Than Personal	(2,905,000)	
Maintenance and Fixed Charges	(359,000)	
Special Purpose:		
Affirmative Action and Equal Employment Opportunity	(14,000)	
New Jersey Inter-Campus Network	(250,000)	
John S. Watson Institute for Public Policy	(250,000)	
Additions, Improvements and Equipment	(481,000)	
Employee Fringe Benefits Expense	(1,958,000)	
Less:		
Income Deductions	***9,619,000***	

2645 Rowan University

65-2645 Instruction	$25,588,000
66-2645 Sponsored Programs and Research	80,000
69-2645 Academic Support	5,817,000
70-2645 Student Services	6,090,000
71-2645 Institutional Support	11,648,000
72-2645 Physical Plant and Support Services	8,258,000
Sub-Total General Operations	$57,481,000
Auxiliary Funds Expense	14,851,000
Special Funds Expense	4,255,000
Employee Fringe Benefits Expense	10,083,000
Total All Operations	$86,670,000
Less:	
General Services Income	***$24,240,000***

Auxiliary Funds Income	***14,851,000***	
Special Funds Income	***4,255,000***	
Employee Fringe Benefits Income	***10,083,000***	
Total Income Deductions		***$53,429,000***
Total Appropriation, Rowan University		$33,241,000
Personal Services:		
Salaries and Wages	($42,082,000)	
Materials and Supplies	(3,375,000)	
Services Other Than Personal	(4,467,000)	
Maintenance and Fixed Charges	(1,950,000)	
Special Purpose:		
Camden Urban Center	(215,000)	
Separately Budgeted Research	(80,000)	
Debt Service	(1,835,000)	
School of Engineering	(500,000)	
Affirmative Action and Equal Employment Opportunity.	(65,000)	
Additions, Improvements and Equipment.	(2,912,000)	
Auxiliary Funds Expense	(14,851,000)	
Special Funds Expense	(4,255,000)	
Employee Fringe Benefits Expense	(10,083,000)	
Less:		
Income Deductions	***53,429,000***	

2650 Jersey City State College

65-2650 Instruction		$24,894,000
66-2650 Sponsored Programs and Research		70,000
69-2650 Academic Support		2,294,000
70-2650 Student Services		3,247,000
71-2650 Institutional Support		6,170,000
72-2650 Physical Plant and Support Services		6,633,000
Sub-Total General Operations		$43,308,000
Auxiliary Funds Expense		10,500,000
Special Funds Expense		4,225,000
Employee Fringe Benefits Expense		8,834,000
Total All Operations		$66,867,000
Less:		
General Services Income	***$11,994,000***	
A. H. Moore Program Receipts	***3,288,000***	
Auxiliary Funds Income	***10,500,000***	
Special Funds Income	***4,225,000***	
Employee Fringe Benefits Income	***8,834,000***	
Total Income Deductions		***$38,841,000***
Total Appropriation, Jersey City State College		$28,026,000
Personal Services:		
Salaries and Wages	($33,905,000)	
Materials and Supplies	(2,582,000)	
Services Other Than Personal	(2,218,000)	
Maintenance and Fixed Charges	(1,536,000)	
Special Purpose:		
A. Harry Moore Laboratory School	(1,078,000)	
Basic Science and Technological Equipment.	(35,000)	
Separately Budgeted Research	(70,000)	

Minority Student Recruitment	(135,000)	
National Direct Student Loan Program (State Share)	(20,000)	
College Work-Study Program (State Share)	(120,000)	
Affirmative Action and Equal Employment Opportunity	(110,000)	
Tidelands Athletic Fields	(145,000)	
Additions, Improvements and Equipment	(1,354,000)	
Auxiliary Funds Expense	(10,500,000)	
Special Funds Expense	(4,225,000)	
Employee Fringe Benefits Expense	(8,834,000)	
Less:		
Income Deductions	***38,841,000***	

2655 Kean College of New Jersey

65-2655 Instruction		$31,101,000
66-2655 Sponsored Programs and Research		75,000
69-2655 Academic Support		2,595,000
70-2655 Student Services		3,754,000
71-2655 Institutional Support		8,730,000
72-2655 Physical Plant and Support Services		8,037,000
Sub-Total General Operations		$54,292,000
Auxiliary Funds Expense		9,193,000
Special Funds Expense		10,501,000
Employee Fringe Benefits Expense		10,217,000
Total All Operations		$84,203,000
Less:		
General Services Income	***$22,462,000***	
Auxiliary Funds Income	***9,193,000***	
Special Funds Income	***10,501,000***	
Employee Fringe Benefits Income	***10,217,000***	
Total Income Deductions		***$52,373,000***
Total Appropriation, Kean College of New Jersey		$31,830,000
Personal Services:		
Salaries and Wages	($43,529,000)	
Materials and Supplies	(4,186,000)	
Services Other Than Personal	(3,879,000)	
Maintenance and Fixed Charges	(1,157,000)	
Special Purpose:		
Separately Budgeted Research	(75,000)	
College Work-Study Program (State Share)	(70,000)	
Emerging Needs/Academic Initiatives	(180,000)	
Affirmative Action and Equal Employment Opportunity	(54,000)	
Additions, Improvements and Equipment	(1,162,000)	
Auxiliary Funds Expense	(9,193,000)	
Special Funds Expense	(10,501,000)	
Employee Fringe Benefits Expense	(10,217,000)	
Less:		
Income Deductions	***52,373,000***	

2660 William Paterson College of New Jersey

65-2660 Instruction		$24,829,000
66-2660 Sponsored Programs and Research		150,000

69-2660 Academic Support		5,620,000
70-2660 Student Services		5,590,000
71-2660 Institutional Support		10,968,000
72-2660 Physical Plant and Support Services		10,787,000
Sub-Total General Operations		$57,944,000
Auxiliary Funds Expense		10,534,000
Special Funds Expense		3,541,000
Employee Fringe Benefits Expense		9,883,000
Total All Operations		$81,902,000
Less:		
General Services Income	***$22,658,000***	
Auxiliary Funds Income	***10,534,000***	
Special Funds Income	***3,541,000***	
Employee Fringe Benefits Income	***9,883,000***	
Total Income Deductions		***$46,616,000***
Total Appropriation, William Paterson College of New Jersey.		$35,286,000
Personal Services:		
Salaries and Wages	($44,322,000)	
Materials and Supplies	(5,323,000)	
Services Other Than Personal	(4,051,000)	
Maintenance and Fixed Charges	(1,284,000)	
Special Purpose:		
Academic Development.	(170,000)	
Separately Budgeted Research.	(150,000)	
College Work-Study Program	(82,000)	
Affirmative Action and Equal Employment Opportunity	(80,000)	
New Jersey Project	(100,000)	
Outcomes Assessment.	(65,000)	
Additions, Improvements and Equipment	(2,317,000)	
Auxiliary Funds Expense	(10,534,000)	
Special Funds Expense	(3,541,000)	
Employee Fringe Benefits Expense	(9,883,000)	
Less:		
Income Deductions	***46,616,000***	

2665 Montclair State University

65-2665 Instruction		$31,697,000
66-2665 Sponsored Programs and Research		120,000
67-2665 Extension and Public Service		600,000
69-2665 Academic Support		7,729,000
70-2665 Student Services		6,696,000
71-2665 Institutional Support		11,550,000
72-2665 Physical Plant and Support Services		9,290,000
Sub-Total General Operations		$67,682,000
Auxiliary Funds Expense		14,269,000
Special Funds Expense		6,446,000
Employee Fringe Benefits Expense		12,562,000
Total All Operations		$100,959,000
Less:		
General Services Income	***$26,989,000***	
Conservation School Receipts	***475,000***	

Auxiliary Funds Income	***14,269,000***	
Special Funds Income	***6,446,000***	
Employee Fringe Benefits Income	***12,562,000***	
Total Income Deductions		***$60,741,000***
Total Appropriation, Montclair State University		$40,218,000
Personal Services:		
Salaries and Wages	($54,039,000)	
Materials and Supplies	(4,756,000)	
Services Other Than Personal	(4,505,000)	
Maintenance and Fixed Charges	(1,557,000)	
Special Purpose:		
Separately Budgeted Research	(120,000)	
New Jersey State School of Conservation	(600,000)	
College Work-Study Program	(70,000)	
Affirmative Action and Equal Employment Opportunity	(102,000)	
Additions, Improvements and Equipment	(1,933,000)	
Auxiliary Funds Expense	(14,269,000)	
Special Funds Expense	(6,446,000)	
Employee Fringe Benefits Expense	(12,562,000)	
Less:		
Income Deductions	***60,741,000***	

In addition to the sums hereinabove appropriated to Montclair State University, all revenues from lease agreements between Montclair State University and corporations operating satellite relay stations are appropriated.

2670 The College of New Jersey

65-2670 Instruction		$25,577,000
66-2670 Sponsored Programs and Research		180,000
69-2670 Academic Support		4,989,000
70-2670 Student Services		8,644,000
71-2670 Institutional Support		7,961,000
72-2670 Physical Plant and Support Services		10,234,000
Sub-Total General Operations		$57,585,000
Auxiliary Funds Expense		29,214,000
Special Funds Expense		17,160,000
Employee Fringe Benefits Expense		9,678,000
Total All Operations		$113,637,000
Less:		
General Services Income	***$24,886,000***	
Auxiliary Funds Income	***29,214,000***	
Special Funds Income	***17,160,000***	
Employee Fringe Benefits Income	***9,678,000***	
Total Income Deductions		***$80,938,000***
Total Appropriation, The College of New Jersey		$32,699,000
Personal Services:		
Salaries and Wages	($41,452,000)	
Materials and Supplies	(5,210,000)	
Services Other Than Personal	(4,321,000)	
Maintenance and Fixed Charges	(996,000)	
Special Purpose:		
Separately Budgeted Research	(180,000)	
Minority Students Recruitment and Scholarships	(750,000)	

College Work-Study Program (State Share) ..... (37,000)
Trustee Scholarships ..... (2,305,000)
Affirmative Action and Equal
Employment Opportunity ..... (43,000)
Additions, Improvements and Equipment ..... (2,291,000)
Auxiliary Funds Expense ..... (29,214,000)
Special Funds Expense ..... (17,160,000)
Employee Fringe Benefits Expense ..... (9,678,000)
Less:
Income Deductions 80,938,000

2675 Ramapo College of New Jersey

65-2675 Instruction	$11,019,000
66-2675 Sponsored Programs and Research	50,000
69-2675 Academic Support	2,443,000
70-2675 Student Services	3,245,000
71-2675 Institutional Support	5,473,000
72-2675 Physical Plant and Support Services	4,817,000
Sub-Total General Operations	$27,047,000
Auxiliary Funds Expense	9,742,000
Special Funds Expense	2,445,000
Employee Fringe Benefits Expense	5,408,000
Total All Operations	$44,642,000
Less:	
General Services Income	***$9,558,000***
Auxiliary Funds Income	***9,742,000***
Special Funds Income	***2,445,000***
Employee Fringe Benefits Income	***5,408,000***
Total Income Deductions	***$27,153,000***
Total Appropriation, Ramapo College of New Jersey	$17,489,000
Personal Services:	
Salaries and Wages	($21,357,000)
Materials and Supplies	(1,920,000)
Services Other Than Personal	(1,789,000)
Maintenance and Fixed Charges	(512,000)
Special Purpose:	
Equipment Leasing Fund -- Debt Service	(97,000)
Separately Budgeted Research	(50,000)
College Work-Study Program	(70,000)
Student Financial Assistance	(320,000)
Governor William T. Cahill Recognition Programs	(200,000)
Affirmative Action and Equal Employment Opportunity	(132,000)
Additions, Improvements and Equipment	(600,000)
Auxiliary Funds Expense	(9,742,000)
Special Funds Expense	(2,445,000)
Employee Fringe Benefits Expense	(5,408,000)
Less:	
Income Deductions	***27,153,000***

2680 The Richard Stockton College of New Jersey

65-2680 Instruction	$15,834,000
66-2680 Sponsored Programs and Research	70,000

69-2680 Academic Support		2,896,000
70-2680 Student Services		3,397,000
71-2680 Institutional Support		5,846,000
72-2680 Physical Plant and Support Services		6,255,000
Sub-Total General Operations		$34,298,000
Auxiliary Funds Expense		10,167,000
Special Funds Expense		1,903,000
Employee Fringe Benefits Expense		6,161,000
Total All Operations		$52,529,000
Less:		
General Services Income	***$15,222,000***	
Auxiliary Funds Income	***10,167,000***	
Special Funds Income	***1,903,000***	
Employee Fringe Benefits Income	***6,161,000***	
Total Income Deductions		***$33,453,0000***
Total Appropriation, The Richard Stockton College of New Jersey.		$19,076,000
Personal Services:		
Salaries and Wages	($27,459,000)	
Materials and Supplies	(2,614,000)	
Services Other Than Personal	(1,979,000)	
Maintenance and Fixed Charges	(374,000)	
Special Purpose:		
Debt Service	(583,000)	
Separately Budgeted Research	(70,000)	
National Direct Student Loan Program (State Share)	(28,000)	
College Work-Study Program (State Share)	(76,000)	
Scholarship and Loan Assistance	(426,000)	
Affirmative Action and Equal Employment Opportunity	(48,000)	
Additions, Improvements and Equipment	(641,000)	
Auxiliary Funds Expense	(10,167,000)	
Special Funds Expense	(1,903,000)	
Employee Fringe Benefits Expense	(6,161,000)	
Less:		
Income Deductions	***33,453,000***	
Total Appropriation, Higher Educational Services.		$735,776,000

Of the amount hereinabove for Higher Educational Services, such sums as the Director of the Division of Budget and Accounting shall determine from the schedule at page K-40 in the Governor's Budget Recommendation Document dated January 29, 1997 first shall be charged to the State Lottery Fund.

Public colleges and universities are authorized to provide a voluntary employee furlough program.

Total Appropriation, Department of State $804,444,000

78 DEPARTMENT OF TRANSPORTATION

10 Public Safety and Criminal Justice

11 Vehicular Safety

01-6400 Motor Vehicle Services		$79,662,000
18-6430 Security Responsibility.		9,527,000
Total Vehicular Safety.		$89,189,000

Personal Services:
Salaries and Wages ..... ($49,241,000)
Materials and Supplies ..... (3,835,000)
Services Other Than Personal ..... (13,405,000)
Maintenance and Fixed Charges .....(1,394,000)
Special Purpose:
DMV Operations -- Extended Hours .....(2,495,000)
Agency Operations ..... (14,209,000)
Security Responsibility -- Agency Operations ..... (1,427,000)
Reflectorized Plates ..... (2,400,000)
Manahawkin DMV Expansion ..... (60,000)
Additions, Improvements and Equipment ..... (723,000)

Receipts derived pursuant to section 2 of P.L.1989, c.202 (C.39:3-33.9) are appropriated for the preparation and issuance of reflectorized license plates, subject to the approval of the Director of the Division of Budget and Accounting.

The unexpended balance as of June 30, 1997 in the Auto Body Licensing and Enforcement program account, together with any receipts in excess of the amount anticipated, is appropriated, subject to the approval of the Director of the Division of Budget and Accounting.

The amount appropriated hereinabove for the Auto Body Licensing and Enforcement program is payable out of receipts from the Auto Body Licensing and Enforcement program pursuant to section 6 of P.L.1983, c.360 (C.39:13-6). If receipts are less than anticipated, the appropriation shall be reduced proportionately.

Receipts in excess of the amount anticipated for photo licensing, derived pursuant to section 2 of P.L.1979, c.261 (C.39:3-10g), are appropriated to administer the program, subject to the approval of the Director of the Division of Budget and Accounting.

The unexpended balance as of June 30, 1997 in the Decal Refund - Axle Tax program is appropriated for the payment of claims directed against the State, subject to the approval of the Director of the Division of Budget and Accounting.

Receipts in excess of the amount anticipated for the Commercial Driver License Program are appropriated to offset the costs of administering the program pursuant to the Commercial Motor Vehicle Safety Act, P.L.1990, c.103 (C.39:3-10.9 et seq.), subject to the approval of the Director of the Division of Budget and Accounting.

The sum hereinabove for Agency Operations is available for maintaining services at Privately Operated motor vehicle agencies; provided however, that the expenditures thereof are subject to the approval of the Director of the Division of Budget and Accounting.

Receipts in the "Commercial Vehicle Enforcement Fund" established pursuant to section 17 of P.L.1995, c.157 (C.39:8-75), are appropriated to offset all reasonable and necessary expenses of the Division of State Police and Department of Transportation-Division of Motor Vehicles in the performance of commercial truck safety and emission inspections, subject to the approval of the Director of the Division of Budget and Accounting.

Receipts derived pursuant to the New Jersey Medical Service Helicopter Response Act under section 1 of P.L.1992, c.87 (C.39:3-8.2) are appropriated to the Division of State Police and the Department of Health and Senior Services to defray the operating costs of the program as authorized under P.L.1986, c.106 (C.26:2K-35 et seq.). The unexpended balance as of June 30, 1997 is appropriated to the special capital maintenance reserve account for capital replacement and major maintenance of helicopter equipment, subject to the approval of the Director of the Division of Budget and Accounting.

Receipts in excess of the amount anticipated for the Parking Offenses Adjudication Act program, derived pursuant to P.L.1985, c.14 (C.39:4-139.2 et seq.), are appropriated, subject to the approval of the Director of the Division of Budget and Accounting.

The amount appropriated hereinabove for the Parking Offenses Adjudication Act program is payable from receipts derived from parking offense adjudication collected pursuant to P.L.1985, c.14 (C.39:4-139.2 et seq.). If receipts are less than anticipated, the appropriation shall be reduced proportionately.

The amount hereinabove for the Uninsured Motorists program account is payable from the Uninsured Motorist Prevention Fund. If receipts to the fund are less than anticipated, the appropriation shall be reduced proportionately.

The amount appropriated hereinabove for the Security Responsibility program classification as well as an amount not to exceed $1,780,987 for fringe benefits and indirect costs shall be reimbursed from receipts received from mutual associations and stock companies writing motor vehicle liability insurance within the State under section 2 of P.L.1952, c.176 (C.39:6-59), subject to the approval of the Director of the Division of Budget and Accounting.

Sums required for the processing of credit card transaction fees are appropriated, subject to the approval of the Director of the Division of Budget and Accounting.

Notwithstanding the provisions of the "Motor Vehicle Inspection Fund" established pursuant to subsection j. of R.S.39:8-2, balances in the fund are available for non-Clean Air purposes, subject to the approval of the Director of the Division of Budget and Accounting.

Receipts in excess of $145,000 derived from motorbus petition and inspection fees are appropriated for the purpose of administering the Motorbus Regulation program, subject to the approval of the Director of the Division of Budget and Accounting.

The unexpended balance as of June 30, 1997 in the Litigation Service Fees - Delinquent Surcharge Program, is appropriated for the implementation and administration of this program, subject to the approval of the Director of the Division of Budget and Accounting.

Funds necessary to defray the cost of collection to implement the provisions of P.L.1994, c.64 (C.17:29A-35 et seq.), as well as the cost of billing and collection of surcharges levied on drivers in accordance with the New Jersey Automobile Insurance Reform Act of 1982 -- Merit Rating System Surcharge Program, P.L.1983, c.65 (C.17:29A-33 et al.) as amended, are appropriated from fees in lieu of actual cost of collection receipts and from surcharges derived, subject to the approval of the Director of the Division of Budget and Accounting.

Receipts in excess of the amount anticipated for Special Plates, derived pursuant to P.L.1964 c.195 (C.39:3-27.3 et seq.), P.L.1968, c.247 (C.39:3-27.5 et seq.), P.L.1977, c.369 (C.39:3-27.8 et seq.), P.L.1979, c.456 (C.39:3-27.13 et seq.), P.L.1979, c.457 (C.39:3-27.15 et seq.), section 12 of P.L.1979, c.224 (C.39:3-19.5), P.L.1981, c.240 (C.39:3-27.27 et seq.), P.L.1981, c.401 (C.39:3-27.29 et seq.), P.L.1983, c.165 (C.39:3-27.33 et seq.), P.L.1959, c.56 (C.39:3-33.3 et seq.), P.L.1987, c.374 (C.39:3-27.35 et seq.), P.L.1991, c.168 (C.39:3-27.42), P.L.1993, c.72 (C.39:3-27.46), P.L.1994, c.29 (C.39:3-27.59 et seq.) and P.L.1949, c.280 (C.39:4-204 et seq.), are appropriated for the purchase of license plates, subject to the approval of the Director of the Division of Budget and Accounting.

Receipts from the new fines and fees available with the implementation of the Enhanced Inspection and Maintenance Program derived pursuant to subsection d. of section 5 of P.L.1995, c.112 (C.39:8-45), subsection b. of section 7 of P.L.1995, c.112 (C.39:8-47), section 8 of P.L.1995, c.112 (C.39:8-48), subsection a. of section 12 of P.L.1995, c.112 (C.39:8-52), subsection a. of section 13 of P.L.1995, c.112 (C.39:8-53), section 14 of P.L.1995, c.112 (C.39:8-54), paragraph 2 of subsection (i) of R.S.39:8-2, and subsections c. and e. of R.S.39:8-9, are deposited in the Motor Vehicle Inspection Fund

and are appropriated for the vehicle inspection program, subject to the approval of the Director of the Division of Budget and Accounting.

Notwithstanding the provisions of P.L.1995, c.112 (C.39:8-41 et al.), there is appropriated such sums as are necessary to fund portions of the Enhanced Inspection and Maintenance Program that are not eligible for federal Congestion Mitigation and Air Quality Improvement funding, subject to the approval of the Director of the Division of Budget and Accounting.

60 Transportation Programs
61 State Highway Facilities

06-6100 Maintenance and Operations	$40,617,000
08-6120 Physical Plant and Support Services	7,537,000
Total Appropriation, State Highway Facilities	$48,154,000
Personal Services:	
Salaries and Wages	($23,273,000)
Materials and Supplies	(10,831,000)
Services Other Than Personal	(2,894,000)
Maintenance and Fixed Charges	(10,903,000)
Special Purpose:	
Disposal of Dead Deer	(253,000)

The unexpended balances as of June 30, 1997 in excess of $1,000,000 in the accounts hereinabove are appropriated.

The department is permitted to transfer an amount approved by the Director of the Division of Budget and Accounting from funds previously appropriated for State highway projects from the "Transportation Rehabilitation and Improvement Fund of 1979," established pursuant to section 15 of P.L.1979, c.165, for planning, engineering, design, right-of-way acquisition, or other costs related to the construction of projects financed from that fund.

Receipts in excess of $1,700,000 derived from highway application and permit fees pursuant to subsection (h) of section 5 of P.L.1966, c.301 (C.27:1A-5) are appropriated for the purpose of administering the Access Permit Review program, subject to the approval of the Director of the Division of Budget and Accounting.

Receipts in excess of $575,000 from the Logo Sign program fees, which include the Trailblazer Sign Program, the Variable Message Advertising Program, the Excess Parcel Advertising Program, and the Land Service Road Advertising Program are appropriated for the purpose of administering the program subject to the approval of the Director of the Division of Budget and Accounting.

64 Regulation and General Management

05-6070 Access and Use Management	$1,276,000
99-6000 Management and Administrative Services	10,724,000
Total Appropriation, Regulation and General Management	$12,000,000
Personal Services:	
Salaries and Wages	($5,886,000)
Materials and Supplies	(455,000)
Services Other Than Personal	(4,618,000)
Maintenance and Fixed Charges	(189,000)
Special Purpose:	
Airport Safety Fund	(300,000)
Affirmative Action and Equal Opportunity Employment	(552,000)

The unexpended balance as of June 30, 1997 and the reimbursements in the department's Stock Purchase Revolving Fund for the purchase of materials and supplies required for the operation of the department are appropriated.

The unexpended balance as of June 30, 1997 in the Airport Safety Fund account together with any receipts in excess of the amount anticipated are appropriated.

The amount hereinabove for the Airport Safety Fund is payable out of the "Airport Safety Fund" established pursuant to section 4 of P.L.1983, c.264 (C.6:1-92). If receipts to that fund are less than anticipated, the appropriation shall be reduced proportionately.

Receipts derived from fees on placarded rail freight cars transporting hazardous materials in this State are appropriated to defray the expenses of the Placarded Rail Freight Car Transporting Hazardous Materials program, subject to the approval of the Director of the Division of Budget and Accounting.

Receipts in excess of $740,000 derived from outdoor advertising application and permit fees are appropriated for the purpose of administering the Outdoor Advertising Permit and Regulation program, subject to the approval of the Director of the Division of Budget and Accounting.

Total Appropriation, Department of Transportation $149,343,000

Such receipts not to exceed $5,000,000 as may be received by the Department of Transportation from the State's Highway Authorities as reimbursement for services that are performed by the department on behalf of the authorities, including but not limited to maintenance and operations programs, are appropriated for purposes within the department as shall be determined by the Director of the Division of Budget and Accounting.

82 DEPARTMENT OF THE TREASURY

30 Educational, Cultural and Intellectual Development

36 Higher Educational Services

46-2150	Student Assistance Programs	$2,512,000
	Total Appropriation, Higher Educational Services	$2,512,000
Personal Services:		
	Salaries and Wages	($1,196,000)
Materials and Supplies		(51,000)
Services Other Than Personal		(812,000)
Maintenance and Fixed Charges		(22,000)
Special Purpose:		
	Servicing of Governor's Teachers Scholarship Loans	(75,000)
	College Savings Program Administration	(350,000)
Additions, Improvements and Equipment		(6,000)

Of the amount hereinabove for Higher Educational Services, such sums as the Director of the Division of Budget and Accounting shall determine from the schedule at page K-40 in the Governor's Budget Recommendation Document dated January 29, 1997 first shall be charged to the State Lottery Fund.

50 Economic Planning, Development and Security

52 Economic Regulation

53-2018	Ratepayer Advocacy	$3,658,000
54-2008	Utility Regulation	5,821,000
55-2004	Regulation of Cable Television	1,426,000
97-2016	Regulatory Support Services	3,143,000
99-2003	Management and Administrative Services	5,837,000
	Total Appropriation, Economic Regulation	$19,885,000

Personal Services:
Salaries and Wages ..... ($16,462,000)
Materials and Supplies ..... (353,000)
Services Other Than Personal ..... (2,240,000)
Maintenance and Fixed Charges ..... (535,000)
Special Purpose:
Other Special Purpose ..... (40,000)
Additions, Improvements and Equipment ..... (255,000)

In addition to the sum hereinabove, such other sums, as the Director of the Division of Budget and Accounting shall determine, are appropriated on behalf of the Board of Public Utilities under P.L.1968, c.173 (C.48:2-59 et seq.) and P.L.1972, c.186 (C.48:5A-32 et seq.), or other applicable statutes with respect to assessment of public utilities or the cable television industry.

Receipts derived from fees are appropriated.

Receipts from fines and penalties in excess of $100,000 are appropriated for regulatory enforcement activities, subject to the approval of the Director of the Division of Budget and Accounting.

Fees received from the "Electric Facility Need Assessment Act", P.L.1983, c.115 (C.48:7-16 et seq.), are appropriated.

The unexpended balances as of June 30, 1997 are appropriated.

Receipts of the Division of the Ratepayer Advocate in excess of those anticipated are appropriated for the Division of the Ratepayer Advocate to defray the cost of this activity under section 16 of P.L.1994, c.58 (C.52:27E-63).

There are appropriated from interest earned by the Petroleum Overcharge Reimbursement Fund such sums as may be required for costs attributable to the administration of the fund, subject to the approval of the Director of the Division of Budget and Accounting.

70 Government Direction, Management and Control
72 Governmental Review and Oversight

02-2010 Office of State Planning $1,400,000
03-2015 Employee Relations and Collective Negotiations 508,000
07-2040 Office of Management and Budget 12,379,000
Total Appropriation, Government Review and Oversight $14,287,000
Personal Services:
Salaries and Wages ..... ($12,749,000)
Materials and Supplies ..... (221,000)
Services Other Than Personal ..... (871,000)
Maintenance and Fixed Charges ..... (102,000)
Special Purpose:
Brownfields Site Inventory Project ..... (225,000)
General Fixed Asset Account Group,
Independent Audit ..... (45,000)
Governmental Accounting Standard Board ..... (29,000)
Additions, Improvements and Equipment ..... (45,000)

The Office of State Planning is authorized to collect reasonable fees for the distribution of its publications, and receipts derived from such fees are appropriated for the Office of State Planning.

Such sums as may be necessary for administrative expenses incurred in processing federal benefit payments are appropriated from such sums as may be received or receivable for this purpose.

In addition to the amounts hereinabove, there are appropriated such additional sums as may be necessary for an independent audit of the State's general fixed asset account group, performance audits, and the single audit.

There are appropriated, out of receipts derived from the investments of State funds, such sums as may be necessary for bank service charges, custodial costs, mortgage servicing fees and advertising bank balances under section 1 of P.L.1956, c.174 (C.52:18-16.1).

There are appropriated out of revenues derived from the collection of fees charged for the issuance of dishonored checks, such sums as are necessary to defray administrative processing costs associated with such checks.

73 Financial Administration

15-2080	Tax Services and Administration	$68,243,000
16-2090	Administration of State Lottery	10,586,000
17-2105	Administration of State Revenues	8,784,000
19-2120	Management of State Investments	4,170,000
	Total Appropriation, Financial Administration	$91,783,000
Personal Services:		
	Salaries and Wages	($68,891,000)
Materials and Supplies		(2,358,000)
Services Other Than Personal		(19,110,000)
Maintenance and Fixed Charges		(1,384,000)
Additions, Improvements and Equipment		(40,000)

Upon certification of the Director of the Division of Taxation, the State Treasurer shall pay, upon warrants of the Director of the Division of Budget and Accounting, such claims for refund as may be necessary under the provisions of Title 54 of the Revised Statutes, as amended and supplemented.

So much of the receipts derived from the sale of confiscated equipment, materials and supplies under the "Cigarette Tax Act," P.L.1948, c.65 (C.54:40A-1 et seq.), as may be necessary for confiscation, storage, disposal and other related expenses thereof, are appropriated.

Notwithstanding any other law to the contrary, there are appropriated out of receipts in the Solid Waste Services Tax Fund and the Resource Recovery Investment Tax Fund such sums as may be necessary for the cost of administration and collection of taxes pursuant to P.L.1985, c.38 (C.13:1E-136 et seq.), subject to the approval of the Director of the Division of Budget and Accounting.

Such sums as are required for the acquisition of equipment essential to the modernization of processing tax returns, are appropriated from tax collections, subject to the approval of the Joint Budget Oversight Committee and the Director of the Division of Budget and Accounting.

The amount necessary to provide administrative costs incurred by the Division of Taxation to meet the statutory requirements of the "New Jersey Urban Enterprise Zones Act," P.L.1983, c.303 (C.52:27H-60 et seq.) is appropriated from the enterprise zone assistance fund, subject to the approval of the Director of the Division of Budget and Accounting.

There are appropriated from the investment earnings of general obligation bond proceeds, such sums as may be necessary for the payment of debt service administrative costs.

Pursuant to the provisions of section 12 of P.L.1992, c.165 (C.40:54D-12), there are appropriated such sums as may be required to compensate the Department of the Treasury for costs incurred in administering the "Tourism Improvement and Development District Act," P.L.1992, c.165 (C.40:54D-1 et seq.).

In addition to the amounts appropriated hereinabove, such additional sums as may be necessary are appropriated to fund the costs of the collection of debts, taxes and other fees and charges owed to the State, including but not limited to the services of auditors and attorneys and enhanced compliance programs, subject to the approval of the Director of the Division of Budget and Accounting. The Director of the Division of Budget and Accounting shall provide the Joint Budget Oversight Committee with

written reports on the detailed appropriation and expenditure of sums appropriated pursuant to this provision.

There are appropriated, out of revenues derived from escheated property under the various escheat acts, such sums as may be necessary to administer such acts and such sums as may be required for refunds.

There are appropriated out of the State Lottery Fund such sums as may be necessary for costs required to implement the "State Lottery Law," P.L.1970, c.13 (C.5:9-1 et seq.), and for payment for commissions, prizes and expenses of developing and implementing games pursuant to section 7 of P.L.1970, c.13 (C.5:9-7).

In addition to the amounts hereinabove, State Lottery Fund receipts in excess of anticipated contributions to education and State institutions, and reimbursements of administrative expenditures, are appropriated, subject to the approval of the Director of the Division of Budget and Accounting and the Joint Budget Oversight Committee.

Notwithstanding the provisions of any other law to the contrary, there are appropriated out of receipts derived from communications fees such sums as may be necessary for telecommunications costs required in the administration of the State Lottery.

Notwithstanding the provisions of any other law to the contrary, there are appropriated out of receipts derived from the sale of advertising by the State Lottery, such sums as may be necessary for advertising costs required in the administration of the State Lottery pursuant to P.L.1970, c.13 (C.5:9-1 et seq.).

There are appropriated, out of receipts derived from service fees billed to authorities for the handling of investment transactions, such sums as may be necessary to administer the above investment activity.

There are appropriated, out of receipts derived from the investments of State funds, such sums as may be necessary for bank service charges, custodial costs, mortgage servicing fees and advertising bank balances under section 1 of P.L.1956, c.174 (C.52:18-16.1).

Notwithstanding the provisions of any law to the contrary, the expenses of administration for the various retirement systems and employee benefit programs administered by the Division of Pensions and Benefits and the Division of Investments shall be charged to the pension and health benefits funds established by law to receive employer contributions or payments or to make benefit payments under the programs, as the case may be. In addition to the amounts hereinabove, there are appropriated such sums as may be necessary for administrative costs, which shall include bank service charges, investment services, and other such costs as are related to the management of the pension and health benefit programs as the Director of the Division of Budget and Accounting shall determine. In addition, revenue resulting from such charges to the various pensions and health benefit funds, payable on a schedule to be determined by the Director of the Division of Budget and Accounting, shall be credited to the General Fund as anticipated revenue.

Notwithstanding any other law to the contrary, the retroactive payments for refunds due under P.L.1997, c.134 are appropriated from the Spill Compensation Fund in an amount not to exceed $335,000.

74 General Government Services

09-2050	Purchasing and Inventory Management	$4,314,000
21-2140	Pensions and Benefits	23,242,000
26-2067	Property Management Services	8,394,000
37-2051	Risk Management	1,604,000
	Total Appropriation, General Government Services	$37,554,000
Personal Services:		
	Salaries and Wages	($26,164,000)
Materials and Supplies		(1,164,000)

Services Other Than Personal ..... (9,019,000)
Maintenance and Fixed Charges ..... (695,000)
Special Purpose:
State Pension System Audit ..... (128,000)
Maintenance of Old Barracks ..... (375,000)
Additions, Improvements and Equipment ..... (9,000)

The Director of the Division of Budget and Accounting is empowered to transfer or credit to any central data processing center from any appropriation made to any department which had been appropriated or allocated to such department for its share of costs of such data processing center including the replacement of data processing equipment and the purchase of additional data processing equipment.

There are appropriated, out of receipts derived from service fees billed to political subdivisions for the operating costs of the cooperative purchasing program, such sums as may be necessary to administer and operate the above purchasing activity.

Notwithstanding the provision of any other law to the contrary, there are appropriated from receipts derived from vendor registration fees sufficient sums for services and expenses related to the development, letting and administration of commodity or service contracts.

There are appropriated, out of receipts derived from service fees billed to authorities for the handling of insurance procurement and risk management services, such sums as may be necessary to administer the above insurance and risk management activities.

Notwithstanding the provisions of any other law to the contrary, there are appropriated, out of receipts derived from third party subrogation, such sums as may be necessary for the administrative expenses of this program.

Notwithstanding the provisions of section 15 of article 6 of P.L.1944, c.112 (C.52:27B-67), there are appropriated out of revenues derived from the sale of surplus state vehicles sufficient sums for the replacement of Central Motor Pool temporary assignment vehicles, subject to the approval of the Director of the Division of Budget and Accounting.

Proceeds derived from commissions paid to the travel services section are appropriated for the administrative expenses of the program.

The Director of the Division of Budget and Accounting is empowered to transfer or credit to the Capitol Post Office revolving fund any appropriation made to any department for postage costs appropriated or allocated to such departments for their share of costs of the Capitol Post Office.

The Director of the Division of Budget and Accounting is empowered to transfer or credit to the Print Shop revolving fund any appropriation made to any department for printing costs appropriated or allocated to such departments for their share of costs of the Print Shop and the Office of Printing Control.

The unexpended balance in the State Purchase Fund as of June 30, 1997, and the reimbursements thereto, are appropriated for the purpose of making payments for purchases under R.S.52:25-1 et seq., and for the expenses of handling, storing and transporting purchases so made and for administration of the Distribution Center.

There are appropriated out of the revenues received from the sale of surplus property sufficient sums for the administrative costs of the Distribution Center-Surplus Property Unit.

There are transferred from the savings in property rental accounts derived from warehouse space consolidation and elimination, such sums as may be required to implement and administer the warehouse space utilization program in the Office of Property Management Services, subject to the approval of the Director of the Division of Budget and Accounting.

From the receipts derived from the sale of real property, such sums are appropriated for the costs incurred in the selling of the real property, including appraisal, survey, advertising,

and other costs related to the disposal, subject to the approval of the Director of the Division of Budget and Accounting.

The unexpended balances in the Management of the DEP Properties account as of June 30, 1997 are appropriated for the same purpose.

Receipts derived from the leasing of State surplus real property are appropriated for the maintenance of leased property subject to the approval of the Director of the Division of Budget and Accounting, provided that a sum not to exceed $100,000 shall be available for the administrative expenses of the program.

Receipts from employee maintenance charges in excess of $850,000 are appropriated for maintenance of employee housing and associated relocation costs; provided however, that a sum not to exceed $170,000 shall be available for management of the program, the expenditure of which shall be subject to the approval of the Director of the Division of Budget and Accounting.

There are appropriated out of revenues derived from the rental and operation of the War Memorial, such sums as may be necessary to operate and maintain this facility.

There are appropriated out of receipts derived from lease proceeds billed to the occupants of the James J. Howard Marine Science Laboratory, such sums as may be required to operate and maintain the facility and for the payment of interest and/or principal due from the issuance of bonds for this facility.

The unexpended balances in the State cafeteria accounts as of June 30, 1997, and receipts obtained from cafeteria operations, are appropriated for the improvement and extension of cafeteria services and facilities pursuant to section 2 of P.L.1951, c.312 (C.52:18A-19.6).

The Director of the Division of Budget and Accounting is empowered to transfer or credit to the Construction Management Services program classification, from appropriations for construction and improvements, a sufficient sum to pay for the cost of architectural work, superintendence and other expert services in connection with such work.

Notwithstanding any law to the contrary, there are appropriated out of receipts derived from the pre-qualification service fees billed to contractors, architects, engineers and professionals sufficient sums for expenses related to the administration of pre-qualification activities undertaken by the Division of Building and Construction.

In addition to the amounts hereinabove, there are appropriated such additional sums as may be necessary for independent audits of the State's pension systems, provided that such appropriations shall be reimbursed to the General Fund from the resources available to the various pension funds.

Notwithstanding the provisions of any law to the contrary, the expenses of administration for the various retirement systems and employee benefit programs administered by the Division of Pensions and Benefits and the Division of Investments shall be charged to the pension and health benefits funds established by law to receive employer contributions or payments or to make benefit payments under the programs, as the case may be. In addition to the amounts hereinabove, there are appropriated such sums as may be necessary for administrative costs, which shall include bank service charges, investment services, and any other such costs as are related to the management of the pension and health benefit programs, as the Director of the Division of Budget and Accounting, shall determine. In addition, revenue resulting from such charges to the various pensions and health benefit funds, payable on a schedule to be determined by the Director of the Division of Budget and Accounting, shall be credited to the General Fund as anticipated revenue.

The unexpended balance as of June 30, 1997 in the Pensions and Health Benefits Commission account is appropriated for the same purpose.

There are appropriated sufficient sums as may be required for the expenses of the Pensions and Health Benefits Commission, provided that such appropriation shall be reimbursed

to the General Fund from the resources available to the various pensions and health benefits funds.

Notwithstanding the provisions of any law to the contrary, there are appropriated from the Capital City Redevelopment Loan and Grant Fund such sums as may be required to provide for expenses, programs and strategies which will enhance the vitality of the capital district as a place to live, visit, work and conduct business, subject to the approval of the Director of the Division of Budget and Accounting.

76 Management and Administration

98-2006 Public Contracts Affirmative Action Office	$912,000
99-2000 Management and Administrative Services	3,769,000
Total Appropriation, General Government Services	$4,681,000
Personal Services:	
Salaries and Wages	($4,122,000)
Materials and Supplies	(23,000)
Services Other Than Personal	(449,000)
Maintenance and Fixed Charges	(50,000)
Special Purpose:	
Federal Liaison Office -- Washington, D.C.	(23,000)
Additions, Improvements and Equipment	(14,000)

The unexpended balance as of June 30, 1997 in the State Revenue Forecasting Advisory Commission account is appropriated for the same purpose.

The unexpended balance as of June 30, 1997 in the Productivity and Efficiency Program is appropriated for the same purpose.

There is appropriated from investment earnings of State funds a sum, not to exceed $640,000, for public finance activities.

There are appropriated out of receipts derived from service fees billed to authorities for the handling of Public Finance transactions such sums as may be necessary to administer the above public finance activities.

Such sums as may be necessary for payment of expenses incurred by issuing officials appointed under the several bond acts of the State are appropriated for the purposes and from the sources defined in those acts.

An amount equivalent to the amount due to be paid in fiscal year 1998 to the State by the Port Authority of New York and New Jersey pursuant to the regional economic development agreement dated January 1, 1990, among the States of New York and New Jersey and the Port Authority of New York and New Jersey is appropriated to the Economic Recovery Fund established pursuant to section 3 of P.L.1992, c.16 (C.34:1B-7.12), for the purposes of P.L.1992, c.16 (C.34:1B-7.10 et seq.).

Notwithstanding the provisions of any law to the contrary, there are appropriated from the "Drug Enforcement and Demand Reduction Fund" such sums as may be required to provide for the administrative expenses of the Governor's Council on Alcoholism and Drug Abuse and for programs and grants to other agencies, subject to the approval of the Director of the Division of Budget and Accounting.

Fees collected on behalf of the Public Contracts Affirmative Action Office program and the unexpended balance as of June 30, 1997 of such fees are appropriated for program costs, subject to allotment by the Director of the Division of Budget and Accounting.

Total Appropriation, Department of the Treasury	$170,702,000

90 MISCELLANEOUS COMMISSIONS
40 Community Development and Environmental Management
43 Science and Technical Programs
9130 Interstate Sanitation Commission

03-9130 Interstate Sanitation Commission $315,000
Total Appropriation, Interstate Sanitation Commission $315,000
Special Purpose:
Expenses of the Commission ..... ($315,000)

9140 Delaware River Basin Commission

02-9140 Delaware River Basin Commission $688,000
Total Appropriation, Delaware River Basin Commission $688,000
Special Purpose:
Expenses of the Commission ..... ($688,000)

70 Government Direction, Management and Control
72 Government Review and Oversight
9148 Council on Local Mandates

91-9148 Council on Local Mandates $100,000
Total Appropriation, Council on Local Mandates $100,000
Special Purpose:
Expenses of the Commission ..... ($100,000)
The unexpended balance as of June 30, 1997 in this account is appropriated.

70 Government Direction, Management and Control
76 Management and Administration
9147 Governor's Performance Review Initiative

91-9147 Governor's Performance Review Initiative $1,723,000
Total Appropriation, Governor's Performance Review Initiative $1,723,000
Special Purpose:
Expenses of the Commission ..... ($1,723,000)
The unexpended balance as of June 30, 1997 in this account is appropriated.
In addition to the amount hereinabove, the Director of the Division of Budget and Accounting shall transfer from departmental accounts and credit to the Governor's Performance Review Initiative, such sums as may be available for the purpose of expanding the review of local governments' operations.

Total Appropriation, Miscellaneous Commissions $2,826,000

94 INTER-DEPARTMENTAL ACCOUNTS
70 Government Direction, Management and Control
74 General Government Services

01-9400 Property Rentals $208,167,000
02-9400 Insurance and Other Services 40,156,000
06-9400 Utilities and Other Services 20,924,000
Total Appropriation, General Government Services $269,247,000
Property Rentals:
Existing and Anticipated Leases ..... (137,422,000)
Camden Aquarium Management Agreement. ..... (1,500,000)
Mercer County Improvement Authority. ..... (7,308,000)
Economic Development Authority ..... (17,866,000)
New Jersey Sports and Exposition Authority ..... (31,678,000)

New Jersey Building Authority ..... (36,370,000)
Other Debt Service Leases and Tax Payments ..... (14,566,000)
Less:
Direct Charges and Charges to Non-State Fund Sources 38,543,000
Insurance:
Property Insurance ..... (2,195,000)
Casualty Insurance ..... (811,000)
Special Insurance Policies. ..... (225,000)
Tort Claims Liability Fund ..... (9,000,000)
Workers' Compensation Fund ..... (23,100,000)
Vehicle Claims Liability Fund ..... (4,200,000)
Self-Insurance Deductible Fund. ..... (500,000)
Self-Insurance Fund-Foster Parents ..... (125,000)
Utilities:
Fuel and Utilities ..... (16,125,000)
Household and Security ..... (4,799,000)

The Director of the Division of Budget and Accounting is empowered to allocate to any State agency occupying space in any State-owned building, equitable charges for the rental of such space, to include but not be limited to the costs of operation and maintenance thereof, and the amounts so charged shall be credited to the General Fund; and, to the extent that such charges exceed the amounts appropriated for such purposes to any agency financed from any fund other than the General Fund, the required additional appropriation shall be made out of such other fund.

Receipts derived from direct charges and charges to non-State fund sources are appropriated for the rental of property, including the costs of operation and maintenance of such properties.

Notwithstanding any other provision of law, and except for leases negotiated by the Office of Property Management and subject to the approval or disapproval by the State Leasing and Utilization Committee pursuant to P.L.1992, c.130 (C.52:18A-191.1 et seq.), and except as hereinafter provided, no lease for the rental of any office or building shall be executed without the prior written consent of the State Treasurer, the Director of the Division of Budget and Accounting, the President of the Senate and the Speaker of the General Assembly.

An amount not to exceed $3,000,000 shall be appropriated to implement the Facilities Master Plan, subject to the approval of the Director of the Division of Budget and Accounting.

The amount hereinabove for the Newark Performing Arts Center account shall be used to pay the State's obligations pursuant to a lease with the New Jersey Economic Development Authority for the lease of real property and infrastructure improvements and the Performing Arts Center structure to be constructed thereon purchased by the authority for the State in the city of Newark for the purpose of constructing buildings to comprise a Performing Arts Center. Notwithstanding any other provision of law, the State Treasurer may enter into a lease with the New Jersey Economic Development Authority to lease the real property and improvements thereon purchased or caused to be constructed by the authority for the State in the city of Newark for the Performing Arts Center, subject to the prior written consent of the Director of the Division of Budget and Accounting, the President of the Senate and the Speaker of the General Assembly. Upon the final payment of the State's obligations pursuant to the lease for the real property and infrastructure improvements purchased by the authority, the title to the real property and improvements shall revert to the State. The State may sublease the land and facilities for the purpose of operating, maintaining or financing a Performing Arts Center in Newark. Any sublease for use of land and improvements

acquired for the State by the New Jersey Economic Development Authority for the Performing Arts Center shall be subject to the prior written approval of the Director of the Division of Budget and Accounting and the Joint Budget Oversight Committee, or its successor.

There are appropriated such additional sums as may be required to pay court-imposed or negotiated settlement costs for the housing of State inmates in Hudson County, subject to the approval of the Director of the Division of Budget and Accounting. The Director of the Division of Budget and Accounting shall notify the Joint Budget Oversight Committee prior to the payment of any such amount.

There are appropriated such additional sums as may be required to pay future debt service costs for projects undertaken by the New Jersey Building Authority, subject to the approval of the Director of the Division of Budget and Accounting.

The unexpended balance as of June 30, 1997 in the Master Lease Program Fund is appropriated for the same purpose.

There are appropriated such additional sums as may be required to pay tort claims under N.J.S.59:12-1, as recommended by the Attorney General and as the Director of the Division of Budget and Accounting shall determine.

The funds appropriated to the Tort Claims Liability Fund are available for the payment of claims of a tortious nature, as recommended by the Attorney General and as the Director of the Division of Budget and Accounting shall determine.

The funds appropriated to the Tort Claims Liability Fund are available for the payment of direct costs of legal, administrative, and medical services related to the investigation, mitigation and litigation of tort claims under N.J.S.59:12-1, and claims of a tortious nature, as recommended by the Attorney General and as the Director of the Division of Budget and Accounting shall determine.

The funds appropriated to the Tort Claims Liability Fund are available for the indemnification of pool attorneys engaged by the Public Defender for the defense of indigents.

The funds appropriated to the Tort Claims Liability Fund are available for the indemnification of designated pathologists engaged by the State Medical Examiner.

Notwithstanding any other law to the contrary, claims paid from the Tort Claims Liability Fund on behalf of entities funded, whole or in part, from non-State funds, may be reimbursed from such non-State fund sources as determined by the Director of the Division of Budget and Accounting.

To the extent that sums appropriated to pay Workers' Compensation claims under R.S.34:15-1 et seq., are insufficient, there are appropriated such additional sums as may be required to pay Workers' Compensation claims, subject to the approval of the Director of the Division of Budget and Accounting.

The amount hereinabove for the Workers' Compensation Self-Insurance Fund under R.S.34:15-1 is available for the payment of direct costs of legal, investigative, administrative and medical services related to the investigation, mitigation, litigation and administration of claims against the fund, subject to the approval of the Director of the Division of Budget and Accounting.

Notwithstanding any other law to the contrary, benefits provided to community work experience participants shall be borne by the Work First New Jersey program funded through the Department of Human Services and any costs related to administration, mitigation, litigation and investigation of claims will be reimbursed to the Bureau of Risk Management by the Work First New Jersey Program funded through the Department of Human Services, subject to the approval of the Director of the Division of Budget and Accounting.

The sums hereinabove appropriated for Workers' Compensation claims shall be allotted to the departments, as the Director of the Division of Budget and Accounting shall determine.

To the extent that sums appropriated to pay auto insurance claims are insufficient, there are appropriated such additional sums as may be required to pay auto insurance claims, subject to the approval of the Director of the Division of Budget and Accounting.

The amount hereinabove for the Vehicle Claims Liability Fund is available for the payment of direct costs of legal, investigative and medical services related to the investigation, mitigation and litigation of claims against the fund.

The unexpended balance as of June 30, 1997 in the Self-Insurance Deductible Fund is appropriated for the same purposes.

The amount appropriated for the Self-Insurance Fund-Foster Parents is available for the payment of direct costs of legal, investigative and medical services related to the investigation, mitigation and litigation of claims against the fund.

The sums hereinabove are available for payment of obligations applicable to prior fiscal years.

There are appropriated such additional sums as may be required to pay all insurance costs incurred by the county courts on and after January 1, 1995, at which time these responsibilities pass to the State pursuant to the "State Judicial Unification Act," P.L. 1993, c.275 (C.2B:10-1 et seq.), subject to the approval of the Director of the Division of Budget and Accounting.

There are appropriated out of revenues received from utility companies such sums as may be required for implementation and administration of the Energy Conservation Initiatives Program, subject to the approval of the Director of the Division of Budget and Accounting.

In addition to the sums hereinabove for Fuel and Utilities, the Director of the Division of Budget and Accounting shall transfer or credit to this account such sums that accrue from appropriations made to various spending agencies for Fuel and Utilities and Salaries and Wages, to reflect savings associated with the fuel switch energy-conservation initiatives at Trenton Psychiatric Hospital, Edward R. Johnstone Training Center, New Jersey Training School for Boys and the State Police Headquarters.

9410 Employee Benefits

03-9410 Employee Benefits	$1,049,820,000
Total Appropriation, Employee Benefits	$1,049,820,000
Special Purpose:	
Public Employees' Retirement System	($50,027,000)
Police and Firemen's Retirement System (P.L.1973, c.156)	(53,659,000)
Police and Firemen's Retirement System (P.L.1979, c.109)	(23,986,000)
Alternate Benefits Program -- Employer Contributions	(72,146,000)
Judicial Retirement System	(13,479,000)
Teachers' Pension and Annuity Fund and Non-Contributory Group Life Insurance -- State	(2,243,000)
Pension Adjustment Program	(1,601,000)
Veterans' Act Pensions	(200,000)
P.E.R.S. Minimum Pension Benefit Act -- Pre-1955 Retirees	(29,000)
Heath Act Pensions	(10,000)
Debt Service on Pension Obligation Bonds	(54,575,000)
State Employees' Health Benefits	(433,309,000)
Less:	
Health Benefit Surplus	***115,800,000***

State Employee Prescription Drug Program ..... (86,062,000)
Less:
Prescription Drug Surplus ***7,600,000***
State Employees' Dental Program --
Shared Cost ..... (21,023,000)
State Employees' Vision Care Program ..... (1,004,000)
Social Security Tax -- State ..... (342,073,000)
Temporary Disability Insurance Liability ..... (10,084,000)
Unemployment Insurance Liability ..... (7,710,000)

There is appropriated a sufficient amount in order that upon application to the Director of the Division of Budget and Accounting, an annuity of $4,000 shall be paid to the widow or widower of any person, now deceased, who was elected and served as Governor of the State; provided such widow or widower was the spouse of such person for all or part of the period during which he or she served as Governor; and provided further, that this shall not apply to any widow or widower receiving a pension granted under R.S.43:8-2, and continued by R.S.43:7-1 et seq., R.S.43:8-1 et seq., and R.S.43:8-8 et seq.

Such additional sums as may be required for Social Security Tax may be allotted from the various departmental operating appropriations to this account, as the Director of the Division of Budget and Accounting shall determine.

Such additional sums as may be required for State Employees' Health Benefits may be allotted from the various departmental operating appropriations to this account, as the Director of the Division of Budget and Accounting shall determine.

Of the amounts hereinabove for the Pension Adjustment Act, such sums as are appropriated in advance for increased retirement benefits for local employee members of State-administered retirement systems shall be repaid to the General Treasury upon reimbursement from local public employers.

Such additional sums as may be required for Unemployment Insurance liability are appropriated as the Director of the Division of Budget and Accounting shall determine.

Notwithstanding the provisions of the Pension Adjustment Act, P.L.1985, c.143 (C.43:3B-1 et seq.), pension adjustment benefits for members and beneficiaries of the Consolidated Police and Firemen's Pension Fund shall be paid by the fund. Employer appropriations for these benefits as required under the act shall be paid to the fund.

In addition to the sum hereinabove appropriated to make payments under the State Treasurer's contracts authorized pursuant to section 6 of P.L.1997, c.114 (C.34:1B-7.50), there are appropriated such other sums as the Director of the Division of Budget and Accounting shall determine are required to pay all amounts due from the State pursuant to such contracts.

9420 State Contingency and Other Funds

04-9420 State Contingency Fund $38,385,000
Total Appropriation, State Contingency Funds $38,385,000

Special Purpose:
To the Governor, for allotment to the various departments or agencies, to meet any condition of emergency or necessity; provided however, that a sum not in excess of $5,000 shall be available for the expense of officially receiving dignitaries and for incidental expenses, including lunches for non-salaried board members and others for whom official reception shall be beneficial to the State ..... ($2,000,000)
Contingency Funds ..... (1,500,000)
Interest on Short Term Notes ..... (400,000)

Notes Issuance Expenses -- Underwriter's Costs ..... (600,000)
Catastrophic Illness in Children Relief Fund --
Employer Contributions ..... (125,000)
Statewide 911 Emergency Telephone System ..... (18,760,000)
Year 2000 Data Processing Initiative ..... (15,000,000)

Unless otherwise indicated, the above amounts may be allotted by the Director of the Division of Budget and Accounting to the various departments and agencies.

Notwithstanding the provisions of N.J.S.2A:153-1 et seq., there is allocated at the discretion of the Governor, an amount up to $50,000, from the Special Purpose amount appropriated hereinabove to meet any condition of emergency or contingency, as a reward for the capture and return of Joanne Chesimard.

9430 Salary Increases and Other Benefits

05-9430 Salary Increases and Other Benefits $91,945,000
Total Appropriation, Salary Increases and Other Benefits $91,945,000
Special Purpose:
Salary Increases and Other Benefits ..... (93,050,000)
Unused Accumulated Sick Leave Payments ..... (4,500,000)
Less:
Statewide Efficiency Initiatives 5,605,000

The sums hereinabove appropriated to the various State departments, agencies, commissions, or institutions of higher education for the cost of salaries, wages, or other benefits shall be allotted as the Director of the Division of Budget and Accounting shall determine.

Notwithstanding the provisions of any other laws, including R.S.34:15-49 and section 1 of P.L.1981, c.353 (C.34:15-49.1), the State Treasurer, the Commissioner of Personnel, and the Director of the Division of Budget and Accounting shall establish directives governing salary ranges and rates of pay, including salary increases. The implementation of such directives shall be made effective at the first full pay period of fiscal year 1998 as determined by such directives, with timely notification of such directives to the Joint Budget Oversight Committee or its successor. Such directives shall not be considered an "administrative rule" or "rule" within the meaning of subsection (e) of section 2 of P.L.1968, c.410 (C.52:14B-2), but shall be considered exempt under paragraphs (1) and (2) of subsection (e) of section 2 of P.L.1968, c.410 (C.52:14B-2), and shall not be subject to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.). Nothing herein shall be construed as applicable to the Presidents of the State Colleges, Rutgers, The State University, the University of Medicine and Dentistry of New Jersey and the New Jersey Institute of Technology.

No salary range or rate of pay shall be increased or paid in any State department, agency, or commission without the approval of the Director of the Division of Budget and Accounting. Nothing herein shall be construed as applicable to unclassified personnel of the Legislative Branch, or the unclassified personnel of the Judicial Branch.

In addition to the amount hereinabove for Unused Accumulated Sick Leave Payments, there are appropriated such additional sums as may be necessary for payments of unused accumulated sick leave.

Any sums appropriated for Salary Increases and Other Benefits shall be made available for any person holding State office, position or employment, whose compensation is paid directly or indirectly, in whole or in part, from State funds, including any person holding office, position or employment under the Palisades Interstate Park Commission.

The Director of the Division of Budget and Accounting shall transfer from departmental accounts and credit to the Salary Increases and Other Benefits account a sum of $5,605,000 from appropriations made to various spending agencies to reflect savings

as a result of Statewide efficiency initiatives. This additional sum is appropriated for Salary Increases and Other Benefits.

Total Appropriation, Inter-Departmental Accounts $1,449,397,000

THE JUDICIARY
10 Public Safety and Criminal Justice
15 Judicial Services

01-9710	Supreme Court	$3,661,000
02-9715	Superior Court -- Appellate Division	12,618,000
03-9720	Civil Courts	73,679,000
04-9725	Criminal Courts	59,909,000
05-9730	Family Courts	58,277,000
06-9735	Municipal Courts	770,000
07-9740	Probation Services	85,366,000
08-9745	Court Reporting	5,772,000
09-9750	Legal and Professional Services	1,148,000
10-9755	Information Services	11,928,000
11-9760	Field Operations	27,206,000
12-9765	Management and Administration	11,565,000
	Total Appropriation, Judicial Services	$351,899,000
Personal Services:		
	Chief Justice	($138,000)
	Associate Justices	(794,000)
	Judges	(47,376,000)
	Salaries and Wages	(219,524,000)
Materials and Supplies		(8,705,000)
Services Other Than Personal		(28,245,000)
Maintenance and Fixed Charges		(2,118,000)
Special Purpose:		
	Rules Development	(200,000)
	Ten Additional Judgeships	(3,000,000)
	Child Placement Review Advisory Council	(75,000)
	Child Support and Paternity Program Title IV-D (Family Court)	(4,228,000)
	Intensive Supervision Program	(9,342,000)
	Juvenile Intensive Supervision Program	(1,466,000)
	Child Support and Paternity Program Title IV-D (Probation)	(17,329,000)
	Affirmative Action and Equal Employment Opportunity	(288,000)
	Additional Judicial Operations Support	(5,000,000)
Additions, Improvements and Equipment		(4,071,000)

Receipts from charges to certain Special Purpose accounts listed hereinabove are appropriated for services provided to these funds.

Receipts from charges to the Superior Court Trust Fund, NJ Lawyers Fund for Client Protection, Ethics Financial Committee, Board of Trial Attorney Certification, Bar Admission Financial Committee, Automated Traffic System Fund, Municipal Court Administrator Certification, Comprehensive Enforcement Program, and Courts Computerized Information Systems Fund are appropriated for services provided to these funds.

The unexpended balances as of June 30, 1997 in these respective accounts are appropriated, provided, however, that an amount not to exceed $5,000,000 shall lapse, as the Director of the Division of Budget and Accounting shall determine.

The unexpended balances as of June 30, 1997 in the Civil Arbitration Program and the Ten Additional Judgeships accounts are appropriated subject to the approval of the Director of the Division of Budget and Accounting.

Receipts in excess of the amount hereinabove for the Ten Additional Judgeships account are appropriated for the same purpose subject to the approval of the Director of the Division of Budget and Accounting.

Receipts in excess of the amount anticipated from dedicated fee increases, not to exceed $9,000,000, are appropriated for judicial operations, subject to enactment of enabling legislation.

Total Appropriation, The Judiciary $351,899,000

Total Appropriation, Direct State Services $5,044,118,000

GRANTS-IN-AID
10 DEPARTMENT OF AGRICULTURE
40 Community Development and Environmental Management
49 Agricultural Resources, Planning, and Regulation -- Grants-In-Aid

03-3330 Resource Development Services $1,213,000
06-3360 Marketing Services 330,000
Total Appropriation, Agricultural Resources, Planning and Regulation $1,543,000

Grants:
Farm Management and Training Initiative ..... ($74,000)
Production Efficiency and Agricultural Business Development Incentive ..... (1,039,000)
Promotion/Market Development ..... (150,000)
Sussex County Horse and Farm Show Association -- Administration Building, Sussex County Fairgrounds ..... (100,000)
New Jersey Museum of Agriculture ..... (180,000)

The expenditure of funds for Production Efficiency and Agricultural Business Development Incentive grants shall be based upon an expenditure plan subject to the approval of the Director of the Division of Budget and Accounting.

An amount not to exceed 5% of the amount appropriated for the Production Efficiency and Agricultural Business Development Incentive grant program shall be available for administration of the program.

Total Appropriation, Department of Agriculture $1,543,000

20 DEPARTMENT OF COMMERCE AND ECONOMIC DEVELOPMENT
50 Economic Planning, Development and Security
51 Economic Planning and Development -- Grants-In-Aid
2800 Division of Economic Development

20-2800 Economic Development $775,000
Total Appropriation, Economic Planning and Development $775,000

Grants:
Prosperity New Jersey, Inc. ..... ($650,000)
New Jersey Association of Women Business Owners -- Resources for Women in Business ..... (75,000)

Trenton Convention and Visitors' Bureau ..... (50,000)

The unexpended balance as of June 30, 1997 in the Prosperity New Jersey, Inc. account is appropriated.

Notwithstanding the provisions of any other law to the contrary, an amount not to exceed $2,000,000 is appropriated to the New Jersey Economic Development Authority, subject to the approval of the Director of the Division of Budget and Accounting, for the purpose of investing such money in an export finance company, pursuant to section 4 of P.L.1995, c.209 (C.34:1B-96). Such amount shall be invested by the authority in the export finance company in accordance with a schedule determined by the State Treasurer after the Export Finance Company Advisory Council, established pursuant to section 7 of P.L.1995, c.209 (C.34:1B-99), certifies that sufficient funds have been committed from private sources to implement the purposes of the "Export Financing Opportunities Act," P.L.1995, c.209 (C.34:1B-93 et seq.).

2890 New Jersey Commission on Science and Technology

20-2890 New Jersey Commission on Science and Technology $14,684,000

Total Appropriation, New Jersey Commission on Science and Technology $14,684,000

Grants:

Research and Development Programs ..... ($11,958,000)

Business Assistance ..... (2,726,000)

The unexpended balance as of June 30, 1997 in this account is appropriated.

Total Appropriation, Department of Commerce and Economic Development $15,459,000

22 DEPARTMENT OF COMMUNITY AFFAIRS

40 Community Development and Environmental Management

41 Community Development Management -- Grants-In-Aid

01-8010 Housing Code Enforcement $919,000

02-8020 Housing Services 6,460,000

18-8017 Uniform Fire Code 8,571,000

Total Appropriation, Community Development Management $15,950,000

Grants:

Cooperative Housing Inspection ..... ($919,000)

Shelter Assistance ..... (2,000,000)

Prevention of Homelessness ..... (4,460,000)

Uniform Fire Code -- Local Enforcement Agency Rebates ..... (8,425,000)

Uniform Fire Code -- Continuing Education ..... (146,000)

The amount hereinabove for the Housing Code Enforcement program classification is payable out of the fees and penalties derived from bureau activities. If these receipts are less than anticipated, the appropriation shall be reduced proportionately.

The unexpended balance as of June 30, 1997 in the Housing Code Enforcement program classification together with any receipts in excess of the amount anticipated is appropriated, subject to the approval of the Director of the Division of Budget and Accounting.

The amount hereinabove for the Uniform Fire Code program classification is payable out of the fees and penalties derived from inspection and enforcement activities. If these receipts are less than anticipated, the appropriation shall be reduced proportionately.

The unexpended balance as of June 30, 1997 in the Uniform Fire Code program classification together with any receipts in excess of the amount anticipated, is

appropriated, subject to the approval of the Director of the Division of Budget and Accounting.

The amount hereinabove for Shelter Assistance is payable from the receipts of the portion of the realty transfer tax directed to be credited to the Neighborhood Preservation Nonlapsing Revolving Fund pursuant to section 4 of P.L.1968, c.49 (C.46:15-8) and from the receipts of the portion of the realty transfer tax directed to be credited to the Neighborhood Preservation Nonlapsing Revolving Fund pursuant to section 4 of P.L.1975, c.176 (C.46:15-10.1). If the receipts are less than anticipated, the appropriation shall be reduced proportionately.

The unexpended balance as of June 30, 1997 in the Shelter Assistance account is appropriated.

The Commissioner of the Department of Community Affairs shall report to the Director of the Division of Budget and Accounting and the Joint Budget Oversight Committee, not later than March 1, 1998, statistical and financial information on the expenditure of funds from the Shelter Assistance account for fiscal year 1998. Such information shall specifically include the number, types, location and costs of beds made available for occupancy with the funds appropriated herein.

The unexpended balance as of June 30, 1997 in the Prevention of Homelessness account is appropriated.

There is appropriated to the Revolving Housing Development and Demonstration Grant Fund an amount not to exceed 50% of the penalties derived from bureau activities in the Housing Code Enforcement program classification, subject to the approval of the Director of the Division of Budget and Accounting.

Such amounts necessary for the payment of principal of and interest on outstanding notes of the Hackensack Meadowlands Development Commission are appropriated, subject to the approval of the Director of the Division of Budget and Accounting.

Notwithstanding the provisions of section 35 of P.L.1975, c.326 (C.13:17-10.1), sections 10 and 11 of P.L.1981, c.306 (C.13:1E-109 and C.13:1E-110), section 8 of P.L.1985, c.368 (C.13:1E-176), or any rules and regulations adopted pursuant thereto, or any order issued by the Board of Public Utilities to the contrary, if the aggregate balance in the closure and post-closure escrow accounts established by the Hackensack Meadowlands Development Commission for the closure and post-closure monitoring of the sanitary landfill facilities operated by the Hackensack Meadowlands Development Commission is in excess of the amount necessary, as calculated pursuant to the financial plan for the closure and post-closure of the sanitary landfill facilities prepared by the Hackensack Meadowlands Development Commission and approved by the Department of Environmental Protection for the proper closure and post-closure monitoring of the sanitary landfill facilities, an amount equal to the excess amount, or $3,005,000, whichever is less, shall be withdrawn from the escrow accounts by the Hackensack Meadowlands Development Commission and paid to the State Treasurer for deposit in the General Fund and the amount so deposited shall be appropriated to the Hackensack Meadowlands Development Commission for operational costs. Of the amount so deposited and appropriated to the Hackensack Meadowlands Development Commission, $110,000 shall be made available to the Hackensack Meadowlands Municipal Committee for operational costs.

Notwithstanding the provisions of section 35 of P.L.1975, c.326 (C.13:17-10.1), sections 10 and 11 of P.L.1981, c.306 (C.13:1E-109 and C.13:1E-110), section 8 of P.L.1985, c.368 (C.13:1E-176), or any rules and regulations adopted pursuant thereto, or any order issued by the Board of Public Utilities to the contrary, an amount equal to $4,200,000 of the calendar year 1997 interest earnings on the aggregate balance in the closure and post-closure escrow accounts established by the Hackensack Meadowlands Development Commission for the closure and post-closure monitoring of the sanitary landfill facilities operated by the commission shall be withdrawn from the escrow accounts by

the Hackensack Meadowlands Development Commission and paid to the State Treasurer for deposit in the General Fund for general State use.

50 Economic Planning, Development and Security
55 Social Services Programs -- Grants-In-Aid

05-8050	Community Resources	$22,690,000
15-8051	Women's Programs	2,195,000
	Total Appropriation, Social Services Programs	$24,885,000

Grants:

State Legal Services Office	($2,500,000)
Legal Services of New Jersey -- Legal Assistance in Civil Matters, P.L.1996, c.52	(8,000,000)
Center for Hispanic Policy, Research and Development	(1,625,000)
Recreation for the Handicapped	(500,000)
Special Olympics	(375,000)
Trenton Urban Gardening Program	(50,000)
Camden Urban Gardening Project	(50,000)
Grant to ASPIRA	(100,000)
Hispanic Women's Resource Centers	(400,000)
Women's Referral Central	(25,000)
Rape Prevention	(500,000)
Job Training Center for Urban Women Act	(315,000)
Grants to Women's Shelters	(25,000)
Grants to Displaced Homemaker Centers	(900,000)
Red Bank -- Bergen Place Redevelopment	(150,000)
Count Basie Learning Center	(15,000)
Keansburg Municipal Building Rehabilitation	(100,000)
South Belmar Public Works Relocation	(300,000)
Matawan Borough Hall Renovation	(350,000)
Wayne Counseling Center	(100,000)
North Ward Center, Newark	(100,000)
West Caldwell Police Communications Center	(125,000)
Tuckerton Boardwalk	(150,000)
Crack House Demolitions, Trenton	(200,000)
Kenilworth Senior Center	(30,000)
Garden State Games	(75,000)
Homesharing Program of Somerset County.	(25,000)
Hazlet Township Curbing Program	(100,000)
Barnegat Bayman Museum	(150,000)
Puerto Rican Congress, Inc	(150,000)
Ocean Grove Historic Preservation Society	(250,000)
Medford Public Safety	(25,000)
International Youth Organization -- Newark	(100,000)
Washington Township (Mercer County) -- Town Center	(300,000)
Hamilton Township (Mercer County) Public Works Initiativ	(260,000)
Deiner Park, New Brunswick	(2,000,000)
Middletown Township Fire Department -- Air Compressor	(140,000)
Aberdeen Township Police Department -- Mobile Data Networks	(65,000)

Union Beach Borough Police Department Equipment .. (50,000)
Vernon Township -- Senior Transportation ..... (25,000)
Keansburg Borough Public Works --
Yard Improvements ..... (75,000)
Port Monmouth Fire Department -Ambulance ..... (70,000)
Middletown Township -- North Middletown
Store Front Rehabilitation ..... (125,000)
Lyndhurst City Hall ..... (350,000)
Middletown Township Police Department ..... (90,000)
Monmouth Day Care Center, Red Bank ..... (50,000)
Waldwick Gun Range Sound Reduction ..... (150,000)
Evesham Township Department of Public Safety .... (300,000)
Englishtown Borough, Property Acquisition ..... (72,000)
Displaced Homemakers Network of New Jersey ..... (135,000)
Bucky James Community Center ..... (10,000)
Cranford Township Community Center ..... (75,000)
City of Bordentown, Open Space Preservation ..... (50,000)
Keansburg Police Department ..... (64,000)
Monmouth Boys and Girls Club, Asbury Park ..... (25,000)
Morris Shelter, Inc. ..... (3,000)
Plaid House, Inc., Morris County ..... (50,000)
Long Hill Township Senior
Citizen-Handicapped Van ..... (58,000)
Morris 2000 ..... (75,000)
Toolan Camp Kiddie Keep Well ..... (100,000)
Bayshore Senior Center ..... (50,000)
Museum of Early Trades and Crafts ..... (25,000)
Hispanic Affairs and Resource Center of
Monmouth County, Asbury Park ..... (10,000)
West Side Community Center ..... (10,000)
Bordentown Township, Open Space Preservation ..... (50,000)
Keyport First Aid Squad ..... (55,000)
Borough of Allentown ..... (50,000)
Keyport Fire Company ..... (55,000)
Old Bridge Township Police
Department -- Equipment ..... (213,000)
Restoration of Jackson Township-Owned
Historic Properties ..... (70,000)
Women for Women, Union County ..... (30,000)
Garwood Borough, New Jersey Transit
Railroad Bridge Recondition ..... (65,000)
Spotswood Seniors and Police ..... (75,000)
Renaissance Community Development Center
Corporation ..... (100,000)
Battleship New Jersey ..... (250,000)
Kirkside at North Branch -- Shared Housing
for Seniors (Bridgewater) ..... (25,000)
Washington Township (Gloucester County)
Park Rangers ..... (210,000)
Mansfield Township Public Works Authority ..... (40,000)
Union Township Ambulance -- Campus First Aid .... (100,000)
Focus on Literacy, Inc. ..... (65,000)
St. Philips Academy, Newark ..... (90,000)

Franklin Borough Dam Restoration ..... (400,000)
Sussex Borough Dam Construction ..... (95,000)
Hillsboro Open Space Commission ..... (100,000)
Accountants for the Public Interest ..... (25,000)

Receipts in excess of the amount hereinabove for Legal Services o f New Jersey -- Legal Assistance in Civil Matters, P.L.1996, c.52, are appropriated for the same purpose, subject to the approval of the Director of the Division of Budget and Accounting.

The unexpended balance as of June 30, 1997 in the Senior Citizen Center, Wayne Township grant appropriation account is appropriated for the same purpose.

In addition to the amount appropriated for the Community Resources program classification, there is appropriated $15,000 to the Cranbury Historical Society for the celebration 300th anniversary of the founding of Cranbury, subject to the approval of the Director of the Division of Budget and Accounting.

In addition to the amount appropriated for the Community Resources program classification, there is appropriated $25,000 to the Borough of Jamesburg for town hall repairs, subject to the approval of the Director of the Division of Budget and Accounting.

Total Appropriation, Department of Community Affairs $40,835,000

26 DEPARTMENT OF CORRECTIONS
10 Public Safety and Criminal Justice
16 Detention and Rehabilitation
7025 System-Wide Program Support -- Grants-In-Aid

13-7025 Institutional Program Support $90,934,000
Total Appropriation, System-Wide Program Support $90,934,000

Grants:
Purchase of Service for Inmates
Incarcerated in County Penal Facilities ..... ($58,454,000)
Purchase of Service For Inmates Incarcerated
in Out-Of-State Facilities ..... (100,000)
Amer-I-Can Program ..... (1,500,000)
Purchase of Community Services ..... (30,880,000)

A portion of the total amount appropriated in the Purchase of Service For Inmates Incarcerated in County Penal Facilities account is available for operational costs of additional State facilities for inmate housing which become ready for occupancy and other programs which reduce the number of State inmates in county facilities, subject to the approval of the Director of the Division of Budget and Accounting.

The unexpended balance as of June 30, 1997 in the Purchase of Service For Inmates Incarcerated in County Penal Facilities account is appropriated for the same purpose.

Total Appropriation, Department of Corrections $90,934,000

34 DEPARTMENT OF EDUCATION
30 Educational, Cultural and Intellectual Development
31 Direct Educational Services and Assistance -- Grants-In-Aid

04-5064 Adult and Continuing Education $2,954,000
54-5010 Support of the Arts 100,000
Total Appropriation, Direct Educational Services
and Assistance $3,054,000

Grants:
New Jersey Youth Corps ..... ($2,954,000)
Arts Program for Teenagers ..... (100,000)

34 Educational Support Services -- Grants-In-Aid

30-5063 Academic Program and Standards $1,513,000
Total Appropriation, Educational Support Services $1,513,000
Grants:
Statewide Systemic Initiative to Reform
Mathematics and Science Education ..... ($158,000)
Liberty Science Center -- School Visit
Subsidy Program ..... (250,000)
N.J. Business/Industry/Science Education
Consortium ..... (150,000)
Governor's School ..... (955,000)

The unexpended balance as of June 30, 1997 in the Statewide Systemic Initiative to Reform Mathematics and Science Education program account is appropriated.

The amount appropriated hereinabove for the Governor's School is payable to the four Governor's Schools: The College of New Jersey - Governor's School of the Arts, The Richard Stockton College of New Jersey - Governor's School on the Environment, Monmouth University - Governor's School on Public Issues, and Drew University - Governor's School in the Sciences.

35 Education Administration and Management -- Grants-In-Aid

99-5093 Management and Administrative Services $500,000
Total Appropriation, Education Administration and Management ... $500,000
Grants:
Educational Technology Initiative ..... ($500,000)

Total Appropriation, Department of Education $5,067,000

Of the amount hereinabove for the Department of Education, such sums as the Director of the Division of Budget and Accounting shall determine from the schedule at page K-40 of the Governor's Budget Recommendation Document dated January 29, 1997 first shall be charged to the State Lottery Fund.

42 DEPARTMENT OF ENVIRONMENTAL PROTECTION

40 Community Development and Environmental Management

42 Natural Resource Management -- Grants-In-Aid

12-4875 Parks Management $2,000,000
Total Appropriation, Natural Resource Management $2,000,000
Grants:
Hudson River Waterfront Walkway. ..... ($2,000,000)

46 Environmental Planning and Administration

99-4800 Management and Administrative Services $350,000
Total Appropriation, Management and
Administrative Services $350,000
Grants:
Black Fly Treatment -- Delaware River ..... ($350,000)

Total Appropriation, Department of Environmental Protection $2,350,000

46 DEPARTMENT OF HEALTH AND SENIOR SERVICES

20 Physical and Mental Health

21 Health Services--Grants-In-Aid

02-4220 Family Health Services $7,871,000

03-4230 Epidemiology, Environmental and Occupational Health Services 1,176,000
04-4240 Alcoholism, Drug Abuse and Addiction Services 24,646,000
12-4245 AIDS Services 11,513,000
Total Appropriation, Health Services $45,206,000
Grants:
Family Planning Services ..... ($2,625,000)
Hemophilia Services ..... (921,000)
Testing for Specific Hereditary Diseases ..... (115,000)
Special Health Services for Handicapped Children .. (1,700,000)
Chronic Renal Disease Services ..... (368,000)
Pharmaceutical Services for Adults with Cystic Fibrosis ..... (224,000)
Birth Defects Registry. ..... (25,000)
Lead Poisoning Program ..... (335,000)
Cleft Palate Programs. ..... (550,000)
Newborn Screening Follow-Up and Treatment for Hemoglobins ..... (133,000)
SIDS Assistance Act. ..... (150,000)
Services to Victims of Huntington's Disease ..... (250,000)
Tuberculosis Services. ..... (197,000)
Treatment and Control of Drug Resistant Tuberculosis ..... (354,000)
AIDS Communicable Disease Control. ..... (359,000)
Worker and Community Right to Know. ..... (266,000)
Chelsea House Outpatient Service ..... (150,000)
Substance Abuse Treatment for DYFS/ WorkFirst Mothers -- Pilot Project ..... (1,250,000)
Drugs are Ugly and Uncool Campaign ..... (200,000)
Cost of Living Adjustment, Health Care Service Providers ..... (2,500,000)
Community Based Substance Abuse Treatment and Prevention -- State Share ..... (14,621,000)
Vocational Adjustment Centers. ..... (95,000)
Compulsive Gambling ..... (600,000)
Mutual Agreement Parolee Rehabilitation Project for Substance Abusers ..... (620,000)
In-State Juvenile Residential Treatment Services ... (1,810,000)
Trenton Detox Center -- Drug Rehabilitation and Intensive Aftercare/Transition Facility ..... (350,000)
Center for Hope Hospice, Union County. ..... (50,000)
New Hope Discovery Relocation ..... (2,000,000)
National Council on Alcohol and Drug Dependency .. (450,000)
Interagency Council on Osteoporosis ..... (300,000)
Best Friends Foundation ..... (50,000)
Robin's Nest ..... (25,000)
Mary's Manor ..... (25,000)
Catholic Charities, Bridgewater Connections Program . (25,000)
AIDS Grants ..... (11,513,000)

From the Family Planning Services account, $10,000 is transferred to the Department of Human Services, Division of Medical Assistance and Health Services for Family Planning Services.

There is appropriated from the Alcohol Education, Rehabilitation and Enforcement Fund $570,000 to fund the Fetal Alcohol Syndrome program.

An amount not to exceed $1,830,000 is appropriated to the Department of Health and Senior Services from monies deposited in the Health Care Subsidy Fund established pursuant to section 8 of P.L.1992, c.160 (C.26:2H-18.58) to fund the Infant Mortality Reduction Program.

The unexpended balance as of June 30, 1997 in the Pharmaceutical Services for Adults with Cystic Fibrosis account is appropriated.

The unexpended balance of appropriations, as of June 30, 1997, made to the Department of Health and Senior Services by section 20 of P.L.1989, c.51 for State licensed or approved drug abuse prevention and treatment programs is appropriated for the same purpose, subject to the approval of the Director of the Division of Budget and Accounting.

An amount not to exceed $600,000, collected by the Casino Control Commission is payable to the General Fund pursuant to section 145 of P.L.1977, c.110 (C.5:12-145). The unexpended balance as of June 30, 1997 in the Compulsive Gambling account is appropriated to the Department of Health and Senior Services to provide funds for compulsive gambling grants.

There is appropriated from the Alcohol Education, Rehabilitation and Enforcement Trust Fund $420,000 to fund the Local Alcoholism Authorities-Expansion account.

If the combination of grants from the Family Planning Services account and the increase of new Medicaid funding available to family planning clinics falls below fiscal year 1996 payments to clinics, such additional sums as may be required are appropriated from the Health Care Planning account, not to exceed $285,000, subject to the approval of the Director of the Division of Budget and Accounting.

The unexpended balance as of June 30, 1997 in the Interagency Council on Osteoporosis account is appropriated.

Notwithstanding the provisions of any other law to the contrary, the Commissioner shall devise, at his discretion, rules or guidelines that will allocate reductions in health service grants to the extent possible toward administration and not client services.

Notwithstanding the provisions of P.L.1983, c.531 (C.26:2B-32 et al.) or any other law to the contrary, the unexpended balance in excess of $560,000 in the Alcohol, Education, Rehabilitation and Enforcement Fund as of June 30, 1997 is appropriated and shall be distributed to counties for the treatment of alcohol and drug abusers and for educational purposes, pursuant to the formula set forth in section 5 of P.L.1983, c.531 (C.26:2B-34).

The amount appropriated for Trenton Detox -- Drug Rehabilitation and Intensive Aftercare/Transition Facility shall be provided as a grant to the city of Trenton for up to one-half of the cost of construction of a new facility for the Trenton Detox Program upon satisfactory demonstration by the city of Trenton that matching funds are available. Construction of the new facility shall be completed under the supervision of the Department of the Treasury in such a manner as is agreed upon by the Departments of the Treasury and Health and Senior Services and the city of Trenton.

22 Health Planning and Evaluation -- Grants-In-Aid

06-4260	Health Facilities Evaluation	$504,000
07-4270	Health Care Planning, Financing and Information Services	33,400,000
	Total Appropriation, Health Planning and Evaluation	$33,904,000

Grants:

Emergency Medical Services	($79,000)
Poison Control Center	(425,000)
Charity Care Hospital Payments	(20,500,000)
St. Barnabas/Kimball Medical Center Low Income Clinic	(200,000)

Monmouth Medical Center -- Outpatient Clinic ..... (200,000)
New Jersey ACCESS Program ..... (12,500,000)

There are appropriated from the New Jersey Emergency Medical Service Helicopter Response Program Fund established pursuant to section 2 of P.L.1992, c.87 (C.26:2K-36.1) such sums as are necessary to pay the reasonable and necessary expenses of the operation of the New Jersey Emergency Medical Service Helicopter Response Program created pursuant to P.L.1986, c.106 (C.26:2K-35 et seq.), subject to the approval of the Director of the Division of Budget and Accounting.

In addition to the amount hereinabove for Charity Care Hospital Payments, there may be appropriated such sums as are determined to be necessary for payment to hospitals on account of the provision of uncompensated health care services, subject to the enactment of enabling legislation. Such sums may include proceeds of any settlement as may be received by the State during fiscal year 1998 as a result of State of New Jersey v. R.J. Reynolds Tobacco Company, et al.

26 Senior Services -- Grants-In-Aid

22-4275	Medical Services for the Aged	$558,775,000
24-4275	Pharmaceutical Assistance to the Aged and Disabled	35,162,000
55-4275	Programs for the Aged	8,582,000
	Total Appropriation, Senior Services	$602,519,000

Grants:

Community Care Program for the Elderly and Disabled	($7,354,000)
Payments for Medical Assistance Recipients -- Nursing Homes	(499,229,000)
Medical Day Care	(12,127,000)
Medicaid High Occupancy -- Nursing Homes	(9,000,000)
Medicaid Expansion -- SOBRA	(31,065,000)
Pharmaceutical Assistance to the Aged -- Claims	(35,162,000)
Purchase of Social Services	(7,267,000)
Alzheimer's Disease Program	(615,000)
Adult Protective Services	(700,000)

The amounts hereinabove appropriated for Payments for Medical Assistance Recipients - Nursing Homes are available for the payment of obligations applicable to prior fiscal years.

In order to permit flexibility in the handling of appropriations and ensure the timely payment of claims to providers of medical services, amounts may be transferred to and from the various items of appropriation within the General Medical Services program classification in the Division of Medical Assistance and Health Services in the Department of Human Services and the Medical Services for the Aged program classification in the Division of Senior Services in the Department of Health and Senior Services, subject to the approval of the Director of the Division of Budget and Accounting. Notice thereof shall be provided to the Legislative Budget and Finance Officer on the effective date of the approved transfer. This provision shall apply to all payments made after June 30, 1990.

All funds recovered pursuant to P.L.1968, c.413 (C.30:4D-1 et seq.) and P.L.1975, c.194 (C.30:4D-20 et seq.) during the fiscal year ending June 30, 1998 are appropriated for payments to providers in the same program class from which the recovery originated.

Notwithstanding any other law to the contrary, a sufficient portion of receipts generated or savings realized in Medical Services for the Aged Grants-In-Aid accounts from initiatives included in the fiscal year 1998 Budget may be transferred to administration

accounts to fund costs incurred in realizing these additional receipts or savings, subject to the approval of the Director of the Division of Budget and Accounting.

The Division of Medical Assistance and Health Services and the Department of Health and Senior Services, subject to federal approval, shall implement policies that would limit the ability of persons who have the financial ability to provide for their own long-term care needs to manipulate current Medicaid rules to avoid payment for that care. The division and Department of Health and Senior Services shall require, in the case of a married individual requiring long-term care services, that the portion of the couple's resources which are not protected for the needs of the community spouse be used solely for the purchase of long-term care services.

Funding for alternative long-term care initiatives is made available from the Payments for Medical Assistance Recipients - Nursing Homes account, subject to both federal waiver approval and approval of the Director of the Division of Budget and Accounting.

Such sums as may be necessary are appropriated from enhanced audit recoveries obtained by the Department of Health and Senior Services to fund the costs of enhanced audit recovery efforts of the department within the Medical Services for the Aged program classification, subject to the approval of the Director of the Division of Budget and Accounting.

Notwithstanding the provisions of any law to the contrary, no funds appropriated for Medicaid nursing facility reimbursement shall be expended for administrator or assistant administrator costs or non-food general costs in excess of 100% of the median for those cost centers, subject to the notice provisions of 42 CFR §477.205.

Notwithstanding any other law to the contrary, effective July 1, 1996, reimbursement for nursing facility services shall be 90% of the per diem rate when a Medicaid beneficiary is hospitalized. As in the past, these payments shall be limited to be the first ten days of the hospitalization. Medicaid reimbursement for nursing facility services shall be discontinued beyond the tenth day of the hospitalization.

The funds appropriated hereinabove for Payments for Medical Assistance Recipients - High Medicaid Occupancy Nursing Homes shall be distributed for patient services among those nursing homes whose Medicaid patient day occupancy level is at or above 75%. Each such facility shall receive its distribution through a prospective per diem rate adjustment according to the following formula: E = A Medicaid Days/T Medicaid Days x F; where E is the entitlement for a specific nursing home resulting from this allocation; A Medicaid Days is an individual nursing home's reported Medicaid days on June 30, 1997; T Medicaid Days is the total reported Medicaid days for all affected nursing homes; and F is the total amount of State and federal funds to be distributed. No nursing home shall receive a total allocation greater than the amount lost, due to adjustments in Medicaid reimbursement methodology, which became effective April 1, 1995. Any balances remaining undistributed from the abovementioned amount, shall be deposited in a reserve account in the General Fund.

By December 1, 1997 a Medicaid provider nursing facility shall be certified by Medicare as a provider of skilled nursing services consistent with Medicare regulations, except that this requirement shall not apply if a nursing facility cannot be certified as a Medicare skilled nursing facility provider due to its inability to meet structural requirements for physical plant required by the Medicare certification process.

Notwithstanding the provisions of P.L.1979, c.197 (C.48:2-29.15 et seq.), or the provisions of P.L.1981, c.210 (C.48:2-29.30 et seq.), or any other law to the contrary, the benefits of the "Tenants Lifeline Assistance Program" may be distributed throughout the entire year from July to June, and are not limited to an October to March heating season, and therefore applications for Lifeline benefits and benefits from the "Pharmaceutical Assistance to the Aged and Disabled" program may be combined.

The amounts hereinabove appropriated for payments for "Pharmaceutical Assistance to the Aged and Disabled" program, P.L.1975, c.194 (C.30:4D-20 et seq.), are available for the payment of obligations applicable to prior fiscal years.

Benefits provided under the "Pharmaceutical Assistance to the Aged and Disabled" (PAAD) program, P.L.1975, c.194 (C.30:4D-20 et seq.) shall be the last resource benefits, notwithstanding any provisions contained in contracts, wills, agreements or other instruments. Any provision in a contract of insurance, will, trust agreement or other instrument which reduces or excludes coverage or payment to an individual because of that individual's eligibility for or receipt of PAAD benefits shall be void, and no PAAD payments shall be made as a result of any such provision.

Notwithstanding the provisions of section 3 of P.L.1975, c.194 (C.30:4D-22) to the contrary, the copayment in the "Pharmaceutical Assistance to the Aged and Disabled" program shall be $5.00.

Notwithstanding the provisions of any law to the contrary, rebates from pharmaceutical manufacturing companies for prescriptions purchased by the Pharmaceutical Assistance to the Aged and Disabled program shall continue throughout fiscal year 1998. All revenues from such rebates during the fiscal year ending June 30, 1998 are appropriated for the Pharmaceutical Assistance to the Aged and Disabled program.

Notwithstanding the provisions of any other law or regulation to the contrary, effective July 1, 1997, each prescription order dispensed in the Pharmaceutical Assistance to the Aged and Disabled program for Maximum Allowable Cost (MAC) drugs shall state "Brand Medically Necessary" in the prescriber's own handwriting if the prescriber determines that it is necessary to override generic substitution of drugs, and each prescription order shall follow the requirements of P.L.1977, c.240 (C.24:6E-1 et seq.). The list of drugs substituted shall conform to the Drug Utilization Review Council approved list of substitutable drugs and all other requirements pertaining to drug substitution and federal upper limits for MAC drugs as administered by the State Medicaid Program.

Notwithstanding the provisions of any law to the contrary, no funds appropriated for the Pharmaceutical Assistance to the Aged and Disabled program pursuant to the Act shall be expended unless participating pharmaceutical manufacturing companies execute contracts with the Department of Health and Senior Services through the Department of Human Services providing for the payment of rebates to the State.

Notwithstanding the provisions of any other law or regulation to the contrary, effective July 1, 1996 consistent with the notice provisions of 42 CFR §447.205 where applicable, no funds appropriated in the Pharmaceutical Assistance to the Aged program classification shall be expended except under the following conditions: legend and non-legend drugs dispensed by a retail pharmacy shall be limited to a 34 day or 100 unit dose supply, whichever is greater.

Notwithstanding the provisions of any other law or regulation to the contrary, effective July 1, 1997 consistent with the notice provisions of 42 C.F.R. §447.205 where applicable, no funds appropriated in the Pharmaceutical Assistance to the Aged program classification shall be expended except under the following conditions: (a) reimbursement for prescription drugs shall be based on the Average Wholesale Price less a 10% discount, (b) prescription drugs dispensed by a retail pharmacy shall be limited to a 34-day or 100 unit dose supply, whichever is greater, and (c) the current prescription drug dispensing fee structure set as a variable rate of $3.73 to $4.07 in effect on June 30, 1997 shall remain in effect through fiscal year 1998, including the current increments for patient consultation, impact allowances, and allowances for 24 hour emergency services.

Total Appropriation, Department of Health and
Senior Services $681,629,000

54 DEPARTMENT OF HUMAN SERVICES
20 Physical and Mental Health
23 Mental Health Services
7700 Division of Mental Health Services -- Grants-In-Aid

08-7700 Community Services $161,159,000
Total Appropriation, Division of Mental Health Services..... $161,159,000

Grants:
Extension of Program for Assertive Community Treatment. ..... ($550,000)
Marlboro Closure Initiative ..... (16,194,000)
Community Care ..... (124,381,000)
Collier Group Home -- Marlboro Township ..... (50,000)
Community Mental Health Center -- University of Medicine and Dentistry, Newark. ..... (6,205,000)
Community Mental Health Center -- University of Medicine and Dentistry, Piscataway. ..... (11,985,000)
Cost of Living Adjustment -- Community Services ..... (1,794,000)

With the exception of disproportionate share hospital revenues that may be received, federal and other funds received for the operation of community mental health centers at the New Jersey Medical School and the Robert Wood Johnson Medical School shall be available to the University of Medicine and Dentistry of New Jersey for the operation of the centers.

The amount appropriated hereinabove for the Community Mental Health Centers and the amount appropriated to the Department of State for the University of Medicine and Dentistry of New Jersey, and fringe benefits provided to UMDNJ through the Inter-Departmental accounts, is first charged to the federal disproportionate share hospital reimbursements anticipated as Medicaid Uncompensated Care.

The unexpended balance as of June 30, 1997 in the Marlboro Closure Initiative account is appropriated.

From the amount appropriated hereinabove for the Community Care grant account, $1,000,000 shall be allocated to expand on-call and after-hours crisis coverage and to stabilize salary structures for adjustments to staff members compensation. This allocation shall be made on a pro-rata basis to all Community Care mental health contract providers.

24 Special Health Services
7540 Division of Medical Assistance and Health Services -- Grants-In-Aid

22-7540 General Medical Services $1,282,674,000
Total Appropriation, Division of Medical Assistance and Health Services. $1,282,674,000

Grants:
Managed Care Initiative ..... ($350,288,000)
Payments for Medical Assistance Recipients - Community Care Programs ..... (89,921,000)
Payments for Medical Assistance Recipients - Other Treatment Facilities ..... (5,995,000)
Payments for Medical Assistance Recipients - Inpatient Hospital ..... (232,696,000)
Payments for Medical Assistance Recipients - Prescription Drugs ..... (174,780,000)
Payments for Medical Assistance Recipients - Outpatient Hospital ..... (137,539,000)

Payments for Medical Assistance Recipients - Physician ..... (43,025,000)
Payments for Medical Assistance Recipients - Home Health ..... (40,784,000)
Payments for Medical Assistance Recipients - Medicare B Payments ..... (57,587,000)
Payments for Medical Assistance Recipients - Dental. ..... (12,634,000)
Payments for Medical Assistance Recipients - Psychiatric Hospital ..... (11,272,000)
Payments for Medical Assistance Recipients - Medical Supplies. ..... (13,046,000)
Payments for Medical Assistance Recipients - Clinic ..... (47,518,000)
Payments for Medical Assistance Recipients - Transportation ..... (38,357,000)
Payments for Medical Assistance Recipients - Other Services ..... (18,752,000)
Unit Dose Contract Services. ..... (6,240,000)
Consulting Pharmacy Services ..... (2,240,000)

The amounts hereinabove appropriated for Payments for Medical Assistance Recipients are available for the payment of obligations applicable to prior fiscal years.

In order to permit flexibility in the handling of appropriations and ensure the timely payment of claims to providers of medical services, amounts may be transferred to and from the various items of appropriation within the General Medical Services program classification in the Division of Medical Assistance and Health Services in the Department of Human Services and the Medical Services for the Aged program classification in the Division of Senior Services in the Department of Health and Senior Services, subject to the approval of the Director of the Division of Budget and Accounting. Notice thereof shall be provided to the Legislative Budget and Finance Officer on the effective date of the approved transfer. This provision shall apply to all payments made after June 30, 1990.

For the purposes of account balance maintenance, all object accounts in the General Medical Services program classification shall be considered as one object. This will allow timely payment of claims to providers of medical services but ensure that no overspending will occur in the program classification. This provision shall apply to all payments made after June 30, 1990.

The State appropriation is based on a federal financial participation rate of 48.70%; provided however, that if the federal financial participation rate exceeds this percentage, there will be placed in reserve a portion of the State appropriation equal to the amount of additional federal funds, subject to the approval of the Director of the Division of Budget and Accounting.

Notwithstanding the provisions of P.L.1962, c.222 (C.44:7-76 et seq.), the Medical Assistance for the Aged program is eliminated; provided however, that necessary medical services shall be available to those enrolled in the program as of June 30, 1982, until such time that those persons no longer require medical care or are eligible for alternative programs.

All funds recovered pursuant to P.L.1968, c.413 (C.30:4D-1 et seq.) and P.L.1975, c.194 (C.30:4D-20 et seq.) during the fiscal year ending June 30, 1998 are appropriated for payments to providers in the same program class from which the recovery originated.

The amount appropriated hereinabove for the Division of Medical Assistance and Health Services first is to be charged to the federal disproportionate share hospital reimbursements anticipated as Medicaid uncompensated care.

Notwithstanding any other law to the contrary, a sufficient portion of receipts generated or savings realized in Medical Assistance Grants-In-Aid accounts from initiatives may be transferred to the Health Services Administration and Management accounts to fund costs incurred in realizing these additional receipts or savings, subject to the approval of the Director of the Division of Budget and Accounting.

Notwithstanding any law to the contrary and subject to federal approval, the Commissioner of Human Services is authorized to develop and introduce Optional Service Plan Innovations to enhance client choice for users of Medicaid optional services, while containing expenditures.

The State Treasurer is authorized to sell part or all of the assets of the Garden State Health Plan on such terms and conditions as the State Treasurer, in consultation with the Commissioner of Human Services, determines to be in the best interest of the State. In addition, payment to a vendor for its assistance in the sale of the Garden State Health Plan shall be paid from the sale of the Garden State Health Plan revenue, subject to the approval of the Director of the Division of Budget and Accounting.

A revolving fund for the operation of the Garden State Health Plan is continued until such time as a sale can be implemented, subject to the approval of the Director of the Division of Budget and Accounting. If continuation is necessary, funds shall be allocated from the Managed Care Initiative account and deposited into the fund. There are appropriated for transitional costs additional funds from Garden State Health Plan revolving fund balances or the General Fund, as determined necessary by the Director of the Division of Budget and Accounting. Also, subject to the approval of the Director of the Division of Budget and Accounting, there are appropriated within the Garden State Health Plan revolving fund sufficient payments for a management services contract if such a contract is entered into during the process of selling the Plan.

Notwithstanding the provision of any other law or regulation to the contrary, and in order to more prudently purchase, the Commissioner of Human Services is authorized to competitively bid managed care contracts, which provide for the medical care of those eligible for the Medical Assistance program, in such manner as the commissioner, in consultation with the State Treasurer, determines to be in the best interest of the State.

Additional federal Title XIX revenue generated from the claiming of family planning services payments on behalf of individuals enrolled in the Medicaid managed care program is appropriated subject to the approval of the Director of the Division of Budget and Accounting.

The Division of Medical Assistance and Health Services, subject to federal approval, shall implement policies that would limit the ability of persons who have the financial ability to provide for their own long-term care needs to manipulate current Medicaid rules to avoid payment for that care. The division shall require, in the case of a married individual requiring long-term care services, that the portion of the couple's resources which are not protected for the needs of the community spouse be used solely for the purchase of long-term care services.

The Division of Medical Assistance and Health Services is empowered to competitively bid and contract for performance of federally mandated inpatient hospital utilization reviews, and that the funds necessary for the contracted utilization review of these hospital services is made available from the Payments for Medical Assistance Recipients - Inpatient Hospital account subject to the approval of the Director of the Division of Budget and Accounting.

Rebates from pharmaceutical manufacturing companies during the fiscal year ending June 30, 1998 for prescription expenditures made to providers on behalf of Medicaid clients are appropriated for the Payments for Medical Assistance Recipients -- Prescription Drugs account.

Notwithstanding the provisions of any other law or regulation to the contrary, effective July 1, 1997 or at the earliest date thereafter consistent with the notice provisions of 42 CFR §447.205 where applicable, no funds appropriated in the Payments for Medical Assistance Recipients -- Prescription Drugs account shall be expended except under the following conditions: (a) reimbursement for the cost of legend and non-legend drugs shall not exceed their Average Wholesale Price (AWP) less a 10% volume discount, (b) prescription quantities of legend and non-legend drugs dispensed by a retail pharmacy shall be limited to a 34-day or 100 dosage units, whichever is greater; and (c) the current prescription drug dispensing fee structure set as a variable rate of $3.73 to $4.07 in effect on June 30, 1997 shall remain in effect through fiscal year 1998, including the current increments for patient consultation, impact allowances, and allowances for 24 hour emergency services.

Notwithstanding any law to the contrary, prescription drug benefits provided to eligible beneficiaries in the General Medical Services program shall be subject to computer-based Point-of-Sale review.

Additional federal Title XIX revenue generated from the claiming of prescription drug payments through the Pharmaceutical Assistance to the Aged and Disabled program on behalf of individuals enrolled in Medicaid is appropriated subject to the approval of the Director of the Division of Budget and Accounting.

Such sums as may be necessary are appropriated from enhanced audit recoveries obtained by the Division of Medical Assistance and Health Services to fund the costs of enhanced audit recovery efforts of the division within the General Medical Services program classification subject to the approval of the Director of the Division of Budget and Accounting.

Notwithstanding any law to the contrary and subject to the notice provisions of 42 CFR §447.205, Personal Care Assistant services shall be limited to no more than 25 hours per week. Additional hours, up to 40 per week, shall be authorized by the Division of Medical Assistance and Health Services prior to the provision of services not provided by clinics under contract with the Division of Mental Health Services. The hourly weekend rate shall be $16. Additional savings shall be achieved by an increase in the frequency of the assessments performed to determine the need, scope and duration of Personal Care Assistant services.

30 Educational, Cultural and Intellectual Development
32 Operation and Support of Educational Institutions
7601 Community Programs -- Grants-In-Aid

01-7601 Purchased Residential Care	$226,207,000
02-7601 Social Supervision and Consultation	23,434,000
03-7601 Adult Activities	86,681,000
Total State, Federal and All Other Funds Appropriation.	$336,322,000

Less:		
Casino Revenue Fund -- Grants-In-Aid		
Purchased Residential Care	***$14,905,000***	
Social Supervision and Consultation	***2,208,000***	
Adult Activities.	***7,374,000***	
Total Casino Revenue Fund -- Grants-In-Aid.		***$24,487,000***
Less:		
Federal Funds Purchased Residential Care	***95,464,000***	
Social Supervision and Consultation	***3,354,000***	
Adult Activities	***55,326,000***	
Total Federal Funds		***$154,144,000***

Less:
All Other Funds
Purchased Residential Care 5,660,000
Total All Other Funds $5,660,000
Total Appropriation, Community Programs $152,031,000

Grants:
Institutional Closure Initiative ..... ($1,100,000)
Dental Program for Non-Institutionalized Developmentally Disabled and Handicapped Children ..... (814,000)
Private Institutional Care ..... (33,906,000)
Skill Development Homes ..... (8,042,000)
Group Homes ..... (162,781,000)
Family Care ..... (1,664,000)
Community Services Waiting List Reduction Initiatives -- FY 1997 ..... (13,900,000)
Community Services Waiting List Reduction Initiatives -- FY 1998 ..... (4,000,000)
Developmental Disabilities Council ..... (1,183,000)
Home Assistance ..... (18,450,000)
Community Options Inc. ..... (200,000)
Social Services. ..... (3,099,000)
Case Management ..... (427,000)
Purchase of Adult Activity Services ..... (82,698,000)
ARC of Union County -- Adult Training Center ..... (100,000)
Essex ARC -- Expanded Respite Care Services for Families with Autistic Children ..... (75,000)
Cost of Living Adjustment -- Community Programs ..... (3,423,000)
LARC School, Inc. -- Special Needs Adult Program ..... (160,000)
The Training School at Vineland. ..... (300,000)

Less:
Casino Revenue Fund -- Grants-In-Aid 24,487,000
Federal Funds. 154,144,000
All Other Funds 5,660,000

A portion of the total amount appropriated in the Community Services Waiting List Reduction Initiative - FY 1998 is available for the operational costs of developing community placements, subject to the approval of the Director of the Division of Budget and Accounting of a plan as shall be submitted by the Commissioner of Human Services.

The Division of Developmental Disabilities is authorized to transfer funds from the Dental Program for Non-Institutionalized Developmentally Disabled and Handicapped Children account to the Division of Medical Assistance and Health Services, in proportion to the number of program participants who are Medicaid eligible.

Excess State funds realized by federal involvement through Medicaid in the Dental Program for Non-Institutionalized Developmentally Disabled and Handicapped Children are committed for the program's support during the subsequent fiscal year, rather than for expansion.

Group Home recoveries during the fiscal year ending June 30, 1998, not to exceed $3,500,000, are appropriated for continued operations of Group Homes, and Group

Home recoveries not to exceed $9,000,000, are appropriated for a Community Services Waiting List Reduction Initiative, subject to the approval of the Director of the Division of Budget and Accounting.

The unexpended balances in the Community Services Waiting List Reduction Initiatives - FY 1997 account are appropriated for the same purpose.

Skill development homes recoveries during the fiscal year ending June 30, 1998, not to exceed $12,000,000, are appropriated, subject to the approval of the Director of the Division of Budget and Accounting.

Amounts required to return persons with mental retardation or developmental disabilities presently residing in out-of-State institutions to group homes within the State may be transferred from the Private Institutional Care account to the Group Homes account, subject to the approval of the Director of the Division of Budget and Accounting.

Amounts that become available as a result of the return of persons from private institutional care placements, including in-State and out-of-State placements, shall be available for transfer to community and community support programs, subject to the approval of the Director of the Division of Budget and Accounting.

The unexpended balance as of June 30, 1997, in the Institutional Closure Initiative account is appropriated for the same purpose.

The unexpended balance as of June 30, 1997, in the Home Assistance account is appropriated for the same purpose.

Notwithstanding any law to the contrary, the State Treasurer, in consultation with the Commissioner of Human Services, may transfer pursuant to the terms and conditions the State Treasurer deems to be in the best interest of the State, the operation, care, custody, maintenance and control of State-owned buses utilized for transportation of clients of the Adult Activity Centers funded from appropriations in the Adult Activities program classification within the Division of Developmental Disabilities to any party under contract with the Department of Human Services to operate an Adult Activity Center. That transfer shall be for a time to run concurrent with the contract for the operation of the Adult Activity Center. That transfer as a non-cash award, and in conjunction with a cash appropriation shall complete the terms of any contract with the Department of Human Services for the operation of the Adult Activity Center. Upon termination of any contract for the operation of an Adult Activity Center, the operation, care, custody, maintenance and control of the State-owned buses shall revert to the State. The State Treasurer shall execute any agreements necessary to effectuate the purpose of this provision.

33 Supplemental Education and Training Programs
7560 Commission for the Blind and Visually Impaired -- Grants-In-Aid

11-7560 Habilitation and Rehabilitation	$1,729,000
12-7560 Instruction, Community Programs and Prevention	2,961,000
Total Appropriation, Commission for the Blind and Visually Impaired	$4,690,000
Grants:	
Services to Rehabilitation Clients	($1,689,000)
Cost of Living Adjustment -- Habilitation and Rehabilitation	(40,000)
Camp Marcella	(300,000)
Psychological Counseling Services	(147,000)
Recording for the Blind, Inc.	(49,000)

Technology for the Blind and Visually Impaired -- Talking Machine and Large Print Equipment. . . . . (400,000)
Educational Services for Children . . . . . (2,065,000)

50 Economic Planning, Development and Security
53 Economic Assistance and Security
7550 Division of Family Development -- Grants-In-Aid

15-7550 Income Maintenance Management $263,346,000
Total Appropriation, State and Federal Funds $263,346,000
Less:
Federal Funds
Income Maintenance Management. $134,753,000
Total Federal Funds $134,753,000
Total Appropriation, Division of Family Development. $128,593,000
Grants:
Restricted Grants . . . . . ($1,460,000)
Work First New Jersey -- Training Related Expenses . . . . . (17,138,000)
Work First New Jersey -- Work Activities. . . . . (83,983,000)
Work First New Jersey -- Community Housing for Teens . . . . . (2,862,000)
Work First New Jersey -- Child Care . . . . . (149,301,000)
Minority Male Initiative . . . . . (160,000)
Social Services for the Homeless. . . . . (7,778,000)
Cost of Living Adjustment. . . . . (248,000)
Project Self-Sufficiency -- Sparta. . . . . (100,000)
Mini Child Care Center Project Grants . . . . . (316,000)
Less:
Federal Funds 134,753,000

In order to permit flexibility, amounts may be transferred between various items of appropriation within the Income Maintenance Management program classification, subject to the approval of the Director of the Division of Budget and Accounting. Notice thereof shall be provided to the Legislative Budget and Finance Officer on the effective date of the approved transfer.

The Commissioner shall provide the Director of the Division of Budget and Accounting, the Senate Budget and Appropriations Committee and the Assembly Appropriations Committee, or the successor committees thereto, with quarterly reports, due within 60 days after the end of each quarter, containing written statistical and financial information on the Job Opportunities and Basic Skills Training (JOBS) program, the Family Development Initiative (FDI), the Work First New Jersey program and any subsequent welfare reform program the State may undertake.

In addition to the amounts hereinabove for the Work First New Jersey - Work Activity and Work First New Jersey - Training Related Expenses accounts, an amount not to exceed $8,000,000 is appropriated from the Workforce Development Partnership Fund, section 9 of P.L.1992, c.43 (C.34:15D-9).

Notwithstanding any law to the contrary, of the amount hereinabove for Work First New Jersey - Work Activity and Work First New Jersey - Training Related Expenses accounts, $24,000,000 is appropriated from the Workforce Development Partnership Fund, section 9 of P.L.1992, c.43 (C.34:15D-9).

A portion of the amount hereinabove appropriated for Payments to Municipalities for Cost of General Assistance, not to exceed $1,400,000, is available for transfer to the Department of Labor, Division of Employment Services, for support costs related to the workfare program established pursuant to P.L.1947 c.156 (C.44:8-107 et seq.). Any funds transferred to the Department of Labor shall be used solely to fund employability teams and other costs to implement this General Assistance work program.

The unexpended balances as of June 30, 1997 in the Income Maintenance Management program classification grants-in-aid accounts are appropriated, subject to the approval of the Director of the Division of Budget and Accounting.

55 Social Services Programs
7570 Division of Youth and Family Services -- Grants-In-Aid

16-7570 Initial Response/Case Management		$2,349,000
17-7570 Substitute Care		148,094,000
18-7570 General Social Services		99,377,000
99-7570 Management and Administrative Services		1,501,000
Total Appropriation, State and Federal Funds		$251,321,000
Less:		
Casino Revenue Fund -- Grants-In-Aid		
General Social Services	***$3,697,000***	
Total Casino Revenue Fund -- Grants-In-Aid		***$3,697,000***
Less:		
Federal Funds		
Initial Response/Case Management	***$2,349,000***	
Substitute Care	***35,441,000***	
General Social Services	***27,515,000***	
Management and Administrative Services	***1,025,000***	
Total Federal Funds		***$66,330,000***
Total Appropriation, Division of Youth and Family Services		$181,294,000
Grants:		
Initial Response/Case Management	($620,000)	
Restricted Grants	(1,729,000)	
Substitute Care	(723,000)	
Aid to Bergen County Domestic Violence Pilot Program	(206,000)	
Children's Services for Victims of Domestic Violence	(250,000)	
Other Residential Placements	(12,033,000)	
Medically Fragile/Nursing Services Expansion.	(641,000)	
Residential/Group Home Placements	(52,659,000)	
Foster Care	(33,528,000)	
Subsidized Adoption	(33,475,000)	
Special Home Services Providers	(8,602,000)	
Cost of Living Adjustment -- Substitute Care	(1,502,000)	
Recruitment of Adoptive Parents	(600,000)	
Domestic Violence Program	(3,800,000)	
West Side Community Center, Asbury Park	(82,000)	
Child Assault Prevention Project	(1,108,000)	
Purchase of Day Care Services	(1,312,000)	
Purchase of Social Services	(9,250,000)	
Public Awareness for Child Abuse Prevention Programs	(245,000)	
Cost of Living Adjustment -- General Social Services	(1,338,000)	

School Based Youth Services Program ..... (7,609,000)
Family Support Services. ..... (45,123,000)
Child Abuse Prevention ..... (10,182,000)
Regional Child Abuse Treatment Centers ..... (412,000)
Office of Refugee Resettlement -- Social Services .. (3,577,000)
School Based Mental Health/Child
Abuse Outreach ..... (1,000,000)
Morris/Sussex Sexual Abuse Victims Program --
Northwest Covenant ..... (1,765,000)
Victims of Violent Crime Counseling --
Catholic Charities, Trenton ..... (75,000)
Family Growth Program --
Catholic Charities, Trenton ..... (100,000)
County Human Services Advisory Boards --
Formula Funding ..... (6,872,000)
Children and Families Initiative ..... (1,151,000)
Fisherman's Mark for Child Care and
Support Services ..... (140,000)
Personal Attendant Program ..... (6,281,000)
Management and Administrative Services ..... (80,000)
Family Day Care Provider Registration Act ..... (476,000)
Children's Justice Act ..... (375,000)
Domestic Violence Assessment Center of
Sussex County ..... (180,000)
National Center for Child Abuse and Neglect ..... (570,000)
Amanda Easel Project ..... (50,000)
Freedom House, Glen Gardner ..... (100,000)
Certified Drug and Alcohol Counselors Model .... (1,500,000)

Less:

Casino Revenue Fund -- Grants-In-Aid 3,697,000
Federal Funds 66,330,000

The sums hereinabove for the Residential/Group Home Placements, Foster Care, Subsidized Adoption, and Family Support Services accounts are available for the payment of obligations applicable to prior fiscal years.

Any change by the Department of Human Services in the rates paid for the foster care and adoption subsidy programs shall first be approved by the Director of the Division of Budget and Accounting.

Of the amount hereinabove appropriated for Foster Care and Subsidized Adoption, the Division of Youth and Family Services may expend up to $225,000 for recruitment of foster and adoptive families; provided however, that a plan for recruitment and training first shall be approved by the Director of the Division of Budget and Accounting.

Receipts in the Marriage License Fee Fund in excess of the amount anticipated are appropriated.

Of the amount hereinabove appropriated for the Domestic Violence Program account, $1,309,000 is payable out of the Marriage License Fee Fund. If receipts to that fund are less than anticipated, the appropriation shall be reduced proportionately.

Of the amount appropriated hereinabove for Regional Child Abuse Treatment Centers, $200,000 shall be allocated for a new Regional Child Abuse and Diagnostic Treatment Center at Hackensack Medical Center.

The amount appropriated hereinabove for School Based Mental Health/Child Abuse Outreach shall be used for a pilot program for Psychiatric Liaisons to be implemented and operated by St. Clare's Riverside Medical Center in Sussex and Morris counties.

The Department of Human Services shall provide a list of the County Human Services Advisory Boards contracts to the Director of the Division of Budget and Accounting on or before September 30, 1997. The listing shall segregate out the administrative costs of such contracts.

Funds recovered under P.L.1951, c.138 (C.30:4C-1 et seq.) during the fiscal year ending June 30, 1998, are appropriated.

Notwithstanding the provision of any law to the contrary, amounts that become available as a result of the return of persons from in-State and out-of-State residential placements to community programs within the State may be transferred from the Residential Group Home Placements account to the appropriate Substitute Care or General Social Services account, subject to the approval of the Director of the Division of Budget and Accounting.

Receipts from counties for persons under the care and supervision of the Division of Youth and Family Services are appropriated for the purpose of providing State aid to the counties, subject to the approval of the Director of the Division of Budget and Accounting.

In addition to the amount appropriated hereinabove for Residential/Group Home Placements, an amount not to exceed $1,500,000 is appropriated for the same purpose, subject to the approval of the Director of the Division of Budget and Accounting.

70 Government Direction, Management and Control
76 Management and Administration
7500 Division of Management and Budget -- Grants-In-Aid

87-7500 Research, Policy and Planning $1,136,000
Total Appropriation, Division of Management and Budget $1,136,000

Grants:
Office for Prevention of Mental Retardation and Developmental Disabilities. ..... ($636,000)
Childhood Lead Poisoning -- Prevention. ..... (500,000)

Total Appropriation, Department of Human Services $1,911,577,000

62 DEPARTMENT OF LABOR
50 Economic Planning, Development and Security
54 Manpower and Employment Services -- Grants-In-Aid

07-4535 Vocational Rehabilitation Services $18,222,000
Total Appropriation, Manpower and Employment Services $18,222,000

Grants:
Services to Clients (State Share) ..... ($3,691,000)
Supported Employment Services ..... ($450,000)
Sheltered Workshop Support. ..... (12,024,000)
Sheltered Workshop Employment Placement Incentive Program ..... (1,250,000)
Cost of Living Adjustment --Sheltered Workshops ..... (118,000)
Services for Deaf Individuals ..... (170,000)
Independent Living Centers ..... (515,000)
Training (State share) ..... (4,000)

The sum hereinabove for the Vocational Rehabilitation Services program classification is available for the payment of obligations applicable to prior fiscal years.

Of the amount hereinabove for the Vocational Rehabilitation Services program classification, an amount not to exceed $8,535,602 is appropriated from the unemployment compensation auxiliary fund.

The unexpended balances in the Sheltered Workshop Employment Placement Incentive Program account and the Sheltered Workshop Support account, as of June 30, 1997, are appropriated for Sheltered Workshop Support.

Total Appropriation, Department of Labor $18,222,000

66 DEPARTMENT OF LAW AND PUBLIC SAFETY

10 Public Safety and Criminal Justice
12 Law Enforcement -- Grants-In-Aid

08-1200 Emergency Services $265,000
Total Appropriation, Law Enforcement $265,000
Grants:
Nuclear Emergency Response Program ..... ($265,000)

10 Public Safety and Criminal Justice
18 Juvenile Services -- Grants-In-Aid

34-1500 Juvenile Community Programs $14,168,000
Total Appropriation, Juvenile Services $14,168,000
Grants:
Alternatives to Juvenile Incarceration Programs ..... ($2,257,000)
Crisis Intervention Program ..... (3,688,000)
State/Community Partnership Grants ..... (6,900,000)
Purchase of Services for Juvenile Offenders ..... (1,300,000)
Cost of Living Adjustment -- Alternatives to Juvenile Incarceration Programs ..... (23,000)

A portion of the total amount appropriated in the Purchase of Services for Juvenile Offenders account is available for costs of additional State facilities for juvenile offender and other programs to provide services for juvenile offenders, as determined to be appropriate by the Juvenile Justice Commission, subject to the Director of the Division of Budget and Accounting. The commission shall conduct a study of the feasibility of closing the New Jersey Training School for Boys in Monroe Township and present its findings and conclusions to the Legislature not later than December 31, 1997.

Of the amount hereinabove for Purchase of Services for Juvenile Offenders, an amount not to exceed $50,000 shall be allocated for the establishment of an historic monument and museum for the alumni association of the Edward R. Johnstone Training and Research Center.

Total Appropriation, Department of Law and Public Safety $14,433,000

67 DEPARTMENT OF MILITARY AND VETERANS' AFFAIRS

10 Public Safety and Criminal Justice
14 Military Services -- Grants-In-Aid

40-3620 New Jersey National Guard Support Services $25,000
Total Appropriation, Military Services $25,000
Grants:
Civil Air Patrol ..... ($25,000)

80 Special Government Services
83 Services to Veterans
3610 Veterans' Program Support -- Grants-In-Aid

50-3610 Veterans' Outreach and Assistance $993,000
Total Appropriation, Veterans' Program Support $993,000

Grants:
Veterans' Tuition Credit Program ..... ($38,000)
POW/MIA Tuition Assistance ..... (11,000)
Vietnam Veterans' Tuition Aid ..... (7,000)
Veterans Transportation ..... (300,000)
Veterans' Orphan Fund -- Education Grants. ..... (5,000)
Blind Veterans' Allowances ..... (46,000)
Paraplegic and Hemiplegic Veterans' Allowance .... (237,000)
Women in Military Service for America ..... (34,000)
Joint Veterans Alliance of Burlington County ..... (15,000)
Post-Traumatic Stress Disorder ..... (300,000)

The sums provided hereinabove and the unexpended balances as of June 30, 1997 in the Veterans' Tuition Credit, POW/ MIA Tuition Assistance, and the Vietnam Veterans' Tuition Aid accounts are appropriated and available for payment of liabilities applicable to prior fiscal years.

Total Appropriation, Department of Military and Veterans' Affairs $1,018,000

74 DEPARTMENT OF STATE
30 Educational, Cultural and Intellectual Development
36 Higher Educational Services -- Grants-In-Aid

60-2600 Statewide Planning and Coordination for Higher Education . $25,050,000
61-2601 Educational Opportunity Fund Programs 32,212,000
Total Appropriation, Higher Educational Services $57,262,000

Grants:
College Bound ..... ($2,900,000)
Higher Education for Special Needs Students ..... (750,000)
Program for the Education of Language Minority Students ..... (400,000)
Improving Minority Graduation Rates ..... (1,000,000)
Opportunity Program Grants ..... (20,410,000)
Supplementary Education Program Grants ..... (11,000,000)
Martin Luther King Physician - Dentist Scholarship Act of 1986 ..... (602,000)
Senior Public Colleges and Universities -- Base Appropriation Adjustment ..... (20,000,000)
Ferguson Law Scholarships ..... (200,000)

An amount not to exceed 5% of the total of Higher Education for Special Needs Students, Program for the Education of Language Minority Students, and Improving Minority Graduation Rates accounts is available for the administrative expenses of these programs.

An amount not to exceed $50,000 of the College Bound account is available for the administrative expenses of this program.

Refunds from prior years to the Educational Opportunity Fund program accounts are appropriated to those accounts.

The amount appropriated hereinabove for Senior Public Colleges and Universities -- Base Appropriation Adjustment shall be allocated to the following institutions: Thomas A. Edison State College - $145,000; Rowan University - $894,000; Jersey City State College - $765,000; Kean College of New Jersey - $864,000; William Paterson College of New Jersey - $964,000; Montclair State University $1,098,000; The College of New Jersey - $893,000; Ramapo College of New Jersey - $472,000; The Richard Stockton College of New Jersey - $522,000; Rutgers, The State University - $11,337,000; Agricultural Experiment Station - $800,000; New Jersey Institute of Technology - $1,246,000.

30 Educational, Cultural and Intellectual Development
37 Cultural and Intellectual Development Services -- Grants-In-Aid

05-2530 Support of the Arts $13,175,000
07-2540 Development of Historical Resources 702,000
Total Appropriation, Cultural and Intellectual Development Services $13,877,000

Grants:
Cultural Projects ..... ($13,175,000)
New Jersey Historical Society Relocation ..... (500,000)
Grants in New Jersey History ..... (189,000)
Grants in Afro-American History ..... (13,000)

The State Council on the Arts may require of recipient groups, and in the case of those receiving over $100,000 shall require, that those groups must demonstrate a Statewide benefit as a result of the grants.

Of the amount hereinabove for Cultural Projects, an amount not to exceed $75,000 may be used for administrative purposes, subject to the approval of the Director of the Division of Budget and Accounting.

Of the amount hereinabove for Cultural Projects, an amount not to exceed $125,000 may be used for the assessment and oversight of cultural projects, including administrative costs attendant to this function in compliance with all pertinent State and federal laws and regulations, including the Single Audit Act, subject to the approval of the Director of the Division of Budget and Accounting.

Of the amount hereinabove for Cultural Projects, funds may be used for the purpose of matching federal grants.

A sum, not to exceed $200,000, is appropriated from the "Cultural Centers and Historic Preservation Fund," established pursuant to section 20 of P.L.1987, c.265, for costs attributable to planning and administering grants for the development of cultural centers, subject to the approval of the Director of the Division of Budget and Accounting.

Notwithstanding the provision of any other law to the contrary, of the amount appropriated hereinabove for Cultural Projects 25% shall be awarded to cultural projects within the eight southernmost counties (Cape May, Salem, Cumberland, Gloucester, Camden, Ocean, Atlantic and Burlington), provided however, that the total amount available for the granting of awards for cultural projects in the remaining counties shall not be reduced from the total amount available during fiscal year 1997 for cultural projects in those remaining counties. The value of project grants awarded within each county shall total not less than $50,000.

Higher Educational Services

Of the amount hereinabove for Higher Educational Services, such sums as the Director of the Division of Budget and Accounting shall determine from the schedule at page K-40 of the Governor's Budget Recommendation Document dated January 29, 1997 first shall be charged to the State Lottery Fund.

Total Appropriation, Department of State $71,139,000

78 DEPARTMENT OF TRANSPORTATION
60 Transportation Programs
62 Public Transportation -- Grants-In-Aid

04-6050 New Jersey Transit Corporation -- Operations		
Bus Operations		$297,200,000
Rail Operations		316,500,000
Corporate Operations		144,300,000
Purchased Transportation		71,200,000
Total All Operations		$829,200,000
Less:		
Federal Operating Assistance	***$17,600,000***	
Farebox Revenue	***406,100,000***	
Other Resources	***240,000,000***	
Total Income Deductions		***$663,700,000***
Total Appropriation, Public Transportation		$165,500,000
Personal Services:		
Salaries and Wages	($504,700,000)	
Materials and Supplies	(125,900,000)	
Services Other Than Personal	(49,300,000)	
Special Purpose:		
Leases and Rentals	(1,100,000)	
Purchased Transportation	(71,200,000)	
Insurance and Claims	(24,100,000)	
Tolls, Taxes and Other Operating Expenses	(52,900,000)	
Less:		
Income Deductions	***663,700,000***	

64 Regulation and General Management -- Grants-In-Aid

05-6070 Access and Use Management	$350,000
Total Appropriation, Regulation and General Management	$350,000
Grants:	
Airport Safety Fund ($300,000)	
New Jersey Citizens for Environmental Research -- Aircraft Noise Abatement Study (50,000)	

The unexpended balance as of June 30, 1997 in the Airport Safety Fund account together with any receipts in excess of the amount anticipated are appropriated.

The amount hereinabove for the Airport Safety Fund is payable out of the "Airport Safety Fund" established pursuant to section 4 of P.L.1983, c.264 (C.6:1-92). If receipts to that fund are less than anticipated, the appropriation shall be reduced proportionately.

Total Appropriation, Department of Transportation $165,850,000

82 DEPARTMENT OF THE TREASURY
30 Educational, Cultural and Intellectual Development
36 Higher Educational Services -- Grants-In-Aid

46-2150 Student Assistance Programs	$147,475,000
47-2155 Support to Independent Institutions	22,170,000
49-2155 Miscellaneous Higher Educational Programs	44,246,000
Total Appropriation, Higher Educational Services	$213,891,000

Grants:

Veterinary Medicine Education Program	($1,337,000)
Tuition Aid Grants	(137,661,000)
Garden State Scholarships	(2,662,000)
Public Tuition Benefits Grants	(65,000)
Edward J. Bloustein Distinguished Scholars Program	(3,600,000)
Urban Scholarships	(1,300,000)
Part-Time Tuition Aid Grants -- EOF Students	(400,000)
Minority Academic Careers Program	(450,000)
Outstanding Scholar Recruitment Program	(1,800,000)
Aid to Independent Colleges and Universities	(20,245,000)
Clinical Legal Programs for the Poor -- Seton Hall University (P.L.1996, c.52)	(200,000)
Research Under Contract with the Institute of Medical Research, Camden	(1,050,000)
Equipment Leasing Fund -- Debt Service	(19,296,000)
Higher Education Facilities Trust Fund -- Debt Service	(21,019,000)
Higher Education Technology Bond--Debt Service	(820,000)
Georgian Court College High Technology Center	(100,000)
Institutional Alliance/Seton Hall University and Sussex County Community College	(150,000)
The Health Law and Policy Institute -- Seton Hall University	(150,000)
Ocean County Community College -- Camp Viking	(40,000)
Children's Learning Center -- Brookdale Community College	(70,000)
Salem County Community College -- Glass Blowing Laboratory	(250,000)
Einstein Chair for Scholarly Studies at the Institute for Advanced Study	(65,000)
Richard J. Hughes Chair for Constitutional and Public Law and Service at Seton Hall University	(65,000)
Alfred E. Driscoll Chair in Pharmaceutical/ Chemical Studies, F.D.U.	(65,000)
Laurie Chair in Women's Studies at Douglass College	(75,000)
Will and Ariel Durant Chair in the Humanities at St. Peters College	(65,000)
Small Business and Entrepreneurship Chair at Rutgers University.	(65,000)
Raoul Wallenberg Visiting Professorship in Human Rights -- Rutgers University	(100,000)
Millicent Fenwick Research Professorship in Education at Monmouth University	(75,000)
Discrete Mathematics and Computer Science Center -- Institute for Advanced Study	(100,000)
New Jersey Coastal Monitoring Network	(175,000)
Marine Sciences Consortium	(376,000)
Total Appropriation, Department of the Treasury	$213,891,000

For the purpose of implementing the "Independent College and University Assistance Act," P.L.1979, c.132 (C.18A:72B-15 et seq.), the number of full-time equivalent students (FTE) at the eight State Colleges is 46,299 for fiscal year 1997.

Receipts in excess of the amount hereinabove for the Legal Programs for the Poor-Seton Hall are appropriated for the same purpose, subject to the approval of the Director of the Division of Budget and Accounting.

The sums provided hereinabove for Research under Contract with the Institute of Medical Research, Camden (Coriell Institute) shall be expended on support for research activities, and the Institute shall submit an annual audited financial statement to the Department of the Treasury which shall include a schedule showing the use of these funds.

The sums provided hereinabove and the unexpended balances as of June 30, 1997, in Student Assistance Programs are appropriated and available for payment of liabilities applicable to prior fiscal years.

Amounts from the unexpended balance as of June 30, 1997, including refunds recognized after July 31, 1996, in the Tuition Aid Grants account are appropriated, subject to the approval of the Director of the Division of Budget and Accounting.

Notwithstanding the provisions of any law to the contrary, the sums provided hereinabove for Tuition Aid Grants shall provide awards to qualified applicants at a level not to exceed 3.5% above those levels provided by the Student Assistance Board in fiscal year 1997.

From the sums provided hereinabove for Student Assistance Programs, such amounts as may be necessary to fund merit scholarship awards shall be available for transfer to the Garden State Scholarships program, the Edward J. Bloustein Distinguished Scholars Program, and the Urban Scholarships program, subject to the approval of the Director of the Division of Budget and Accounting.

Higher Educational Services

Of the amount hereinabove for Higher Educational Services, such sums as the Director of the Division of Budget and Accounting shall determine from the schedule at page K-40 in the Governor's Budget Recommendation Document dated January 29, 1997 first shall be charged to the State Lottery Fund.

Total Appropriation, Grants-In-Aid $3,233,947,000

STATE AID

20 DEPARTMENT OF COMMERCE AND ECONOMIC DEVELOPMENT

50 Economic Planning, Development and Security

51 Economic Planning and Development -- State Aid

20-2800 Economic Development $3,148,000

Total Appropriation, Economic Planning and Development $3,148,000

State Aid:

Debt Service Reserve Fund Requirements, Section 14 of P.L.1968, c.60 (C.12:11A-14) .... ($3,148,000)

There are appropriated such additional sums as may be certified to the Governor by the South Jersey Port Corporation as necessary to meet the requirements of the "South Jersey Port Corporation Reserve Fund" under section 14 of P.L.1968, c.60 (C.12:11A-14), the expenditure of which shall be subject to the approval of the Director of the Division of Budget and Accounting.

Total Appropriation, Department of Commerce and Economic Development $3,148,000

22 DEPARTMENT OF COMMUNITY AFFAIRS
40 Community Development and Environmental Management
41 Community Development Management -- State Aid

02-8020	Housing Services	$16,675,000
04-8030	Local Government Services	36,065,000
06-8015	Uniform Construction Code	46,000
	Total Appropriation, Community Development Management	$52,786,000

State Aid:

Neighborhood Preservation (P.L.1975, c.248 and c.249)	($2,750,000)
Neighborhood Preservation -- Fair Housing (P.L.1985, c.222)	(13,925,000)
Joint Services Incentive Aid.	(500,000)
County Prosecutors Salary Increase (P.L. 1996, c.99)	(315,000)
Legislative Initiative Municipal Block Grant Program	(33,000,000)
Watershed Moratorium Offset Aid	(2,000,000)
Payment to Urban Centers to Raze Vacant Buildings	(250,000)
Municipal Memberships in Building Codes Association	(46,000)

Of the sum hereinabove for Neighborhood Preservation, an amount not to exceed $2,750,000 is payable from revenues transferred to the General Fund from the Mortgage Assistance Fund created by section 4 of P.L.1976, c.94, and shall be expended for purposes authorized by section 5 of P.L.1976, c.94 which are also authorized by P.L.1975, c.248 (C.52:27D-142 et seq.) or P.L.1975, c.249 (C.52:27D-152 et seq.).

Of the sum hereinabove for Neighborhood Preservation-Fair Housing, a sum not to exceed $300,000 may be used for matching on a 50/50 basis for the administrative costs of the Federal Small Cities Block Grant.

Any receipts in excess of the amount anticipated in the Neighborhood Preservation-Fair Housing account are appropriated.

The unexpended balance as of June 30, 1997 in the Relocation Assistance account is appropriated.

The amount hereinabove for Neighborhood Preservation-Fair Housing is payable from the receipts of the portion of the realty transfer tax directed to be credited to the Neighborhood Preservation Nonlapsing Revolving Fund pursuant to section 4 of P.L.1968, c.49 (C.46:15-8), and from the receipts of the portion of the realty transfer tax directed to be credited to the Neighborhood Preservation Nonlapsing Revolving Fund pursuant to section 4 of P.L.1975, c.176 (C.46:15-10.1). If the receipts are less than anticipated, the appropriation shall be reduced proportionately.

Of the amount hereinabove for Neighborhood Preservation-Fair Housing, an amount not to exceed $1,250,000 may be used to provide technical assistance grants to non-profit housing organizations and authorities for creating and supporting affordable housing opportunities.

The unexpended balance as of June 30, 1997 in the Neighborhood Preservation-Fair Housing account is appropriated.

Notwithstanding any law to the contrary, funds appropriated for Neighborhood Preservation-Fair Housing may be provided directly to the housing project being assisted; provided however, that any such project have the support by resolution of the governing body of the municipality in which it is located.

The amount hereinabove for Joint Services Incentive Aid shall be expended to promote and encourage interlocal service activities and consolidation efforts among local governments, in accordance with guidelines established by the Commissioner.

The unexpended balance as of June 30, 1997 in the Joint Services Incentive Aid account is appropriated.

The unexpended balance as of June 30, 1997 in the Safe and Clean: Expanded Police Services account is appropriated.

The unexpended balance as of June 30, 1997 in the Aid for GAAP Accounting Implementation is appropriated. Any training from Aid for GAAP Accounting Implementation shall be through purely voluntary local interest and nothing provided in this act shall require any municipality to adopt GAAP accounting or to participate in a program to encourage GAAP accounting.

Notwithstanding any provisions of the "Local Budget Law," P.L.1960, c.169 (C.40A:4-1 et seq.), to the contrary, the Director of the Division of Local Government Services may require any municipality which is determined to be experiencing fiscal distress pursuant to the provisions of P.L.1987, c.75 (C.52:27D-118.24 et seq.), to anticipate and include in its annual budget any additional item or amount of revenue as the Director deems to be appropriate and fiscally prudent.

Notwithstanding any provision of law to the contrary, municipal appropriations for "Reserve for Tax Appeals" may be made in exception to spending limitations pursuant to section 3 of P.L.1976, c.68 (C.40A:4-45.3).

The amount appropriated hereinabove for Watershed Moratorium Offset Aid shall be distributed among the same municipalities in the same amounts as were distributed from this aid program during fiscal year 1997.

The unexpended balance as of June 30, 1997 in the Extraordinary Municipal Costs Related to Chemical Plant Explosion -- Lodi Borough account is appropriated. The Director of the Division of Local Government Services is authorized to disburse unexpended balances in the account for the purposes of offsetting the borough's emergency appropriation for such purposes as were outstanding as of June 30, 1995.

Total Appropriation, Department of Community Affairs $52,786,000

34 DEPARTMENT OF EDUCATION

30 Educational, Cultural and Intellectual Development

31 Direct Educational Services and Assistance -- State Aid

01-5120	General Formula Aid	$770,137,000
02-5120	Nonpublic School Aid	74,186,000
03-5120	Miscellaneous Grants-In-Aid	62,252,000
04-5064	Adult and Continuing Education	2,448,000
	Total Appropriation, Direct Educational Services and Assistance	$909,023,000

State Aid:

Core Curriculum Standards Aid	($759,789,000)
Rewards and Recognition	(10,060,000)
Nonpublic Textbook Aid	(8,973,000)
Nonpublic Nutrition Aid	(439,000)
Nonpublic Handicapped Aid	(24,253,000)
Nonpublic Auxiliary Services Aid	(26,535,000)
Nonpublic Auxiliary/Handicapped Transportation Aid	(2,084,000)
Nonpublic Nursing Services Aid	(11,902,000)
Emergency Fund	(100,000)
County College Urban Education	(450,000)

Payments for Institutionalized Children --
Unknown District of Residence ..... (6,418,000)
Distance Learning Network Aid. ..... (50,378,000)
Evening School for the Foreign Born ..... (211,000)
High School Equivalency. ..... (1,213,000)
Stanhope School District Statistical
Anomaly Correction Aid ..... (180,000)
Willingboro School District Statistical
Anomaly Correction Aid ..... (1,800,000)
Roosevelt School District -- School Roof ..... (65,000)
Florence Township School District --
Facility Repairs ..... (75,000)
Education Impact Aid -- Wildwood ..... (500,000)
Additional Senior Citizen Stabilization Aid ..... (288,000)
Impact Aid Replacement, Northern Burlington
County Regional School District ..... (50,000)
Somerset County Vocational Technical Schools ..... (60,000)
Educational Information Resource Center ..... (400,000)
Maurice River School District Statistical
Anomaly Correction Aid ..... (241,000)
Total Language Immersion --
Wallington School District ..... (50,000)
Franklin Elementary School (Sussex
County) -- Elevator ..... (75,000)
Education Impact Aid -- Folsom School District ..... (135,000)
Southampton School District -- Statistical
Anomaly Correction Aid ..... (200,000)
East Brunswick Schools -- Technology Initiative ..... (750,000)
Ewing -- High School Auditorium ..... (325,000)
Adult Literacy ..... (1,024,000)

Of the amount hereinabove for Core Curriculum Standards Aid, an amount equal to the total earnings of investments of the School Fund shall first be charged to such fund.

Notwithstanding the provisions of section 8 of P.L.1991, c.226 (C.18A:40-30), the amount appropriated hereinabove for Nonpublic Nursing Services Aid shall be made available to local school districts based upon the number of pupils enrolled in each nonpublic school on the last day prior to October 16,1996.

Notwithstanding the provision of any other law, the amount of State aid made available to the Department of Human Services pursuant to "The State Facilities Education Act of 1979," P.L.1979, c.207 (C.18A:7B-1 et seq.) to defray the costs of educating eligible children in approved private schools under contract with the Department of Human Services shall not exceed the actual costs of the education of these children in such private schools.

Notwithstanding any other law to the contrary, special education aid for pupils classified as eligible for day training shall be paid directly to the resident school district; provided however, that for pupils under contract for service in a day training facility operated by or under contract with the Department of Human Services, tuition shall be withheld and paid to the Department of Human Services.

Of the amount hereinabove in the High School Equivalency and the Adult Literacy accounts, such sums as are necessary may be transferred to an applicant State department.

Notwithstanding the provisions of section 10 of P.L.1996, c.138 (C.18A:7F-10), the Central Regional School District shall be entitled to Additional Senior Citizen Stabilization Aid as provided herein. The regional school tax levy shall be calculated without the

Additional Senior Citizen Stabilization Aid and then the amount appropriated herein shall be applied in full toward the Berkeley Township share of the regional tax apportionment. The district shall amend its certification of the amounts to be raised by each constituent municipality to support the regional district and notify the county Board of Taxation accordingly.

In addition to the aid provided hereinabove, there is appropriated an amount necessary to enable the department to distribute supplementary State aid to any Abbott District, other than a State-operated school district, in which a charter school will operate during the 1997-1998 school year in an amount to provide that the district shall receive no less total State aid, excluding debt service aid, in the 1997-1998 school year than the total State aid, excluding debt service aid, than it received in the 1996-1997 school year for comparable aid categories. The additional aid received shall be an adjustment to the district's spending growth limitation for the 1997-98 school year. A district receiving aid pursuant to this provision may apply some or all of the additional funds to its originally certified General Fund tax levy for 1997-98 and shall file a revised certificate and report of school taxes form A4F with its county board of taxation.

In addition to the aid provided hereinabove, there is appropriated an amount necessary to enable the department to distribute supplementary State aid to any school district classified as a Special Needs District pursuant to P.L.1990, c.52 (C.18A:7D-1 et seq.), but not classified as an "Abbott District" pursuant to P.L.1996, c.138 (C.18A:7F-1 et seq.), in an amount to provide that the district shall receive no less total State aid, excluding debt service aid, in the 1997-98 school year than the total State aid, excluding debt service aid, than it received in the 1996-97 school year for comparable aid categories. The additional aid received shall be an adjustment to the district's spending growth limitation for the 1997-98 school year. A district receiving aid pursuant to this provision may apply some or all of the additional funds to its originally certified General Fund tax levy for 1997-98 and shall file a revised certificate and report of school taxes form A4F with its county board of taxation.

33 Supplemental Education and Training Programs -- State Aid

20-5062 General Vocational Education	$6,821,000
Total Appropriation, Supplemental Education and Training Programs	$6,821,000
Grants:	
District and Regional Vocational Education	($861,000)
Vocational Education	(5,460,000)
At-Risk Youth Employment Internship Program	(500,000)

34 Educational Support Services -- State Aid

36-5120 Pupil Transportation	$1,000,000
37-5120 School Nutrition	6,565,000
38-5120 Facilities Planning and School Building Aid	9,204,000
39-5095 Teachers' Pension and Annuity Assistance	13,545,000
Total Appropriation, Educational Support Services	$30,314,000
Grants:	
School Bus Crossing Arms	($1,000,000)
State School Lunch Aid	(6,565,000)
School Building Aid Debt Service	(9,204,000)
Minimum Pension for Pre-1955 Retirees	(9,000)
Additional Health Benefits	(13,536,000)

The unexpended balance as of June 30, 1997 in the School Bus Crossing Arm account is appropriated.

Total Appropriation, Department of Education $946,158,000

The unexpended balances as of June 30, 1997 in the State Aid accounts, not to exceed $650,000 are appropriated.

Of the amount appropriated hereinabove for the Department of Education, such sums as the Director of the Division of Budget and Accounting shall determine from the schedule at page K-40 in the Governor's Budget Recommendation Document dated January 29, 1997 first shall be charged to the State Lottery Fund.

In the event that sufficient funds are not appropriated to fully fund any State Aid item, the Commissioner of Education shall apportion such appropriation among the districts in proportion to the State aid each district would have been apportioned had the full amount of State aid been appropriated.

Any appropriation or part thereof made from the Property Tax Relief Fund may be transferred and recorded as an appropriation from the General Fund, as deemed necessary by the State Treasurer, in order that the Director of the Division of Budget and Accounting may warrant the necessary payments; provided however, that the available unrestricted fund balance in the General Fund, as determined by the State Treasurer, is sufficient to support such appropriation.

Notwithstanding any other provision of law to the contrary, the repayment by the Hudson Association for Retarded Citizens to the Department of Education of the unexpended balance of a Special Education Programs grant from federal funds received from a fiscal year 1990 appropriation made pursuant to the early intervention program, Part H, under a grant agreement for an AIDS infant-parent pilot program, and of any other funds remaining to be paid to the department from unexpended balances from fiscal year 1990 state appropriations shall be deferred during fiscal year 1998.

42 DEPARTMENT OF ENVIRONMENTAL PROTECTION

40 Community Development and Environmental Management

46 Environmental Planning and Administration -- State Aid

99-4800 Management and Administrative Services $5,387,000

Total Appropriation, Environmental Planning and Administration $5,387,000

State Aid:

Mosquito Control, Research, Administration and Operations ..... ($468,000)

Payment in Lieu of Taxes. ..... (2,100,000)

Administration, Planning and Development Activities of the Pinelands Commission ..... (2,654,000)

Grants to Local Environmental Commissions. ..... (165,000)

Receipts derived from the rental of property acquired pursuant to P.L.1969, c.138 (C.58:21A-1 et seq.); P.L.1970, c.147 (C.58:21B-1 et seq.); P.L.1971, c.165; P.L.1974, c.102; P.L.1978, c.118; P.L.1983, c.354; P.L.1989, c.183; P.L.1992, c.88; and P.L.1995, c.204, and the unexpended balance as of June 30, 1997 of such receipts, not to exceed $400,000, are appropriated for payments in lieu of taxes on properties and for maintenance of properties.

Receipts derived from permit fees issued by the Pinelands Commission on behalf of the Department of Environmental Protection, pursuant to a memorandum of agreement between the Pinelands Commission and the Department of Environmental Protection, are hereby appropriated to the Pinelands Commission.

47 Enforcement Policy -- State Aid

08-4855 Water Pollution Control $2,453,000
Total Appropriation, Enforcement Policy $2,453,000
State Aid:
County Environmental Health Act ..... (2,453,000)

The unexpended balance as of June 30, 1997 in the Operation Clean Shores account is appropriated to the associated Direct State Services account.

Total Appropriation, Department of Environmental Protection. $7,840,000

46 DEPARTMENT OF HEALTH AND SENIOR SERVICES

20 Physical and Mental Health
21 Health Services -- State Aid

02-4220 Family Health Services $18,621,000
Total Appropriation, Health Services and Administration $18,621,000
State Aid:
Public Health Priority Funding ..... ($3,600,000)
Projects for Handicapped Infants ..... (15,021,000)

The capitation rate is set at 36 cents for the year ending June 30, 1998 for the purpose prescribed in P.L.1966, c.36 (C.26:2F-1 et seq.).

In addition to the amount hereinabove, receipts from the federal Medicaid (Title XIX) program for handicapped infants are appropriated, subject to the approval of the Director of the Division of Budget and Accounting.

20 Physical and Mental Health
26 Senior Services -- State Aid

55-4275 Programs for the Aged $2,245,000
Total Appropriation, Senior Services.and Administration. $2,245,000
State Aid:
County Offices on Aging ..... ($840,000)
Older Americans Act -- State Share ..... (1,405,000)

Total Appropriation, Department of Health and Senior Services $20,866,000

54 DEPARTMENT OF HUMAN SERVICES

20 Physical and Mental Health
23 Mental Health Services -- State Aid
7700 Division of Mental Health Services

08-7700 Community Services $76,000,000
Total Appropriation, Division of Mental Health Services $76,000,000
State Aid:
Support of Patients in County Psychiatric Hospitals ..... ($76,000,000)

The unexpended balance as of June 30, 1997, in the Support of Patients in County Psychiatric Hospitals account is appropriated.

The appropriation for the Support of Patients in County Psychiatric Hospitals account is available to pay liabilities applicable to prior fiscal years, subject to the approval of the Director of the Division of Budget and Accounting.

With the exception of all past, present, and future revenues representing federal financial participation received by the State from the United States and that is based on payments to hospitals that serve a disproportionate share of low-income patients, which shall be

retained by the State, the sharing of revenues received to defray the costs of maintaining patients in State and county psychiatric hospitals and facilities for developmentally disabled shall be based on the same percent as costs are shared.

50 Economic Planning, Development and Security
53 Economic Assistance and Security -- State Aid
7550 Division of Family Development

15-7550 Income Maintenance Management $806,205,000
Total State and Federal Funds Appropriation $806,205,000
Less:
Federal Funds -- State Aid
Income Maintenance Management $493,949,000
Total Federal Funds -- State-Aid $493,949,000
Total Appropriation, Division of Family Development..... $312,256,000
State Aid:
Miscellaneous State Aid ..... ($3,405,000)
County Administration Funding ..... (181,196,000)
Work First New Jersey -- Client Benefits ..... (335,347,000)
Federal Energy Assistance Program ..... (25,130,000)
Title XX Urban Empowerment Zone ..... (10,418,000)
Cost of Living Adjustment ..... (195,000)
General Assistance Emergency Assistance Program ..... (43,910,000)
Payments to Municipalities for Cost of General Assistance ..... (102,273,000)
Work First New Jersey -- Emergency Assistance ..... (30,074,000)
Payments for Supplemental Security Income ..... (58,577,000)
State Supplemental Security Income Administrative Fee to SSA ..... (8,120,000)
General Assistance County Administration ..... (7,560,000)
Less:
Federal Funds 493,949,000

The net State share of reimbursements and the net balances remaining after full payment of sums due the federal government of all funds recovered under R.S.44:7-14, P.L.1959, c.86 (C.44:10-1 et seq.), P.L.1950, c.166 (C.30:4B-1 et seq.), and P.L.1971, c.209 (C.44:13-1 et seq.), during the fiscal year ending June 30, 1998 are appropriated.

Receipts from State administered municipalities during the fiscal year ending June 30, 1998 are appropriated.

The sum hereinabove appropriated is available for payment of obligations applicable to prior fiscal years.

Any change by the Department of Human Services in the standards upon which or from which grants of categorical public assistance are determined, first shall be approved by the Director of the Division of Budget and Accounting.

In order to permit flexibility and ensure the timely payment of benefits to welfare recipients, amounts may be transferred between the various items of appropriation within the Income Maintenance Management program classification, subject to the approval of the Director of the Division of Budget and Accounting. Notice thereof shall be provided to the Legislative Budget and Finance Officer on the effective date of the approved transfer.

Subject to federal approval, all General Assistance recipients that receive interim assistance after July 1, 1995 shall reimburse the division for maintenance assistance, emergency assistance, and temporary assistance payments that are not otherwise reimbursed by the

federal government; provided however, that the amount an individual shall reimburse the division shall not exceed the amount of that individual's retroactive SSI check.

Notwithstanding any provision of State law to the contrary, there shall be no further payment for benefits previously provided under the General Assistance program for the costs of hospitalization for such expenses incurred on or after July 1, 1991. Provided however, that the amount appropriated for the General Assistance program shall provide reimbursements for inpatient hospitalization costs for recipients of general public assistance who are admitted to a special hospital licensed by the Department of Health and Senior Services which is not eligible to receive a charity care subsidy from the Health Care Subsidy Fund and to which payments were made prior to July 1, 1991 under the General Assistance program.

Notwithstanding the provisions of section 18 of P.L.1947, c.156 (C.44:8-124) to the contrary, outpatient services, including, but not limited to, emergency room, clinic and diagnostic services rendered on or after July 1, 1992 to recipients of General Assistance by hospitals shall not be reimbursed. Furthermore, municipalities shall not provide reimbursement for inpatient or outpatient medical services provided in prior fiscal years if submitted for reimbursement after July 31, 1992.

Notwithstanding the provisions of P.L.1947, c.156 (C.44:8-107 et seq.) to the contrary, assistance shall not be granted to an illegal alien or to aliens admitted as students or visitors. To be eligible for assistance an individual shall be either a citizen of the United States or otherwise permanently residing in the United States under color of law, including any alien who is lawfully present in the United States as a result of the application of section 207(c), section 203(a)(7) (prior to April 1, 1980), section 208, and section 212(d)(5) of the "Immigration and Nationality Act," 8 U.S.C. §1157(c), 1153(a)(7), 1158, and 1182(d)(5).

Notwithstanding the provisions of any other law or regulation to the contrary, effective July 1, 1997, or at the earliest date thereafter consistent with the notice provisions of 42 C.F.R. §447.205 where applicable, no funds appropriated for the General Assistance (GA) program for pharmaceutical services shall be expended except under the following conditions: (a) reimbursement for the cost of legend and non-legend drugs shall not exceed their Average Wholesale Price (AWP) less a 10% discount; (b) prescription quantities of legend and non-legend drugs dispensed by a retail pharmacy shall be limited to a 34 day supply or 100 dosage units, whichever is greater; (c) the current prescription drug dispensing fee structure set as a variable rate of $3.73 to $4.07 in effect on June 30, 1997 shall remain in effect through fiscal year 1998, including the current increments for patient consultation, impact allowances, and allowances for 24 hour emergency services.

Notwithstanding the provisions of any other law or regulation to the contrary, effective July 1, 1997, the following provisions shall apply to the dispensing of prescription drugs through the Payments to Municipalities for Cost of General Assistance account: (a) for all Maximum Allowable Cost (MAC) drugs dispensed shall state "Brand Medically Necessary" in the prescriber's own handwriting if the prescriber determines that it is necessary to override generic substitution of drugs, and each prescription order shall follow the requirements of P.L.1977, c.240 (C.24:6E-1 et seq.). The list of drugs substituted shall conform to the Drug Utilization Review Council approved list of substitutable drugs and any other requirements pertaining to drug substitution and federal upper limits for MAC drugs administered by the State Medicaid Program.

Receipts from counties for persons receiving Old Age Assistance, Disability Assistance, and Assistance for the Blind under the Supplemental Security Income (SSI) program are appropriated for the purpose of providing State aid to the counties, subject to the approval of the Director of the Division of Budget and Accounting.

In addition to the provisions of section 3 of P.L.1973, c.256 (C.44:7-87), the Department of Human Services shall assess welfare boards at the beginning of each fiscal year in the same proportion that the counties currently participate in the federal categorical assistance programs, in order to obtain the amount of each county's share of the supplementary payments for eligible persons in this State, based upon the number of eligible persons in the county. Welfare boards shall pay the amount assessed.

In addition to the provisions of section 5 of P.L.1959, c.86 (C.44:10-5), for payments that are not eligible for federal financial participation, payment of the State share of expenditures by the county welfare agency for Aid to Families with Dependent Children shall be at the rate of 115% during the period July 1 through December 31 of each year and at the rate of 75% during the period January 1 through June 30; provided that, the total payment of the State share of expenditures during the period January 1 through December 31 of each year shall not exceed 95%.

Notwithstanding the provisions of P.L.1959, c.86 (C.44:10-1 et seq.) to the contrary, assistance shall not be granted to an illegal alien or to aliens admitted as students or visitors. To be eligible for assistance an individual shall be either a citizen of the United States or otherwise permanently residing in the United States under color of law, including any alien who is lawfully present in the United States as a result of the application of section 207(c), section 203(a)(7) (prior to April 1, 1980), section 208, and section 212(d)(5) of the "Immigration and Nationality Act," 8 U.S.C. § 1157(c), 1153(a)(7), 1158, and 1182(d)(5).

Notwithstanding the provisions of P.L.1947, c.156 (C.44:8-107 et seq.), nursing home services shall no longer be a covered service effective July 1, 1995 under the General Assistance program except under the following conditions: services for those residents residing in non-Medicaid certified nursing home prior to June 30, 1995, and who are unable to qualify for nursing home services through the Medically Needy program coverage for long term care recipients, pursuant to Title XIX of the Social Security Act; and resident legal aliens who resided in a Medicaid certified nursing home prior to August 22, 1996 and no longer qualify for benefits under Old Age Assistance, Disability Assistance, and Assistance for the Blind under the Supplemental Security Income (SSI) program pursuant to the Social Security Act, Pub.L.92-693 or the Medically Needy program for long term recipients.

Notwithstanding any law to the contrary, the Director of the Division of Budget and Accounting is authorized to withhold State Aid payments to municipalities to satisfy any obligation due and owing from audits of the municipality's General Assistance program.

Notwithstanding any law to the contrary, the cost of an attorney or a legal entity providing legal services that represents a recipient of General Assistance pursuant to P.L. 1947, c.156 (C.44:8-107 et seq.) in an appeal of a claim for federal Supplemental Security Income benefits pursuant to the federal Social Security Act, Pub.L.92-603, shall be reimbursed from, and limited to, the State's portion of the recipient's retroactive interim Supplemental Security Income payment if the appeal is decided in favor of the recipient.

Notwithstanding the provisions of subsection a. of section 4 of P.L.1997, c.37 (C.44:10-74), for cash assistance benefits to recipients with dependent children, the State and federal governments' share shall be at the rate of 87.5% for the period of January 1 through June 30 of each year and at a rate of 102.5% for the period July 1 through December 31 of each year; except that the total payment of the State and federal share of expenditures during January 1 through December 31 of each year shall not exceed 95%.

The unexpended balances as of June 30, 1997 in the Income Maintenance program classification State Aid accounts are appropriated, subject to the approval of the Director of the Division of Budget and Accounting.

Of the amount appropriated for Payments to Municipalities for Cost of General Assistance and for General Assistance Emergency Assistance Program, $750,000 is made available to implement a General Assistance home visits program for the July 1 through

December 31, 1997 period. An additional $750,000 shall be available for the home visits program during the January 1 through June 30, 1998 period.

Total Appropriation, Department of Human Services. $388,256,000

66 DEPARTMENT OF LAW AND PUBLIC SAFETY
10 Public Safety and Criminal Justice
12 Law Enforcement -- State Aid

09-1020 Criminal Justice $4,948,000
Total Appropriation, Law Enforcement $4,948,000
State Aid:
Safe and Secure Neighborhoods Program . . . . . ($3,600,000)
Nutley Public Safety Personnel and Equipment . . . . . (348,000)
East Rutherford -- Regional Shooting Range . . . . . (55,000)
Rutherford -- Regional Shooting Range . . . . . (55,000)
Carlstadt -- Regional Shooting Range . . . . . (55,000)
Moonachie -- Regional Shooting Range . . . . . (55,000)
Woodridge -- Regional Shooting Range . . . . . (55,000)
Penns Grove -- Law and Public Safety . . . . . (50,000)
Little Ferry -- Law and Public Safety . . . . . (50,000)
South Hackensack -- Law and Public Safety . . . . . (75,000)
Garfield -- Law and Public Safety . . . . . (75,000)
Ridgefield -- Law and Public Safety . . . . . (75,000)
Cliffside Park -- Law and Public Safety . . . . . (300,000)
Paramus -- Law and Public Safety . . . . . (100,000)

Total Appropriation, Department of Law and Public Safety $4,948,000

74 DEPARTMENT OF STATE
30 Educational, Cultural and Intellectual Development
37 Cultural and Intellectual Development Services -- State Aid

06-2535 Museum Services $2,000,000
Total Appropriation, Cultural and Intellectual Development Services $2,000,000
State Aid:
Operational Grant for Newark Museum . . . . . ($2,000,000)

30 Educational, Cultural and Intellectual Development
37 Cultural and Intellectual Development Services
2451 Division of State Library -- State Aid

51-2451 Library Services $13,112,000
Total Appropriation, Division of State Library $13,112,000
State Aid:
Per Capita Library Aid . . . . . ($7,665,000)
Emergency Aid/Incentive Grants . . . . . (100,000)
Library Network . . . . . (4,777,000)
Library Development Aid . . . . . (570,000)

Total Appropriation, Department of State $15,112,000

82 DEPARTMENT OF THE TREASURY
30 Educational, Cultural and Intellectual Development
36 Higher Educational Services -- State Aid

48-2155 Aid to County Colleges $140,022,000
Total Appropriation, Higher Educational Services $140,022,000

State Aid:
Operational Costs ..... ($108,186,000)
Debt Service, N.J.S.18A:64A-22 ..... (15,376,000)
Employer Contributions -- Alternate Benefit Program ..... (15,016,000)
Employer Contributions -- Teachers' Pension and Annuity Fund ..... (143,000)
Additional Health Benefits ..... (801,000)
Employer Contributions -- FICA for County College Members of Teachers' Pension and Annuity Fund ..... (500,000)

Such sums as may be necessary for the payment of interest or principal or both, due from the issuance of any bonds authorized under the provisions of section 1 of P.L.1971, c.12 (C.18A:64A-22.1) are appropriated.

Of the amount appropriated hereinabove for Higher Educational Services, such sums as the Director of the Division of Budget and Accounting shall determine from the schedule at page K-40 in the Governor's Budget Recommendation Document dated January 29, 1997 first shall be charged to the State Lottery Fund.

70 Government Direction, Management and Control
72 Governmental Review and Oversight -- State Aid

02-2010 Office of State Planning $840,000
Total Appropriation, Governmental Review and Oversight $840,000

State Aid:
County Funding for Cross-Acceptance ..... ($840,000)

The amount hereinabove for County funding for cross-acceptance shall be allocated by the Office of State Planning to the counties or other entities designated by the State Planning Commission, as appropriate, for the costs related to cross-acceptance of the State Development and Redevelopment Plan developed by the Commission under the State Planning Act. The Office of State Planning shall allocate $40,000 to each county or other designated entity, and may reallocate the unused portion of any such allocation as necessary to fund the approved cross-acceptance costs of any county or designated entity.

70 Government Direction, Management and Control
75 State Subsidies and Financial Aid -- State Aid

27-2085 Other Distributed Taxes $4,267,000
28-2078 County Boards of Taxation 1,049,000
29-2078 Locally Provided Services 778,000
35-2078 Consolidated Police and Firemen's Pension Fund 12,125,000
Total Appropriation, State Subsidies and Financial Aid $18,219,000

Personal Services:
County Tax Board Members (75) ..... ($1,049,000)

State Aid:
New Jersey Firemen's Home and the New Jersey Firemen's Association ..... (4,267,000)
Pinelands Area Municipality Aid ..... (675,000)
Palisades Interstate Park PILOT Aid ..... (103,000)
Debt Service on Pension Obligation Bonds ..... (12,125,000)

Notwithstanding the provisions of the Corporation Business Tax Act (1945), P.L.1945, c.162 (C.54:10A-1 et seq.), the sum apportioned to the several counties of the State shall not be distributed and shall be anticipated as revenue for general State purposes.

Notwithstanding the provisions of P.L.1945, c.162 (C.54:10A-1 et seq.), the amounts collected from banking corporations pursuant to the Corporation Business Tax Act (1945) shall not be distributed to the counties and municipalities and shall be anticipated as revenue for general State purposes.

The unexpended balance as of June 30, 1997 from the taxes collected pursuant to P.L.1940, c.4 (C.54:30A-16 et seq.) and P.L.1940, c.5 (C.54:30A-49 et seq.) shall lapse.

There is appropriated $740,000,000 from the "Energy Tax Receipts Property Tax Relief Fund" pursuant to P.L.1997, c.167 (C.52:27D-438 et al.) if that act is enacted. Otherwise, notwithstanding the provisions of section 2 of P.L.1980, c.10 (C.54:30A-24.1), section 4 of P.L.1980, c.11 (C.54:30A-61.1), section 27 of P.L.1991, c.184 (C.54:30A-24.4), and section 28 of P.L.1991, c.184 (C.54:30A-61.4), or any other provisions of law, the payments to municipalities during fiscal year 1998 from the proceeds of the public utilities franchise and gross receipts taxes, or from taxes and assessments collected in replacement of such taxes, shall be as follows: (1) $685,000,000 shall be distributed based upon taxes imposed and payable in calendar year 1996, apportionment valuations of scheduled property as of July 1, 1995 and municipal purposes tax rates preceding 1996, and shall be paid according to the following schedule: July 15, 35% of the total amount due; August 1, 10% of the total amount due; September 1, 30% of the total amount due; October 1, 15% of the total amount due; November 1, 5% of the total amount due; and December 1, 5% of the total amount due; (2) $45 million shall be distributed in proportion to the payments hereinabove determined, shall be paid on June 30, 1998 and shall be available to municipalities as revenue for local fiscal years beginning on or after January 1, 1998; provided however, that amounts collected in excess of amounts distributed shall be anticipated as revenue for general State purposes.

There are appropriated from taxes collected from certain insurance companies, pursuant to the insurance tax act, so much as may be required for payments to counties pursuant to P.L.1945, c.132 (C.54:18A-1 et seq.).

The Director of the Division of Budget and Accounting shall reduce amounts provided to any municipality from the appropriations hereinabove by the difference, if any, between pension contribution savings, and the amount of Consolidated Municipal Property Tax Relief Aid payable to such municipality.

In addition to the sum hereinabove appropriated to make payments under the State Treasurer's contracts authorized pursuant to section 6 of P.L.1997, c.114 (C.34:1B-7.50), there are appropriated such other sums as the Director of the Division of Budget and Accounting shall determine are required to pay all amounts due from the State pursuant to such contracts.

From the amount appropriated hereinabove for Pinelands Area Municipality Aid there shall be allocated to municipalities with at least 50% of their land areas in one or more land conservation designations the following amounts: Estelle Manor City, $84,524; Mullica Township, $91,030; Weymouth Township, $71,037; Bass River Township, $100,197; Washington Township, $118,652; Woodland Township, $115,168; Maurice River Township, $94,392.

From the amount appropriated hereinabove for Palisades Interstate Park PILOT Aid there is allocated for payment in lieu of municipal taxes the following amounts for properties under the jurisdiction of the Palisades Interstate Park Commission: Borough of Alpine, $35,844; Borough of Englewood Cliffs, $38,625; Borough of Fort Lee, $28,531.

Total Appropriation, Department of the Treasury $159,081,000

Total Appropriation, State Aid $1,598,195,000

Any qualifying State Aid appropriation, or part thereof, made from the General Fund may be transferred and recorded as an appropriation from the Property Tax Relief Fund, as deemed necessary by the State Treasurer, in order that the Director of the Division of Budget and Accounting may warrant the necessary payments; provided however, that the available unrestricted fund balance in the Property Tax Relief Fund, as determined by the State Treasurer, is sufficient to support the expenditure.

CAPITAL CONSTRUCTION
01 LEGISLATURE
70 Government Direction, Management and Control
71 Legislative Activities

The unexpended balance as of June 30, 1997 in the Legislature is appropriated.

10 DEPARTMENT OF AGRICULTURE
40 Community Development and Environmental Management
49 Agricultural Resources, Planning, and Regulation

Capital Projects:
Division of Marketing
Construction Additions to Horse Park ..... ($350,000)
Division of Administration Laboratory Equipment ..... (65,000)

Total Appropriation, Department of Agriculture $415,000

The unexpended balance as of June 30, 1997 in this department is appropriated.

20 DEPARTMENT OF COMMERCE AND ECONOMIC DEVELOPMENT
30 Educational, Cultural and Intellectual Development
37 Cultural and Intellectual Development Services

Capital Projects:
New Jersey Public Broadcasting Authority
Facility Preservation Projects ..... ($325,000)

Total Appropriation, Department of Commerce and Economic Development $325,000

The unexpended balance as of June 30, 1997 in this department is appropriated.

26 DEPARTMENT OF CORRECTIONS
10 Public Safety and Criminal Justice
16 Detention and Rehabilitation

Capital Projects:
East Jersey State Prison
Heating System, Wing #3 ..... ($1,929,000)
Replace Heating System, Rahway Camp ..... (324,000)
Rotunda/Dome Repair ..... (500,000)
Sewage Line Repair/Replacement ..... (201,000)
Bayside State Prison
Improvement to Water Supply System ..... (1,357,000)
Sewer Line Repair/Replacement ..... (413,000)
Riverfront State Prison
Locking System Upgrade ..... (260,000)
Garden State Reception and Youth Correctional
Facility Kitchen Refurbishing ..... (570,000)

10 Public Safety and Criminal Justice
19 Central Planning, Direction and Management

Capital Projects:
Division of Management and General Support
Critical Repairs ..... ($1,000,000)
Emergency Generators ..... (1,000,000)
Fire Safety Code Compliance ..... (1,000,000)
Roof Replacements/Repairs ..... (1,000,000)

Total Appropriation, Department of Corrections $9,554,000

The unexpended balance as of June 30, 1997 in this department is appropriated.

34 DEPARTMENT OF EDUCATION
30 Educational, Cultural and Intellectual Development
32 Operation and Support of Educational Institutions
5011 Marie H. Katzenbach School for the Deaf

Capital Project:
Marie H. Katzenbach School for the Deaf
Re-Roofing of Various Buildings ..... ($238,000)

35 Education Administration and Management
5095 Division of Administration

Capital Project:
Roof Replacement and HVAC Repairs,
Regional Day Schools. ..... ($1,910,000)

Total Appropriation, Department of Education $2,148,000

The unexpended balance as of June 30, 1997 in this department is appropriated.

42 DEPARTMENT OF ENVIRONMENTAL PROTECTION
40 Community Development and Environmental Management
42 Natural Resource Management

Capital Project:
Bureau of Parks
Administrative/Maintenance Facilities --
Renovation, Rehabilitation & Maintenance .... ($350,000)
Buildings -- Rehabilitation and Renovation ..... (400,000)
Liberty State Park, Caven Point Pier Renovations .. (500,000)
Picnic Area Rehabilitation -- Various State
Parks & Forests ..... (500,000)
Sanitary Facilities ..... (500,000)
Site Areas/Facilities -- Development,
Rehabilitation and Repair ..... (150,000)
Palisades Interstate Park Commission
Sanitary Facilities -- Various Locations ..... (2,020,000)
Underground Storage Tank Remediation ..... (100,000)
Division of Fish and Game
Dam Repair, Maintenance and Renovation ..... (1,570,000)
Law Enforcement Radio System ..... (100,000)
Natural Resource Engineering
Shore Protection Fund Projects ..... (15,000,000)

Notwithstanding the provisions of P.L.1954, c.48 (C.52:34-6 et seq.), the Department of Environmental Protection may enter into a contract with the Waterloo Foundation for the Arts for improvements to existing State-owned structures or for the construction of new facilities at Waterloo Village.

The amount hereinabove for Shore Protection Fund Projects is payable from the receipts of the portion of the realty transfer tax directed to be credited to the Shore Protection Fund pursuant to section 1 of P.L.1992, c.148 (C.13:19-16.1).

40 Community Development and Environmental Management
44 Site Remediation

Capital Projects:
Hazardous Substance Remediation --
Constitutional Dedication ..... ($31,100,000)
Private Underground Tank Remediation --
Constitutional Dedication ..... (20,700,000)

The amounts hereinabove for "Hazardous Substance Discharge Remediation – Constitutional Dedication" and "Private Underground Storage Tank Remediation – Constitutional Dedication" shall be provided from revenue received from the Corporation Business Tax, pursuant to the "Corporation Business Tax Act (1945)," P.L. 1945, c.162 (C.54:10A–1 et seq.), as dedicated by Article VIII, Section II, paragraph 6 of the State Constitution.

Of the amount hereinabove appropriated for Hazardous Substance Remediation -- Constitutional Dedication, such sums as are necessary, as determined by the Director of the Division of Budget and Accounting, shall be made available for site remediation costs associated with State-owned underground storage tanks at the following locations:
Department of Environmental Protection -- Cape May Point State Park, Division C -- Forest Fire, Island Beach State Park, Lebanon State Forest, Park Headquarters -- Region 3, Ringwood State Park, Spring Meadow Golf Course, Wharton State Forest, Worthington State Forest;
Department of Transportation -- Branchville Maintenance Yard, Flemington Maintenance Yard, Main Office Complex, Summit Maintenance Yard;
Department of Military and Veterans' Affairs -- Cape May Armory and OMS, Teaneck Armory and OMS, Toms River Armory, Woodstown Armory;
Department of Corrections -- Albert Wagner Youth Facility, Mountainview Youth Facility, Northern State Prison, East Jersey State Prison;
Department of Human Services -- Marlboro Psychiatric Hospital, North Jersey Developmental Center, North Princeton Developmental Center, Trenton Psychiatric Hospital, Woodbine Developmental Center, Greystone Park Psychiatric Hospital, New Lisbon Developmental Center;
Department of Law and Public Safety -- Berlin State Police Station, Keyport State Police Station, Princeton State Police, Totowa State Police Station; and,
Department of the Treasury -- Eggerts Complex.

40 Community Development and Environmental Management
45 Environmental Regulation

Capital Projects:
Water Supply and Flood Plain Management
Flood Control HR6 Projects ..... ($2,590,000)

Total Appropriation, Department of Environmental Protection ... $75,580,000

The unexpended balance as of June 30, 1997 in this department is appropriated.

46 DEPARTMENT OF HEALTH AND SENIOR SERVICES
20 Physical and Mental Health
21 Health Services

Capital Projects:
Division of Public Health and
Environmental Laboratories
Improvements to Laboratories and
Installed Equipment ..... ($790,000)
Laboratory Equipment ..... (656,000)
Warehouse Equipment ..... (60,000)

Total Appropriation, Department of Health and
Senior Services $1,506,000

The unexpended balance as of June 30, 1997 in this department is appropriated.

54 DEPARTMENT OF HUMAN SERVICES
20 Physical and Mental Health
23 Mental Health Services

Capital Projects:
Greystone Park Psychiatric Hospital
Bathroom Renovations ..... ($850,000)
Senator Garret W. Hagedorn Gero-Psychiatric
Hospital Sewage Treatment Plant ..... (800,000)

30 Educational, Cultural and Intellectual Development
32 Operation and Support of Educational Institutions

Capital Projects:
Vineland Developmental Center
Boiler Replacement ..... ($490,000)
New Lisbon Developmental Center Replace
Boiler & Condensate Recovery Tank ..... (215,000)

70 Government Direction, Management and Control
76 Management and Administration

Capital Projects:
Division of Management and Budget
Fire Safety Code Compliance Projects ..... ($4,190,000)
HVAC Improvements ..... (199,000)
Preservation Improvements, Institutions
and Community Facilities ..... (1,137,000)
Roof repair/replacement various facilities ..... (3,203,000)

Total Appropriation, Department of Human Services $11,084,000

The unexpended balance as of June 30, 1997 in this department is appropriated.

66 DEPARTMENT OF LAW AND PUBLIC SAFETY
10 Public Safety and Criminal Justice
12 Law Enforcement

Capital Projects:
Division of State Police
Boiler Replacements ..... ($221,000)

Critical Repairs/Rehabilitation, Divisionwide ..... (390,000)
Emergency Generator Replacements ..... (53,000)
Hazardous Materials Removal and Fire
Safety Projects ..... (75,000)
Roof Replacements, Various Facilities ..... (185,000)
Sea Girt Training Center, Plumbing Renovations ... (129,000)

10 Public Safety and Criminal Justice
18 Juvenile Services
1500 Division of Juvenile Services

Capital Projects:
Critical Repairs, Juvenile Services Facilities ..... ($1,000,000)
Fire Safety Projects, Various Sites. ..... (1,500,000)
Roof Replacement ..... (500,000)

Total Appropriation, Department of Law and Public Safety $4,053,000

The unexpended balance as of June 30, 1997 in this department is appropriated.

67 DEPARTMENT OF MILITARY AND VETERANS' AFFAIRS
10 Public Safety and Criminal Justice
14 Military Services

Capital Projects:
Fire and Life Safety, Statewide. ..... ($1,000,000)
Major Maintenance and Life Safety --
Teaneck, Newark, Jersey City and
West Orange Armories ..... (500,000)
Preservation of Existing Structures. ..... (500,000)

Total Appropriation, Department of Military and
Veterans Affairs' $2,000,000

The unexpended balance as of June 30, 1997 in this department is appropriated.

74 DEPARTMENT OF STATE
30 Educational, Cultural and Intellectual Development
36 Higher Educational Services
2645 Rowan University

Capital Project:
Preservation Projects ..... ($750,000)

2650 Jersey City State College

Capital Project:
Preservation Projects ..... ($750,000)

2655 Kean College of New Jersey

Capital Project:
Preservation Projects ..... ($750,000)

2660 William Paterson College of New Jersey

Capital Project:
Preservation Projects ..... ($750,000)

2665 Montclair State University

Capital Project:
Preservation Projects ..... ($750,000)

2670 The College of New Jersey

Capital Project:
Preservation Projects ..... ($750,000)

2675 Ramapo College of New Jersey

Capital Project:
Preservation Projects ..... ($600,000)

2680 The Richard Stockton College of New Jersey

Capital Project:
Preservation Projects ..... ($750,000)

30 Educational, Cultural and Intellectual Development
37 Cultural and Intellectual Development Services
2451 Division of State Library

Capital Project:
Division of State Library
Install Fire Suppression System ..... ($641,000)
Library for the Blind, Telecommunication
Improvements ..... (160,000)

Total Appropriation, Department of State $6,651,000

The unexpended balance as of June 30, 1997 in this department is appropriated.

78 DEPARTMENT OF TRANSPORTATION
10 Public Safety and Criminal Justice
11 Vehicular Safety

Notwithstanding the provisions of P.L.1995, c.112 (C.39:8-41 et al.), if the increase in operating and capital costs for the implementation of the Enhanced Inspection and Maintenance program exceeds the available funding from federal Congestion Mitigation and Air Quality Improvement funds, there are appropriated such sums as are necessary for the capital or debt service costs of the Enhanced Inspection and Maintenance program, subject to the approval of the Director of the Division of Budget and Accounting. It is anticipated that federal Congestion Mitigation and Air Quality Improvement funds to be received in State fiscal years 1999 and 2000 will be more than sufficient to offset any State funded appropriation made herein.

60 Transportation Programs
61 State Highway Facilities

Capital Project:
Transportation Trust Fund Account ..... ($380,300,000)

Receipts representing the State share from the rental or lease of property, and the unexpended balances as of June 30, 1997 of such receipts are appropriated for maintenance or improvement of transportation property, equipment and facilities.

The sum provided hereinabove for the Transportation Trust Fund Account shall first be provided from revenues received from motor fuel taxes pursuant to Article VIII, Section II, paragraph 4 of the State Constitution, and from funds received or receivable from the various transportation-oriented authorities pursuant to contracts between the authorities

and the State, together with such additional sums pursuant to P.L.1984, c.73 (C.27:1B-1 et al.) and R.S.54:39-27 as amended, as may be necessary to satisfy all fiscal year 1998 debt service, bond reserve requirements, and other fiscal obligations of the New Jersey Transportation Trust Fund Authority.

Notwithstanding any other requirements of law, the department may expend necessary sums for improvements to streets and roads providing access to State facilities within the capital city without local participation.

Notwithstanding the provisions of subsection d. of section 21 of P.L. 1984, c.73 (C.27:1B-21), in order to provide the department with the flexibility in administering the appropriations identified, the Commissioner of Transportation may transfer funds, subject to the approval of the Director of the Division of Budget and Accounting, from projects included in the approved program to the Hudson-Bergen Light Rail Transit System project in an amount sufficient to satisfy the New Jersey Transportation Trust Fund Authority's obligation to pay debt service on the grant anticipation notes issued or to be issued by the New Jersey Transit Corporation but only to the extent that monies are not otherwise available for the payment of debt service from non-State funds received for the Hudson-Bergen Light Rail Transit System.

Any unexpended funds appropriated pursuant to the provisions of the "New Jersey Bridge Rehabilitation and Improvement Bond Act of 1983," P.L.1983, c.363, which were reserved pursuant to subsection a. of section 4 of the act for rehabilitation and improvement of bridges carrying State highways, are reappropriated to the Department of Transportation for allocation and use at the discretion of the department, subject to the approval of the Joint Budget Oversight Committee or its successor, for the rehabilitation and improvement of bridges carrying State highways, as defined and permitted under the provisions of that act.

Any unexpended funds appropriated pursuant to the provisions of the "New Jersey Bridge Rehabilitation and Improvement Bond Act of 1983," P.L.1983, c.363, which were reserved pursuant to subsection a. of section 4 of the act for rehabilitation and improvement of bridges carrying county and municipal roads, are reappropriated to the Department of Transportation for allocation and use at the discretion of the department, subject to the approval of the Joint Budget Oversight Committee or its successor, for the rehabilitation and improvement of bridges carrying county and municipal roads, as defined and permitted under the provisions of that act.

Any unobligated funds appropriated pursuant to the provisions of the "New Jersey Bridge Rehabilitation and Improvement and Railroad Right-of-Way Bond Act of 1989," P.L.1989, c.180, which were reserved pursuant to subsection a. of section 4 of the act for rehabilitation and improvement of bridges carrying State highways, are reappropriated to the Department of Transportation for allocation and use at the discretion of the department, subject to the approval of the Joint Budget Oversight Committee or its successor, for the rehabilitation and improvement of bridges carrying State highways, as defined and permitted under the provisions of that act.

Any unobligated funds appropriated pursuant to the provisions of the "New Jersey Bridge Rehabilitation and Improvement and Railroad Right-of-Way Bond Act of 1989," P.L.1989, c.180, which were reserved pursuant to subsection a. of section 4 of the act for rehabilitation and improvement of bridges carrying county and municipal roads, are reappropriated to the Department of Transportation for allocation and use at the discretion of the department, subject to the approval of the Joint Budget Oversight Committee or its successor, for the rehabilitation and improvement of bridges carrying county and municipal roads, as defined and permitted under the provisions of that act.

Total Appropriation, Department of Transportation $380,300,000

The unexpended balance as of June 30, 1997 in this department is appropriated.

Notwithstanding the provisions of P.L.1984, c.73 (C.27:1B-1 et al.) to the contrary, there is appropriated the sum of $617,000,000 from the revenues and other funds of the New Jersey Transportation Trust Fund Authority for the specific projects identified under the six general program headings as follows:

Route	Section	Description	County	Amount
1. CONSTRUCTION				
		Adopt-A-Highway program	Various	($100,000)
		Airport Safety Fund	Various	(10,000,000)
		Atlantic City circulation improvements	Atlantic	(30,000,000)
		Atlantic City - Brigantine connector	Atlantic	(84,000,000)
		Automated systems, acquisition and development	Various	(2,000,000)
		Bayshore Trail - Atlantic Highlands Section	Monmouth	(240,000)
		Betterments, bridge preservation	Various	(7,000,000)
		Betterments, roadway preservation	Various	(6,000,000)
		Betterments, safety	Various	(4,000,000)
		Bridge deck patching	Various	(1,000,000)
		Bridge fencing	Various	(1,000,000)
		Construction inspection	Various	(1,000,000)
		Cumberland County Ecotourism project, Turkey Point	Cumberland	(250,000)
		Early action highway signs project	Various	(10,000,000)
		Economic Development Program	Various	(1,500,000)
		Electrical facilities	Various	(600,000)
		Emergency service patrol operations	Various	(30,000)
		Environmental investigations	Various	(2,000,000)
		Equipment: vehicles and construction equipment	Various	(10,000,000)
		Equipment fleet repair: capitalized maintenance	Various	(3,300,000)
		Equipment debt service: certificates of participation payments	Various	(26,000)
		Freight program	Various	(10,000,000)
		High-mast light poles	Various	(200,000)
		Interstate highway service facilities	Various	(500,000)
		Legal costs for right-of-way condemnation and capital project litigation work	Various	(750,000)
		Local aid for Centers of Place	Various	(750,000)
		Palisades Interstate Parkway, rehabilitate southbound lanes	Bergen	(6,000,000)
		PEOSHA Contract 1B, Route 1&9 bridge over Hackensack River	Hudson	(3,500,000)
		Physical plant	Various	(9,000,000)
		Pinehurst Avenue extension	Camden	(1,189,000)
		Program implementation and indirect capital program costs	Various	(71,900,000)
		Raritan Center, roadway improvements	Middlesex	(4,000,000)

	Resurfacing program	Various	(18,865,000)
	Shaw Farm, wetlands restoration	Cape May	(1,800,000)
	Solid and hazardous waste cleanup, reduction and disposal	Various	(500,000)
	State Police enforcement and safety services	Various	(2,000,000)
	TRANSCOM membership	Various	(400,000)
	Traffic signal relamping	Various	(1,700,000)
	Traffic signal replacement	Various	(1,000,000)
	Training and development	Various	(250,000)
	Transportation Demand Management program	Various	(500,000)
	Unanticipated design, right-of-way, and construction expenses	Various	(5,000,000)
	Underground exploration for utility facilities	Various	(150,000)
	Union County rail project, Cranford to Summit	Union	(2,000,000)
	University Transportation Research Technology	Various	(1,000,000)
10	West of Millbrook Avenue to west of Dover Chester Road, resurfacing	Morris	(2,000,000)
18 4F 6H	Bridge over South River, replacement	Middlesex	(8,000,000)
29 (1)	Delaware Ave., drainage line	Hunterdon	(4,000,000)
29	Willow Street, circulation improvements	Mercer	(1,100,000)
31 6B 7E	Stanton Station Road. to Payne Road., widening	Hunterdon	(8,000,000)
33	Freehold Bypass, Halls Mill Road to Route 33 at Fairfield Road	Monmouth	(10,000,000)
35	Point Pleasant pumping station, cost sharing agreement for rehabilitation	Ocean	(1,200,000)
36	Joline Avenue, rehabilitation	Monmouth	(2,500,000)
40 3K 322	West of Chester Avenue to east of Jonathons Thorofare, rehabilitation and operational improvements	Atlantic	(4,000,000)
42	South of Fries Mill Road to Atlantic City Expressway, northbound roadway resurfacing	Gloucester	(1,500,000)
46	Vicinity of Saddle River to Huyler Street, eastbound roadway resurfacing	Bergen	(1,500,000)
57	Watters Road to vicinity of Mountain Avenue, resurfacing	Warren	(1,000,000)
76 3N 2V	Walt Whitman bridge to Route 73,	Camden	(15,000,000)
295 11G	noise barriers	Burlington	
80 (19)	Paterson noise barriers	Passaic	(3,500,000)
120 1B	Route 3 to Paterson Plank Road, relocation	Bergen	(5,000,000)

133	1A	Route 33 to County Route 571, Hightstown Bypass	Mercer	(37,000,000)
169	(2)	Environmental mitigation	Hudson	(3,000,000)
179		North of Old York Road to Route 31/202, resurfacing	Hunterdon	(3,000,000)
206	15J	Brown Avenue to Frelinghuysen Avenue, widening	Somerset	(11,000,000)
206		North of Beneficial Drive to south of Pottersville Road; north of Pottersville Road to south of Chester Township line, resurfacing	Somerset Morris	(2,200,000)
287	2T, 3R, 4R,10o X, 19K	Route I-95 (New Jersey Turnpike) Route 22, sign improvements	Middlesex Somerset	(1,000,000)
287		Vicinity of Bailey's Mill Road to vicinity of Harding corporate line, noise barriers	Morris	(600,000)
287		Edison/Metuchen noise barriers	Middlesex	(5,500,000)
2. DESIGN				
		Emerging projects	Various	(1,000,000)
		PEOSHA Contract 1B; Route 1&9T bridge over Hackensack River	Hudson	(270,000)
		County Route 639, Warren Glen/Bloomsbury Road bridge, elimination	Warren	(160,000)
1		Bridge over Conrail	Middlesex	(1,000,000)
1, 9 35		Route 1&9 and Route 35, interchange replacement	Middlesex	(1,000,000)
1, 9		Bridge over Rahway River, rehabilitation	Union	(1,000,000)
9	(30)	Lake Carasaljo dam	Ocean	(250,000)
31	6B 7E	Stanton Station Road to Payne Road, widening	Hunterdon	(135,000)
31	6E 6F	River Road to Stanton Station Road, widening	Hunterdon	(1,600,000)
33	9A	Route 35 to Route 71, Corlies Avenue, widening	Monmouth	(600,000)
34		Intersection improvements at County Route 537	Monmouth	(350,000)
70	(5)	Jack Martin Boulevard to Brielle Circle, widening	Monmouth Ocean	(2,650,000)
139	(1)B	12th Street Viaduct, 14th Street Viaduct, bridge rehabilitation	Hudson	(750,000)
206		Intersection improvements at Main Street (Route 24) and County Route 513	Morris	(500,000)
206		South of Waterloo/Brookwood Road intersection to south of Pierson Drive, operational improvements	Sussex	(1,300,000)

3. RIGHT-OF-WAY ACQUISITION			
	Advance acquisition of right-of-way for transportation corridors and facilities	Various	(1,100,000)
	Sparta Munson Corner Road from Beardslee Hill Drive to 1600 feet north, realignment	Sussex	(450,000)
18 3A Ext.	Hoes Lane extension to I-287 at Possumtown Road, highway on new alignment	Middlesex	(110,000)
33	Freehold Bypass, Halls Mill Road to Route 33 at Fairfield Road	Monmouth	(375,000)
46 11M	Intersection improvements at New Road	Morris	(1,700,000)
70 (5)	Jack Martin Boulevard to Brielle Circle, widening	Monmouth Ocean	(5,000,000)
169 (2)	Environmental mitigation	Hudson	(1,400,000)
4. PROJECT DEVELOPMENT			
	Drainage management system	Various	(500,000)
	Maintenance management system	Various	(700,000)
	Project development, preliminary engineering	Various	(3,000,000)
5. PLANNING			
	Planning, and technology development	Various	(2,000,000)
	Portway	Union, Essex, Hudson	(1,000,000)
6. LOCAL AID			
	County Aid	Various	(58,500,000)
	Municipal aid	Various	(58,500,000)
	Discretionary aid: County and municipal	Various	(21,500,000)

Notwithstanding the provisions of subsection d. of section 21 of P.L.1984, c.73 (C.27:1B-21), in order to provide the department with flexibility in administering the appropriations identified, the Commissioner may transfer funds among projects within the same general program heading subject to the approval of the Director of the Division of Budget and Accounting. The Commissioner shall apply to the Director of the Division of Budget and Accounting for permission to transfer funds among projects within different program headings. If the Director of the Division of Budget and Accounting shall consent thereto, the request to transfer funds among projects within different program headings shall be transmitted to the Legislative Budget and Finance Officer for approval or disapproval then returned to the Director of the Division of Budget and Accounting. The Joint Budget Oversight Committee or its successor shall be empowered to review all transfers submitted to the Legislative Budget and Finance Officer and may direct said Legislative Budget and Finance Officer to approve or disapprove any transfer.

Notwithstanding the provisions of any other law to the contrary, there is allocated from the Unanticipated design, right-of-way, and construction expenses project hereinabove under the Construction program heading, $21,000 for the construction of a turnaround on route 42 north of County Road 555 near Martin dealerships.

Notwithstanding the provisions of any other law to the contrary, there is allocated from the Unanticipated design, right-of-way, and construction expenses project hereinabove under the Construction program heading and from the Emerging projects project in the Design program heading hereinabove, such sums as are necessary to fund the following items: construction on Route 322 in Monroe Township; Park and Ride at Deptford; Park and Ride at Berlin-Cross Keys Road and the Atlantic City Expressway; bypass at Berlin-Cross Keys Road in Washington Township (Gloucester County).

Notwithstanding the provisions of P.L.1984, c.73 (C.27:1B-1 et al.) to the contrary, there is appropriated the sum of $283,000,000 from the revenues and other funds of the New Jersey Transportation Trust Fund Authority for the specific projects identified as follows:

NEW JERSEY TRANSIT CORPORATION

Route	Section	Description	County	Estimated Cost
		Accessibility for people with disabilities; vans for paratransit services	Various	($1,660,000)
		Accessibility for people with disabilities; platforms/stations	Various	(10,000,000)
		Automatic passenger transportation systems	Various	(550,000)
		Bombardier lease payments on rail coaches	Various	(15,000,000)
		Building capital leases	Various	(20,000)
		Bus passenger facilities	Various	(2,500,000)
		Bus support facilities and equipment	Various	(9,030,000)
		Bus vehicle and facility maintenance/capital maintenance	Various	(30,220,000)
		Capital program implementation and indirect capital program costs	Various	(17,100,000)
		Claims support	Various	(2,000,000)
		Clean Air Program	Various	(5,500,000)
		Communications and revenue systems	Various	(6,570,000)
		Eagle cruiser bus rehabilitation	Various	(2,000,000)
		Emission control/rebuilt engines	Various	(910,000)
		Environmental compliance	Various	(1,000,000)
		Hudson Bergen Light Rail Transit System	Hudson Bergen	(9,190,000)
		Hudson Bergen Light Rail Transit System bridges	Hudson	(18,000,000)
		Hunter Connection	Various	(7,000,000)
		Immediate action program	Various	(9,790,000)
		Information services	Various	(1,250,000)
		Locomotive overhaul	Various	(3,000,000)
		Miscellaneous	Various	(560,000)
		Newark City subway	Essex	(12,300,000)
		Newark Penn Station	Essex	(1,000,000)
		Newark-Elizabeth rail link	Essex Union	(6,970,000)
		Other rail station/terminal improvements	Various	(13,620,000)
		Physical plant	Various	(3,600,000)

Private carrier equipment program	Various	(2,000,000)
Rail capital maintenance	Various	(41,940,000)
Rail park and ride	Various	(3,000,000)
Rail support facilities and equipment	Various	(3,700,000)
Railroad associated capital maintenance	Various	(5,650,000)
Replace Federal operating assistance	Various	(8,800,000)
Signals and communications	Various	(30,670,000)
Southern New Jersey Light Rail Transit System	Burlington Gloucester Camden	(26,000,000)
Study and development	Various	(1,500,000)
Track program	Various	(8,800,000)
Tunnel and bridge rehabilitation	Various	(3,600,000)

The total expenditure of the Department of Transportation, under the New Jersey Transit Corporation general program heading with an "Estimated Cost" exceeding $283,000,000 by $43,000,000, shall not exceed $283,000,000 and shall be subject to the following conditions:

(a) On or before the 180th day after the effective date of this act, the Commissioner of Transportation shall transmit to the Senate Transportation Committee and the Assembly Transportation and Communications Committee a list of the specific projects identified hereinabove with the amounts of allotments for each project.

(b) The total allotments for all projects shall not exceed $283,000,000 and the maximum allotment allowed for each project shall not exceed 110% of the amount of "Estimated Cost" for each project listed hereinabove.

(c) Any change to the allotment amount listed for a project as transmitted to the committees, which results in an allotment amount for that project not greater than or equal to 110% of the "Estimated Cost" for the project, may be made by the commissioner upon written notice thereof to the committees.

(d) Any change to the allotment amount listed for a project as transmitted to the committees, which results in an allotment amount for that project greater than 110% of the "Estimated Cost" for the project, shall be subject to the approval of the Director of the Division of Budget and Accounting and the Joint Budget Oversight Committee.

The unexpended balances as of June 30, 1997 of appropriations from the New Jersey Transportation Trust Fund Authority are appropriated.

Notwithstanding the provisions of subsection r. of section 3 of P.L.1984, c.73 (C.27:1B-3), sums from the Transportation Trust Fund shall be available, subject to the approval of the Director of the Division of Budget and Accounting, for work necessary for preserving or maintaining the useful life of transportation projects that ensures the useful life of the project for not less than two years.

82 DEPARTMENT OF THE TREASURY
70 Government Direction, Management and Control
74 General Government Services

Capital Project:
Office of Telecommunications and
Information Systems
Data Center Upgrades and Consolidation . ($3,800,000)
Disaster Recovery -- Electronic Vaulting ..... (750,000)
Preservation Projects -- Information
Processing ..... (852,000)

Total Appropriation, Department of the Treasury. $5,402,000

The unexpended balance as of June 30, 1997 in this department is appropriated.

90 MISCELLANEOUS COMMISSIONS
40 Community Development and Environmental Management
43 Science and Technical Programs
9140 Delaware River Basin Commission

Capital Project:
Amortization Costs of Multipurpose Dams .... ($2,000)

Total Appropriation, Miscellaneous Commissions $2,000

The unexpended balance as of June 30, 1997 in this commission is appropriated.

94 INTERDEPARTMENTAL ACCOUNTS
70 Government Direction, Management and Control
74 General Government Services
9450 Statewide Capital Projects

Capital Projects:
Americans with Disabilities Act
Compliance Projects -- Statewide ..... ($3,000,000)
Capital Improvements, Capitol
Complex ..... (1,005,000)
Fuel Distribution Systems/Underground
Storage Tank Replacements --
Statewide ..... (9,000,000)
Hazardous Materials Removal
Projects -- Statewide ..... (3,000,000)
Life Safety and Emergency Projects --
Statewide ..... (500,000)
Statewide Law Enforcement Radio System ... (500,000)

Total Appropriation, Interdepartmental Accounts $17,005,000

The unexpended balance as of June 30, 1997 in this department is appropriated.

Total Appropriation, Capital Construction $516,025,000

Notwithstanding any other provision of law, funds derived from the sale or conveyance of any lands and buildings or proceeds from the sale of all fill material held by a department are appropriated for demolition, acquisition of land, rehabilitation or improvement of existing facilities and construction of new facilities subject to the approval of the Director of the Division of Budget and Accounting.

The unexpended balances as of June 30, 1997 in the Capital Construction accounts for all departments are appropriated.

DEBT SERVICE
20 DEPARTMENT OF COMMERCE AND ECONOMIC DEVELOPMENT
50 Economic Planning, Development and Security
51 Economic Planning and Development

99-2910 Interest on Bonds $2,819,000
99-2910 Bond Redemption 2,279,000
Total Appropriation, Department of Commerce and
Economic Development $5,098,000

Special Purpose:
Interest:
Community Development Bonds
(P.L.1981, c.486) ..... ($2,819,000)
Redemption:
Community Development Bonds
(P.L.1981, c.486) ..... (2,279,000)

Total Appropriation, Department of Commerce
and Economic Development $5,098,000

42 DEPARTMENT OF ENVIRONMENTAL PROTECTION
40 Community Development and Environmental Management
46 Environmental Planning and Administration

99-4800 Interest on Bonds $27,586,000
99-4800 Bond Redemption 55,117,000
Total Appropriation, Department of Environmental Protection $82,703,000
Special Purpose:
Interest:
Water Conservation Bonds
(P.L.1969, c.127) ..... ($903,000)
State Recreation and Conservation Land
Acquisition Bonds (P.L.1971, c.165) ..... (52,000)
State Recreation and Conservation Land
Acquisition and Development Bonds
(P.L.1974, c.102) ..... (1,918,000)
Clean Waters Bonds (P.L.1976, c.92) ..... (1,791,000)
Beaches and Harbors Bonds
(P.L.1977, c.208) ..... (268,000)
State Land Acquisition and Development
Bonds (P.L.1978, c.118) ..... (1,193,000)
Emergency Flood Control Bonds
(P.L.1978, c.78) ..... (304,000)
Natural Resources Bonds (P.L.1980, c.70) .... (618,000)
Water Supply Bonds (P.L.1981, c.261) .... (1,898,000)
Hazardous Discharge Bonds
(P.L.1981, c.275) ..... (766,000)
1983 New Jersey Green Acres Bonds
(P.L.1983, c.354) ..... (745,000)
Shore Protection Bonds (P.L.1983, c.356) .... (293,000)
Resource Recovery and Solid Waste
Disposal Facility Bonds (P.L.1985,
c.330) ..... (2,520,000)
Pinelands Infrastructure Trust Bonds
(P.L.1985, c.302) ..... (274,000)
Wastewater Treatment Bonds
(P.L.1985 c.329) ..... (1,475,000)
Hazardous Discharge Bonds of 1986
(P.L.1986 c.113) ..... (1,816,000)
1987 Green Acres, Cultural Centers and
Historic Preservation Bonds
(P.L.1987, c.265) ..... (1,257,000)
1989 New Jersey Open Space Preservation
Bonds (P.L.1989, c.183). ..... (5,980,000)

Stormwater Management and Combined Sewer Overflow Abatement Bonds (P.L.1989, c.181) ..... (211,000)
Green Acres, Clean Water, Farmland and Historic Preservation Bonds (P.L.1992, c.88) ..... (3,304,000)
Redemption:
Water Conservation Bonds (P.L.1969, c.127) ..... (4,236,000)
State Recreation and Conservation Land Acquisition Bonds (P.L.1971, c.165) ..... (200,000)
State Recreation and Conservation Land Acquisition and Development Bonds (P.L.1974, c.102) ..... (4,902,000)
Clean Waters Bonds (P.L.1976, c.92) ..... (5,032,000)
Beaches and Harbors Bonds (P.L.1977, c.208) ..... (550,000)
State Land Acquisition and Development Bonds (P.L.1978, c.118) ..... (2,659,000)
Emergency Flood Control Bonds (P.L.1978, c.78) ..... (1,000,000)
Natural Resources Bonds (P.L.1980, c.70) .. (1,208,000)
Water Supply Bonds (P.L.1981, c.261) ..... (5,550,000)
Hazardous Discharge Bonds (P.L.1981, c.275) ..... (2,242,000)
1983 New Jersey Green Acres Bonds (P.L.1983, c.354) ..... (3,275,000)
Shore Protection Bonds (P.L.1983, c.356) ..... (581,000)
Resource Recovery and Solid Waste Disposal Facility Bonds (P.L.1985, c.330) ..... .(2,475,000)
Pinelands Infrastructure Trust Bonds (P.L.1985, c.302) ..... (1,100,000)
Wastewater Treatment Bonds (P.L.1985 c.329) ..... (5,350,000)
Hazardous Discharge Bonds (P.L.1986, c.113). ..... (917,000)
1987 Green Acres, Cultural Centers and Historic Preservation Bonds (P.L.1987, c.265) ..... (3,825,000)
1989 New Jersey Open Space Preservation Bonds (P.L.1989, c.183) .... (7,604,000)
Stormwater Management and Combined Sewer Overflow Abatement Bonds (P.L.1989, c.181) ..... (750,000)
Green Acres, Clean Water, Farmland and Historic Preservation Bonds (P.L.1992, c.88). ..... (1,661,000)

Total Appropriation, Department of Environmental Protection $82,703,000

82 DEPARTMENT OF THE TREASURY
70 Government Direction, Management and Control
76 Management and Administration

99-2000 Interest on Bonds $165,630,000
99-2000 Bond Redemption 230,279,000
Total Appropriation, Department of the Treasury $395,909,000

Special Purpose:
Interest:
Public Buildings Construction Bonds (P.L.1968, c.128) ..... ($1,593,000)
State Transportation Bonds (P.L.1968, c.126) ..... (1,997,000)
Higher Education Construction Bonds (P.L.1971, c.164) ..... (418,000)
State Mortgage Assistance Bonds (P.L.1976, c.94) ..... (360,000)
Institutions Construction Bonds (P.L.1976, c.93) ..... (1,138,000)
Medical Education Facilities Bonds (P.L.1977, c.235) ..... (2,086,000)
Institutional Construction Bonds (P.L.1978, c.79) ..... (727,000)
Transportation Rehabilitation and Improvement Bonds (P.L.1979, c.165) .. (3,386,000)
Energy Conservation Bonds (P.L.1980, c.68) ..... (385,000)
Public Purpose Buildings Construction Bonds (P.L.1980, c.119) ..... (554,000)
Farmland Preservation Bonds (P.L.1981, c.276) ..... (377,000)
Correctional Facilities Construction Bonds (P.L.1982, c.120. ..... (33,000)
Bridge Rehabilitation and Improvement Bonds (P.L.1983, c.363) ..... (354,000)
Jobs, Science and Technology Bonds (P.L.1984, c.99) ..... (497,000)
Human Services Facilities Construction Bonds (P.L.1984, c.157) ..... (819,000)
Refunding Bonds (P.L.1985, c.74, as amended by P.L.1992, c.182) ..... (132,896,000)
Correctional Facilities Construction Bonds (P.L.1987, c.178) ..... (2,493,000)
Jobs, Education and Competitiveness Bonds (P.L.1988, c.78) ..... (8,205,000)
Public Purpose Buildings and Community-Based Facilities Construction Bonds (P.L.1989, c.184) ..... (1,847,000)
1989 Bridge Rehabilitation and Improvement and Railroad Right-of-way Preservation Bonds (P.L.1989, c.180). ..... (1,165,000)

Developmental Disabilities Waiting List Reduction and Human Services Facilities Construction Bonds (P.L.1994, c.108) .... (600,000)
Payments on Future Bond Sales ..... (3,700,000)
Redemption:
Public Buildings Construction Bonds (P.L.1968, c.128) ..... (8,550,000)
State Transportation Bonds (P.L.1968, c.126) ..... (10,100,000)
Higher Education Construction Bonds (P.L.1971, c.164) ..... (2,200,000)
State Mortgage Assistance Bonds (P.L.1976, c.94) ..... (980,000)
Institutions Construction Bonds (P.L.1976, c.93) ..... (2,740,000)
Medical Education Facilities Bonds (P.L.1977, c.235) ..... (6,800,000)
Institutional Construction Bonds (P.L.1978, c.79) ..... (1,700,000)
Transportation Rehabilitation and Improvement Bonds (P.L.1979, c.165) ... (5,213,000)
Energy Conservation Bonds (P.L.1980, c.68) ..... (1,550,000)
Public Purpose Buildings Construction Bonds (P.L.1980, c.119) ..... (1,450,000)
Farmland Preservation Bonds (P.L.1981, c.276) ..... (2,000,000)
Bridge Rehabilitation and Improvement Bonds (P.L.1983, c.363) ..... (2,000,000)
Jobs, Science and Technology Bonds (P.L.1984, c.99) ..... (2,050,000)
Human Services Facilities Construction Bonds (P.L.1984, c.157) ..... (2,014,000)
Refunding Bonds (P.L.1985, c.74, as amended by P.L.1992, c.182) ..... (150,020,000)
Correctional Facilities Construction Bonds (P.L.1987, c.178) ..... (9,900,000)
Jobs, Education and Competitiveness Bonds (P.L.1988, c.78) ..... (14,164,000)
Public Purpose Buildings and Community-Based Facilities Construction Bonds (P.L.1989, c.184. ..... (4,350,000)
1989 Bridge Rehabilitation and Improvement and Railroad Right-of-way Preservation Bonds (P.L. 1989, c.180) ... (2,159,000)
Developmental Disabilities Waiting List Reduction and Human Services Facilities Construction Bonds (P.L. 1994, c.108) .... (339,000)

Total Appropriation, Department of the Treasury $395,909,000

Total Appropriation, Debt Service $483,710,000

Such sums as may be needed for the payment of interest and/or principal due from the issuance of any bonds authorized under the several bond acts of the State are appropriated and shall first be charged to the earnings from the investments of such bond proceeds.

There are appropriated such sums as may be needed for the payment of debt service administrative costs.

Total Appropriation, General Fund $10,875,995,000

PROPERTY TAX RELIEF FUND
GRANTS-IN-AID
82 DEPARTMENT OF THE TREASURY
70 Government Direction, Management and Control
75 State Subsidies and Financial Aid -- Grants-In-Aid

33-2078 Homestead Rebates $325,000,000
Total Appropriation, State Subsidies and Financial Aid $325,000,000

Grants:
Homestead Property Tax Rebates for
Homeowners and Tenants
(P.L.1990, c.61) ..... ($325,000,000)

A homestead property tax rebate to be paid from the amount appropriated hereinabove during fiscal year 1998 for a tax year 1996 claim for a claimant who is 65 years of age or older at the close of the tax year, or who is allowed to claim a personal deduction as a blind or disabled taxpayer pursuant to subsection b. of N.J.S.54A:3-1, or who is a joint claimant with such an individual, shall be calculated by the Division of Taxation pursuant to the provisions of the "Homestead Property Tax Rebate Act of 1990," P.L.1990, c.61 (C.54:4-8.57 et seq.).

Notwithstanding the provisions of P.L.1990, c.61 (C.54:4-8.57 et seq.) to the contrary, if the claimant or joint claimant is not 65 years of age or older at the close of the 1996 tax year or is not allowed to claim a personal deduction as a blind or disabled taxpayer pursuant to subsection b. of N.J.S.54A:3-1, a homestead property tax rebate shall be paid from the amount appropriated hereinabove during fiscal year 1998 for a tax year 1996 claim only for a claimant or joint claimants with "gross income," as defined pursuant to section 2 of P.L.1990, c.61 (C.54:4-8.58), not in excess of $40,000 for the tax year, and shall be calculated by the Division of Taxation and paid based upon a maximum rebate of $30 for a claimant whose status is a tenant whose homestead is a unit of residential rental property and a maximum rebate of $90 for a claimant whose status is an owner of a homestead. Such rebates shall be calculated without regard to the amount of property taxes paid, property taxes paid through rent or rent constituting property taxes paid and without regard to the amount of gross income not in excess of $40,000 and shall be calculated subject to such proportionate reductions in and aggregations of such maximum rebate amounts as relate to the number of days as a tenant of a homestead or as an owner of a homestead during the tax year and the share of property owned or share of rent paid during the tax year.

In addition to the amount hereinabove, there are appropriated from the Property Tax Relief Fund such additional sums as may be required for payments to homeowners and tenants qualifying for homestead property tax rebates, subject to the limitations and conditions provided in this act.

In addition to the amount hereinabove, there are appropriated from the Property Tax Relief Fund such additional sums as may be required for payments of property tax credits to homeowners and tenants pursuant to the "Property Tax Deduction Act," P.L. 1996, c.60.

Total Appropriation, Department of the Treasury $325,000,000

Total Appropriation, Grants-In-Aid -- Property Tax Relief Fund $325,000,000

STATE AID
22 DEPARTMENT OF COMMUNITY AFFAIRS
40 Community Development and Environmental Management
41 Community Development Management

04-8030 Local Government Services $786,054,000
Total Appropriation, Community Development Management ... $786,054,000

Grants:
Supplemental Municipal Property Tax
Relief Act -- Discretionary Aid ..... ($30,000,000)
Consolidated Municipal Property Tax
Relief Aid ..... (756,054,000)

Notwithstanding any law to the contrary, the amount hereinabove for Consolidated Municipal Property Tax Relief Aid shall be distributed in the same amounts, and to the same municipalities which received funding pursuant to the fiscal year 1997 annual appropriations act, P.L.1996, c.42.

From the amount appropriated hereinabove for Consolidated Municipal Property Tax Relief Aid there shall also be paid to each municipality an amount, equal to an amount, if any, received in Additional Payments to Municipalities for Services to State-Owned Property pursuant to the fiscal year 1997 annual appropriations act, P.L.1996, c.42.

The amount hereinabove for Consolidated Municipal Property Tax Relief Aid shall be distributed on the following schedule: on or before July 15, 35% of the total amount due; August 1, 10% of the total amount due; September 1, 30% of the total amount due; October 1, 15% of the total amount due; November 1, 5% of the total amount due; and December 1, 5% of the total amount due.

Notwithstanding any law to the contrary, from the amount received from the Consolidated Municipal Property Tax Relief Aid program, each municipality shall be required to distribute to each fire district within its boundaries the amount received by the fire district from the Supplementary Aid for Fire Services program pursuant to the provisions of the fiscal year 1995 annual appropriations act, P.L.1994, c.67.

Municipalities that received Municipal Revitalization Program aid in fiscal year 1995 pursuant to the provisions of P.L.1994, c.67 shall continue to be subject to the provisions of the "Special Municipal Aid Act," P.L.1987, c.75 (C.52:27D-118.24 et seq.), and the Director of the Division of Local Government Services may withhold aid payments or portions thereof from any municipality that fails to comply with those provisions, until such time as the director determines the municipality to be in compliance.

Notwithstanding any law to the contrary, any funds appropriated as State aid and payable to any municipality in which the provisions of Article 4 of the "Local Government Supervision Act (1947)," P.L.1947, c.151 (C.52:27BB-54 et seq.) are in effect, may be pledged as a guarantee for payment of principal and interest on any bond anticipation notes issued pursuant to N.J.S.40A:2-8 and any tax anticipation notes issued pursuant to N.J.S.40A:4-64 by such municipality. Such funds, if so pledged, shall be made available by the State Treasurer upon receipt of a written notification by the Director of the Division of Local Government Services that the municipality does not have sufficient funds available for prompt payment of principal and interest on such notes, and shall be paid by the State Treasurer directly to the holders of such notes at such time and in such amounts as specified by the director, notwithstanding that payment of such funds does not coincide with any date for payment otherwise fixed by law.

Notwithstanding any law to the contrary, the Director of the Division of Local Government Services may deduct from that portion of Consolidated Municipal Property Tax Relief Aid payable to the City of Camden, an amount not to exceed $200,000 for reimbursement of fiscal monitoring and auditing services.

Total Appropriation, Department of Community Affairs $786,054,000

34 DEPARTMENT OF EDUCATION
30 Educational, Cultural and Intellectual Development
31 Direct Educational Services and Assistance -- State Aid

01-5120	General Formula Aid	$2,608,913,000
03-5120	Miscellaneous Grants-In-Aid	25,720,000
05-5120	Bilingual Education	57,428,000
06-5120	Programs for Disadvantaged Youth	175,420,000
07-5120	Special Education	585,589,000
	Total Appropriation, Direct Educational Services and Assistance	$3,453,070,000

State Aid:

Core Curriculum Standards Aid	($1,860,411,000)
Supplemental Core Curriculum Standards Aid.	(208,794,000)
Additional Supplemental Core Curriculum Standards Aid	(32,952,000)
Early Childhood Aid	(287,575,000)
Instructional Supplement	(17,000,000)
Stabilization Aid	(52,685,000)
Supplemental Stabilization Aid	(51,501,000)
Large Efficient District Aid	(3,000,000)
County Special Services School District Placements	(10,994,000)
Supplemental School Tax Reduction Aid	(10,687,000)
Aid for Districts with High Senior Citizen Concentrations	(921,000)
Adult and Postsecondary Education Grants	(25,000,000)
Distance Learning Network Grants -- County Special Services School Districts	(120,000)
Consolidation of Services Grants	(600,000)
Bilingual Education Aid	(57,428,000)
Demonstrably Effective Program Aid	(175,420,000)
Special Education Aid	(585,589,000)
Abbott v. Burke Parity Remedy.	(246,193,000)

Less:
Stabilization Growth Limitation 173,800,000

Notwithstanding any other law to the contrary, the amount of State Aid made available to the Department of Human Services pursuant to "The State Facilities Education Act of 1979," P.L.1979, c.207 (C.18A:7B-1 et al.), to defray the costs of educating eligible children in approved private schools under contract with the Department of Human Services shall not exceed the actual costs of the education of those children in such private schools.

Notwithstanding any other law to the contrary, Special Education Aid for pupils classified as eligible for day training shall be paid directly to the resident school district; provided however, that for pupils under contract for service in a day training facility operated by or under contract with the Department of Human Services, tuition shall be withheld and paid to the Department of Human Services.

The Commissioner of Education shall approve all disbursements from the Abbott v. Burke Parity Remedy account to any "Abbott district." Use of the funds shall be limited to the following five allowable categories of expenditures: 1) to achieve the class sizes; professional staff/student ratios; per-pupil expenditures for instructional materials,

textbooks, supplies and equipment; expenditures for educational technology; expenditures for media equipment and supplies; and expenditures for standards-related professional development as directly related to the Core Curriculum Content Standards; 2) to accelerate implementation of programs targeted by CEIFA for multiyear phase-in and those curricular programs related to Core Curriculum Content Standards which are scheduled for future implementation; 3) to enhance delivery of the Core Curriculum Content Standards through improvement or rental of facilities; 4) to provide a safe, disciplined school environment through expenditures for safety personnel, equipment and supplies; and 5) to expand the breadth of course offerings in the Core Curriculum Content areas. The commissioner shall not authorize the disbursement of funds until the commissioner is satisfied that the funds, as well as all educational expenditures in the district, will be spent effectively and efficiently in order to enable those students to achieve the Core Curriculum Content Standards. The commissioner shall be authorized to take any necessary action to fulfill this responsibility consistent with the order of the Supreme Court of New Jersey in Abbott v. Burke dated May 14, 1997. 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 regulations as the commissioner deems necessary to implement the May 14, 1997 Abbott order; such regulations shall be effective through June 30, 1998. The commissioner may deduct from the State aid of any "Abbott district," the expenses required to manage, control and supervise the implementation of additional funding required under the May 14, 1997 Abbott order. In order to expeditiously fulfill the responsibilities of the commissioner under the May 14, 1997 Abbott order during Fiscal Year 1998, determinations by the commissioner hereunder shall be considered to be final agency action. If the commissioner finds that the funds in the Abbott v. Burke Parity Remedy account are not committed by the end of Fiscal Year 1998, the commissioner is directed to request that carry forward language is included in the Governor's Fiscal Year 1999 State budget recommendations.

The Commissioner shall report quarterly to the Education committees of the Legislature on the expenditure plans submitted by the "Abbott districts," the experience of Department of Education's assigned auditors in monitoring the expenditure of these funds, and the educational benefits that are being provided to the pupils in the eligible districts with these funds.

Notwithstanding any other law to the contrary, State aid for each "Abbott district" whose per pupil regular education expenditure for 1997-98 under P.L.1996, c.138 is below the per pupil average regular education expenditure of districts in District Factor Groups "I" and "J" for 1997-98 shall be increased. The amount of increase shall be determined as follows: funds shall be allocated in the amount of the difference between each Abbott district's per pupil regular education expenditure for 1997-98 and the per pupil average regular education expenditure of districts in District Factor Groups "I" and "J" for 1997-98. In calculating the per pupil regular education expenditure; regular education expenditure shall equal the sum of the general fund tax levy, Core Curriculum Standards Aid, Supplemental Core Curriculum Standards Aid and all forms of stabilization aid pursuant to section 10 of P.L.1996, c.138 (C.18A:7F-10); enrollments shall initially be those resident enrollments contained on the Application for State School Aid for 1997-98 indexed by the annual growth rates used to determine the estimated enrollments at October 1997 for calculation of Core Curriculum Standards Aid and T & E budgets for 1997-98; enrollments shall be calculated at their full-time equivalent and reduced by preschool and one half of full-day kindergarten enrollments in districts receiving Early Childhood Program Aid. State aid shall be adjusted upon receipt of resident enrollment as of October 15, 1997 as reflected on the Application for State School Aid for 1998-99.

The expenditures associated with the amounts appropriated herein for Abbott districts to satisfy the Supreme Court decision of May 14, 1997 in Abbott v. Burke shall not be included in the calculation of the actual cost per pupil for tuition purposes.

33 Supplemental Education and Training Programs -- State Aid

20-5120 General Vocational Education $22,564,000
Total Appropriation, Supplemental Education and Training Programs 22,564,000
State Aid:
County Vocational Program Aid ..... ($22,564,000)

34 Educational Support Services -- State Aid

36-5120 Pupil Transportation $243,916,000
38-5120 Facilities Planning and School Building Aid 95,248,000
39-5095 Teachers' Pension and Annuity Assistance 554,013,000
Total Appropriation, Educational Support Services $893,177,000
Grants:
Transportation Aid ..... ($243,916,000)
School Building Aid. ..... (95,248,000)
Teachers' Pension and Annuity Fund ..... (97,650,000)
Debt Service on Pension Obligation Bonds ..... (24,095,000)
Social Security Tax ..... (432,268,000)

Notwithstanding the provisions of section 16 of P.L.1990, c.52 (C.18A:7D-18) and section 2 of P.L.1981, c.57 (C.18A:39-1a.), the per-pupil amount for aid in lieu of transportation in the Transportation Aid program shall equal $675.

Each district shall be entitled to debt service aid for school bond and lease purchase agreement payments for interest and principal payable during the 1997-98 school year using 58.3794 percent of the district State share percentage for the 1996-97 school year, and for the appropriation balance remaining after that calculation using the percentage share of the district's Core Curriculum Standards Aid amount, determined pursuant to section 15 of P.L.1996, c.138 (C.18A:7F-15) to its T & E budget, determined pursuant to subsection d. of section 13 of P.L.1996, c.138 (C.18A:7F-13) apportioned among the districts in proportion to the appropriation balance remaining to the sum of the debt service aid amounts using the percentage shares under P.L.1996, c.138 and the principal and interest payments for each district. Debt service aid shall also be adjusted for corrections to the 1995-96 principal and interest amounts.

Notwithstanding any other law to the contrary, the Commissioner of Education, other State officials, the Director of the Division of Taxation in the Department of the Treasury and County Boards of Taxation are hereby authorized to take appropriate measures to ensure that the School Building Aid provided hereinabove, in addition to that previously anticipated, shall be reflected in local school levies.

Of the amount hereinabove for School Building Aid, $302,689 shall be paid to the Great Meadows Regional School District to correct an error in its State Aid allocation made pursuant to P.L.1996, c.138 (C.18A:7F-1 et seq.).

In addition to the sum hereinabove appropriated to make payments under the State Treasurer's contracts authorized pursuant to section 6 of P.L.1997, c.114 (C.34:1B-7.50), there are appropriated such other sums as the Director of the Division of Budget and Accounting shall determine are required to pay all amounts due from the State pursuant to such contracts.

In addition to the amounts hereinabove for Social Security Tax, there are appropriated such sums as are required for payment of Social Security Tax on behalf of members of the Teachers' Pension and Annuity Fund.

Total Appropriation, Department of Education $4,368,811,000

In the event that sufficient funds are not appropriated to fully fund any State Aid item, the Commissioner of Education shall apportion such appropriation among the districts in proportion to the State Aid each district would have been apportioned had the full amount of State Aid been appropriated.

Any appropriation or part thereof made from the Property Tax Relief Fund may be transferred and recorded as an appropriation from the General Fund, as deemed necessary by the State Treasurer, in order that the Director of the Division of Budget and Accounting may warrant the necessary payments; provided however, that the available unrestricted fund balance in the General Fund, as determined by the State Treasurer, is sufficient to support such appropriation.

The Director of the Division of Budget and Accounting may transfer from one account in the appropriations for the Department of Education in the Property Tax Relief Fund to another account in the same Department and Fund such funds as are necessary to effect the intent of the provisions of the appropriations act governing the allocation of State Aid to local school districts and provided that sufficient funds are available in the appropriations for said Department.

82 DEPARTMENT OF THE TREASURY
70 Government Direction, Management and Control
75 State Subsidies and Financial Aid -- State Aid

34-2078 Reimbursement-Senior Citizens and Veterans $36,933,000
Total Appropriation, State Subsidies and Financial Aid $36,933,000

State Aid:
Reimbursement to Municipalities -- Senior and Disabled Citizens' Property Tax Exemptions ..... ($18,856,000)
State Reimbursements for Veterans' Property Tax Exemptions. ..... (18,077,000)

In addition to the amount hereinabove, there is appropriated from the Property Tax Relief Fund such additional sums as may be required for State reimbursement to municipalities for senior and disabled citizens' and veterans' property tax exemptions.

In addition to the amount appropriated hereinabove, there is appropriated an amount, not to exceed $80,000, for Veterans' Property Tax Exemption claims that have not been timely filed or that have otherwise not been perfected.

Total Appropriation, Department of the Treasury $36,933,000

Total Appropriation, State Aid -- Property Tax Relief Fund $5,191,798,000

Total Appropriation, Property Tax Relief Fund $5,516,798,000

Any appropriation or part thereof made from the Property Tax Relief Fund may be transferred and recorded as an appropriation from the General Fund, as deemed necessary by the State Treasurer, in order that the Director of the Division of Budget and Accounting may warrant the necessary payments; provided however, that the available unrestricted fund balance in the General Fund, as determined by the State Treasurer, is sufficient to support such appropriation.

CASINO CONTROL FUND
DIRECT STATE SERVICES
66 DEPARTMENT OF LAW AND PUBLIC SAFETY
10 Public Safety and Criminal Justice
12 Law Enforcement

30-1460 Gaming Enforcement $32,251,000
Total Appropriation, Law Enforcement $32,251,000
Personal Services:
Salaries and Wages ..... ($19,423,000)
Cash in Lieu of Maintenance ..... (749,000)
Employee Benefits ..... (5,777,000)
Materials and Supplies ..... (405,000)
Services Other Than Personal ..... (1,841,000)
Maintenance and Fixed Charges ..... (2,440,000)
Special Purpose:
Gaming Enforcement ..... (1,185,000)
Additions, Improvements and Equipment ..... (431,000)

In addition to the amount hereinabove for Gaming Enforcement, there are appropriated from the Casino Control Fund such additional sums as may be required for gaming enforcement, subject to the approval of the Director of the Division of Budget and Accounting.

Total Appropriation, Department of Law and Public Safety $32,251,000

82 DEPARTMENT OF THE TREASURY
70 Government Direction, Management and Control
73 Financial Administration

25-2095 Administration of Casino Gambling $22,510,000
Total Appropriation, Financial Administration $22,510,000
Personal Services:
Chairman and Commissioners ..... ($455,000)
Salaries and Wages ..... (15,167,000)
Employee Benefits ..... (4,210,000)
Materials and Supplies ..... (245,000)
Services Other Than Personal ..... (953,000)
Maintenance and Fixed Charges ..... (1,320,000)
Special Purpose:
Other Special Purpose ..... (105,000)
Additions, Improvements and Equipment ..... (55,000)

In addition to the amount hereinabove for Administration of Casino Gambling, there are appropriated from the Casino Control Fund such additional sums as may be required for operation of the Casino Control Commission, subject to the approval of the Director of the Division of Budget and Accounting.

Notwithstanding the provisions of section 53 of P.L.1977, c.110 (C.5:12-53), each member of the Casino Control Commission shall receive compensation of $90,000 per annum. The chairman shall receive $5,000 per annum in addition to his compensation as a member of the commission.

Notwithstanding the provisions of any law to the contrary, expenditures billed to the Casino Control Fund resulting from pre-fiscal year 1996 encumbrances or the carryforward of appropriations balances existing as of June 30, 1995, shall not be considered as operating expenses for the purposes of calculating the amount due and payable to the

Atlantic City Fund for fiscal year 1998 pursuant to subsection a. of section 45 of P.L.1995, c.18 (C.5:12-161.2).

Total Appropriation, Department of the Treasury $22,510,000

Total Appropriation, Direct State Services -- Casino Control Fund $54,761,000

Total Appropriation, Casino Control Fund $54,761,000

CASINO REVENUE FUND
DIRECT STATE SERVICES
46 DEPARTMENT OF HEALTH AND SENIOR SERVICES
20 Physical and Mental Health
26 Senior Services

55-4275 Programs for the Aged $612,000
Total Appropriation, Senior Services $612,000
Personal Services:
Salaries and Wages ..... ($506,000)
Employee Benefits ..... (76,000)
Materials and Supplies ..... (10,000)
Services Other Than Personal ..... (20,000)

Total Appropriation, Department of Health and Senior Services $612,000

66 DEPARTMENT OF LAW AND PUBLIC SAFETY
80 Special Government Services
82 Protection of Citizens' Rights

15-1326 Operation of State Professional Boards $92,000
Total Appropriation, Protection of Citizens' Rights $92,000
Personal Services:
Salaries and Wages ..... ($62,000)
Employee Benefits ..... (16,000)
Materials and Supplies ..... (2,000)
Services Other Than Personal ..... (11,000)
Additions, Improvements and Equipment ..... (1,000)
The amount hereinabove is appropriated from the Casino Revenue Fund.

Total Appropriation, Department of Law and Public Safety $92,000

Total Appropriation, Direct State Services -- Casino Revenue Fund $704,000

GRANTS-IN-AID
46 DEPARTMENT OF HEALTH AND SENIOR SERVICES
20 Physical and Mental Health
21 Health Services -- Grants-In-Aid

02-4220 Family Health Services $500,000
Total Appropriation, Health Services $500,000
Grants:
Statewide Birth Defects Registry ..... ($500,000)

20 Physical and Mental Health
26 Senior Services -- Grants-In-Aid

22-4275	Medical Services for the Aged	$19,353,000
24-4275	Pharmaceutical Assistance to the Aged and Disabled	152,161,000
28-4275	Lifeline	76,260,000
55-4275	Programs for the Aged	11,975,000
	Total Appropriation, Senior Services	$259,749,000

Grants:

Community Care Program for the Elderly and Disabled	($15,890,000)
Respite Care for the Elderly.	(4,000,000)
Long Term Care Alternatives	(813,000)
Home Care Expansion	(2,400,000)
Hearing Aid Assistance for the Aged and Disabled	(250,000)
Pharmaceutical Assistance to the Aged and Disabled -- Claims	(152,161,000)
Payments for Lifeline Credits	(35,322,000)
Payments for Tenants Assistance Rebates	(40,938,000)
Demonstration Adult Day Care Center Program --Alzheimer's Disease	(1,447,000)
Adult Protective Services	(1,718,000)
Senior Citizen Housing -- Safe Housing and Transportation	(1,990,000)
Congregate Housing Support Services	(1,870,000)
Home Delivered Meals Expansion	(950,000)

In addition to the amount hereinabove, there are appropriated from the Casino Revenue Fund and available federal matching funds such additional sums as may be required for the payment of claims, subject to the approval of the Director of the Division of Budget and Accounting.

All funds recovered under P.L.1968, c.413 (C.30:4D-1 et seq.) and P.L.1975, c.194 (C.30:4D-20 et seq.) during the fiscal year ending June 30, 1998, are appropriated for payments to providers in the same program class from which the recovery originated.

In order to permit flexibility in the handling of appropriations and ensure the timely payment of claims to providers of medical services, amounts may be transferred to and from the various items of appropriation within the Medical Services for the Aged program classification, subject to the approval of the Director of the Division of Budget and Accounting. Notice thereof shall be provided to the Legislative Budget and Finance Officer on the effective date of the approved transfer. This provision shall apply to all payments made after June 30, 1990.

For the purposes of account balance maintenance, all object accounts in the Medical Services for the Aged program classification shall be considered as one object. This will allow timely payment of claims to providers of medical services but ensure that no overspending will occur in the program classification. This provision shall apply to all payments made after June 30, 1990.

Notwithstanding the provisions of P.L.1988, c.92 (C.30:4E-5 et seq.), funds appropriated for the Home Care Expansion (HCE) program shall be paid only for individuals enrolled in the program as of June 30, 1996 who are not eligible for the Community Care Program for the Elderly and Disabled or alternative programs, and only for so long as those individuals require services covered by the HCE program. Individuals enrolled in the HCE program as of June 30, 1996, and eligible for the Community Care Program for the Elderly and Disabled may apply to be enrolled in that program.

Notwithstanding the provisions of P.L.1979, c.197 (C.48:2-29.15 et seq.), or the provisions of P.L.1981, c.210 (C.48:2-29.30 et seq.), or any other law to the contrary, the benefits of the Lifeline Credit Program and the Tenants' Lifeline Assistance Program may be distributed throughout the entire year from July through June, and are not limited to an October to March heating season, and therefore, applications for Lifeline benefits and benefits from the "Pharmaceutical Assistance to the Aged and Disabled" program may be combined.

Notwithstanding any other law to the contrary, a sufficient portion of receipts generated or savings realized in Casino Revenue Fund Medical Services for the Aged or Pharmaceutical Assistance to the Aged and Disabled Grants-In-Aid accounts from initiatives included in the fiscal year 1998 budget may be transferred to administration accounts to fund costs incurred in realizing these additional receipts or savings, subject to the approval of the Director of the Division of Budget and Accounting.

The amounts hereinabove appropriated for payments in the Pharmaceutical Assistance to the Aged and Disabled program, P.L.1975, c.194 (C.30:4D-20 et seq.), are available for the payment of obligations applicable to prior fiscal years.

Benefits provided under the Pharmaceutical Assistance to the Aged and Disabled (PAAD) program, P.L.1975, c.194 (C.30:4D-20 et seq.), shall be the last resource benefits, notwithstanding any provision contained in contracts, wills, agreements or other instruments. Any provision in a contract of insurance, will, trust agreement or other instrument which reduces or excludes coverage or payment to an individual because of that individual's eligibility for or receipt of PAAD benefits shall be void, and no PAAD payments shall be made as a result of any such provision.

Notwithstanding the provisions of section 3 of P.L.1975, c.194 (C.30:4D-22) to the contrary, the copayment in the Pharmaceutical Assistance to the Aged and Disabled program shall be $5.00.

Notwithstanding the provisions of any law to the contrary, rebates from pharmaceutical manufacturing companies for prescriptions purchased by the Pharmaceutical Assistance to the Aged and Disabled program shall continue throughout fiscal year 1998. All revenues from such rebates during the fiscal year ending June 30, 1998 shall be appropriated for the cost of the Pharmaceutical Assistance to the Aged and Disabled program.

Notwithstanding the provisions of any other law or regulation to the contrary, effective July 1, 1997, each prescription order dispensed in the Pharmaceutical Assistance to the Aged and Disabled program for Maximum Allowable Cost (MAC) drugs shall state "Brand Medically Necessary" in the prescriber's own handwriting if the prescriber determines that it is necessary to override generic substitution of drugs, and each prescription order shall follow the requirements of P.L.1977, c.240 (C.24:6E-1 et seq.). The list of drugs substituted shall conform to the Drug Utilization Review Council approved list of substitutable drugs and all other requirements pertaining to drug substitution and federal upper limits for MAC drugs as administered by the State Medicaid Program.

Notwithstanding the provisions of any law to the contrary, no funds appropriated in the Pharmaceutical Assistance for the Aged and Disabled program pursuant to the Act shall be expended unless participating pharmaceutical manufacturing companies execute contracts with the Department of Health and Senior Services through the Department of Human Services providing for the payment of rebates to the State.

Notwithstanding the provisions of any other law or regulation to the contrary, effective July 1, 1996 consistent with the notice provisions of 42 CFR §447.205 where applicable, no funds appropriated in the Pharmaceutical Assistance to the Aged and Disabled program classification shall be expended except under the following conditions: legend and non-legend drugs dispensed by a retail pharmacy shall be limited to a 34 day or 100 unit dose supply, whichever is greater.

Notwithstanding the provisions of section 2 of P.L.1988, c.114 (C.26:2M-10) to the contrary, private for profit agencies shall be eligible grantees for funding from the Demonstration Adult Day Care Center Program -- Alzheimer's Disease account.

Notwithstanding the provisions of any other law or regulation to the contrary, effective July 1, 1997 consistent with the notice provisions of 42 C.F.R. §447.205 where applicable, no funds appropriated in the Pharmaceutical Assistance to the Aged and Disabled program classification shall be expended except under the following conditions: (a) reimbursement for prescription drugs shall be based on the Average Wholesale Price less a 10% discount, (b) prescription drugs dispensed by a retail pharmacy shall be limited to a 34-day or 100 unit dose supply, whichever is greater, and (c) the current prescription drug dispensing fee structure set as a variable rate of $3.73 to $4.07 in effect on June 30, 1997 shall remain in effect through fiscal year 1998, including the current increments for patient consultation, impact allowances, and allowances for 24 hour emergency services.

Notwithstanding any law to the contrary, of the amount appropriated hereinabove for the Respite Care for the Elderly account, $2,700,000 shall be charged to the Casino Simulcasting Fund.

Total Appropriation, Department of Health and Senior Services $260,249,000

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

In addition to the amount hereinabove, there are appropriated from the Casino Revenue Fund and available federal matching funds such additional sums as may be required for the payment of claims, subject to the approval of the Director of the Division of Budget and Accounting.

In order to permit flexibility in the handling of appropriations and ensure the timely payment of claims to providers of medical services, amounts may be transferred to and from the various items of appropriation within the General Medical Services program classification, subject to the approval of the Director of the Division of Budget and Accounting. Notice thereof shall be provided to the Legislative Budget and Finance Officer on the effective date of the approved transfer. This provision shall apply to all payments made after June 30, 1990.

30 Educational, Cultural and Intellectual Development

32 Operation and Support of Educational Institutions

7601 Community Programs -- Grants-In-Aid

01-7601	Purchased Residential Care	$14,905,000
02-7601	Social Supervision and Consultation	2,208,000
03-7601	Adult Activities	7,374,000
	Total Appropriation, Community Programs	$24,487,000

Grants:

Private Institutional Care	($1,311,000)
Skill Development Homes	(1,141,000)
Group Homes	(12,325,000)
Family Care	(128,000)
Home Assistance	(2,208,000)
Purchase of Adult Activity Services	(7,374,000)

Amounts required to return persons with mental retardation or developmental disabilities presently residing in out-of-State institutions to group homes within the State may be

transferred from the Private Institutional Care account to the Group Homes account, subject to the approval of the Director of the Division of Budget and Accounting.

Skill development homes recoveries during the fiscal year ending June 30, 1998, not to exceed $12,000,000, are appropriated, subject to the approval of the Director of the Division of Budget and Accounting.

Group home maintenance recoveries during the fiscal year ending June 30, 1998, not to exceed $3,500,000, are appropriated for continued operations of Group Homes, and Group Home recoveries not to exceed $9,000,000 are appropriated for a Community Services Waiting List Reduction Initiative, subject to the approval of the Director of the Division of Budget and Accounting.

50 Economic Planning, Development and Security
55 Social Services Programs
7570 Division of Youth and Family Services -- Grants-In-Aid

18-7570 General Social Services $3,697,000
Total Appropriation, Division of Youth and Family Services $3,697,000

Grants:
Personal Attendant Program ..... ($3,697,000)

Total Appropriation, Department of Human Services $28,184,000

62 DEPARTMENT OF LABOR
50 Economic Planning, Development and Security
54 Manpower and Employment Services -- Grants-In-Aid

07-4535 Vocational Rehabilitation Services. $2,440,000
Total Appropriation, Manpower and Employment Services $2,440,000

Grants:
Sheltered Workshop Transportation ..... ($2,440,000)

Total Appropriation, Department of Labor $2,440,000

Total Appropriation, Grants-In-Aid -- Casino Revenue Fund $290,873,000

STATE AID
78 DEPARTMENT OF TRANSPORTATION
60 Transportation Programs
62 Public Transportation -- State Aid

04-6050 Railroad and Bus Operations $22,227,000
Total Appropriation, Public Transportation $22,227,000

State Aid:
Transportation Assistance for Senior Citizens
and Disabled Residents ..... ($22,227,000)

The unexpended balance as of June 30, 1997 in this account is appropriated.

Counties which provide para-transit services for sheltered workshop clients may seek reimbursement for such services pursuant to P.L.1987, c.455 (C.34:16-51 et seq.).

Total Appropriation, Department of Transportation $22,227,000

82 DEPARTMENT OF THE TREASURY
70 Government Direction, Management and Control
75 State Subsidies and Financial Aid --State Aid

34-2078 Reimbursement -- Senior Citizens and Veterans $17,180,000
Total Appropriation, State Subsidies and Financial Aid $17,180,000

State Aid:
Reimbursements to Municipalities -- Senior and
Disabled Citizens' Tax Exemptions ... ($17,180,000)
In addition to the amount hereinabove, there are appropriated from the Casino Revenue Fund such additional sums as may be required for reimbursements to municipalities qualifying for such payments or reimbursements.

Total Appropriation, Department of the Treasury $17,180,000

Total Appropriation, State Aid -- Casino Revenue Fund $39,407,000

Total Appropriation, Casino Revenue Fund $330,984,000

Any appropriation or part thereof made from the Casino Revenue Fund may be transferred and recorded as an appropriation from the General Fund, as deemed necessary by the State Treasurer, in order that the Director of the Division of Budget and Accounting may warrant the necessary payments; provided however, that the available unrestricted balance in the General Fund, as determined by the State Treasurer, is sufficient to support such appropriation.

GUBERNATORIAL ELECTIONS FUND
66 DEPARTMENT OF LAW AND PUBLIC SAFETY
10 Public Safety and Criminal Justice
13 Special Law Enforcement Activities

17-1420 Election Law Enforcement $8,100,000
Total Appropriation, Special Law Enforcement Activities $8,100,000
Special Purpose:
Election Law Enforcement ..... ($8,100,000)
There are appropriated from the Gubernatorial Elections Fund such sums as may be required for payments to persons qualifying for additional public funds; provided however, that should the amount available in the Gubernatorial Elections Fund be insufficient to support such an appropriation, there are appropriated from the General Fund to the Gubernatorial Elections Fund such sums as may be required.

Total Appropriation, Department of Law and Public Safety $8,100,000

Total Appropriation, Direct State Services -- Gubernatorial Elections Fund $8,100,000

Total Appropriation, Gubernatorial Elections Fund $8,100,000

Total Appropriation, All State Funds $16,786,638,000

FEDERAL FUNDS
10 DEPARTMENT OF AGRICULTURE
40 Community Development and Environmental Management
49 Agricultural Resources, Planning, and Regulation

01-3310 Animal Disease Control $18,000
02-3320 Plant Pest and Disease Control 250,000
03-3330 Resource Development Services. 75,000
04-3340 Dairy and Commodity Regulation. 207,000
06-3360 Marketing Services. 8,000
07-3360 Commodity Distribution. 1,210,000
08-3380 Administrative Costs Farmland Preservation. 1,000,000
Total Appropriation, Agricultural Resources, Planning, and Regulation. $2,768,000

Personal Services:
Salaries and Wages ..... ($524,000)
Employee Benefits ..... (125,000)
Materials and Supplies ..... (33,000)
Services Other Than Personal ..... (57,000)
Maintenance and Fixed Charges ..... (212,000)
Special Purpose:
Plant Pest Survey and Detection Program ..... (5,000)
Other Special Purpose ..... (51,000)
State Aid and Grants:
Jobs Bill ..... (753,000)
Farmland Preservation -- Federal funds .... (1,000,000)
Additions, Improvements and Equipment ..... (8,000)

Total Appropriation, Department of Agriculture $2,768,000

20 DEPARTMENT OF COMMERCE AND ECONOMIC DEVELOPMENT
30 Educational, Cultural and Intellectual Development
37 Cultural and Intellectual Development Services
10-2920 Public Broadcasting Services $125,000
Total Appropriation, Cultural and Intellectual Development Services $125,000
Special Purpose:
National Telecommunications Information Agency ..... ($125,000)

Total Appropriation, Department of Commerce and Economic Development $125,000

22 DEPARTMENT OF COMMUNITY AFFAIRS
40 Community Development and Environmental Management
41 Community Development Management
02-8020 Housing Services $154,263,000
06-8015 Uniform Construction Code 50,000
Total Appropriation, Community Development Management ... $154,313,000
Personal Services:
Salaries and Wages ..... ($10,140,000)
Employee Benefits ..... (2,574,000)
Materials and Supplies ..... (334,000)
Services Other Than Personal ..... (1,554,000)
Maintenance and Fixed Charges ..... (734,000)
Special Purpose:
Transitional Housing -- Homeless ..... (200,000)
Other Special Purpose ..... (832,000)
State Aid and Grants:
Opportunities Counseling ..... (600,000)
Public Housing Drug Elimination Technical Assistance Grant ..... (15,000)
Small Cities Block Grant Program ..... (10,884,000)
Emergency Shelter Grants Program ..... .(1,545,000)
Substance Abuse Block Grant ..... (62,000)

Housing Opportunities for Persons with AIDS ..... (1,174,000)
Supplemental Assistance for Facilities to Assist the Homeless ..... (650,000)
Section 8 Community Investment ..... (483,000)
Moderate Rehabilitation Housing Assistance ..... (9,624,000)
Section 8 Existing Housing Rental Assistance ..... (61,798,000)
Section 8 Housing Voucher Program ..... (36,737,000)
Transitional Housing -- Homeless ..... (1,900,000)
Permanent Housing for the Handicapped Homeless ..... (3,000,000)
National Affordable Housing -- HOME Investment Partnerships ..... (8,100,000)
HOPE for Elderly Independence Demonstration Program ..... (1,300,000)
Additions, Improvements and Equipment ..... (73,000)

50 Economic Planning, Development and Security
55 Social Services Programs

05-8050 Community Resources $34,543,000
15-8051 Women's Programs. 1,504,000
Total Appropriation, Social Services Programs $36,047,000
Personal Services:
Salaries and Wages ..... ($1,939,000)
Employee Benefits ..... (501,000)
Materials and Supplies ..... (6,000)
Services Other Than Personal ..... (158,000)
Maintenance and Fixed Charges ..... (21,000)
Special Purpose:
Rape Prevention ..... (87,000)
Other Special Purpose ..... (175,000)
State Aid and Grants:
Rape Prevention ..... (1,237,000)
Community Food and Nutrition Program ..... (102,000)
Weatherization Assistance Program ..... (2,376,000)
Low Income Home Energy Assistance Program ..... (13,969,000)
Community Services Block Grant -- HHS . (14,250,000)
Purchase of Legal Services ..... (1,226,000)

Total Appropriation, Department of Community Affairs $190,360,000

26 DEPARTMENT OF CORRECTIONS
10 Public Safety and Criminal Justice
16 Detention and Rehabilitation

10-7040 Education Program $100,000
10-7050 Education Program 288,000
10-7060 Education Program 122,000
10-7065 Education Program 63,000
10-7070 Education Program 66,000
10-7075 Education Program 130,000

10-7080 Education Program 137,000
10-7085 Education Program 73,000
10-7090 Education Program 59,000
10-7110 Education Program 338,000
10-7120 Education Program 147,000
10-7130 Education Program 249,000
13-7025 Institutional Program Support..... 9,250,000
Total Appropriation, Detention and Rehabilitation..... $11,022,000
Personal Services:
Salaries and Wages ..... ($1,455,000)
Employee Benefits ..... (388,000)
Services Other Than Personal ..... (2,200,000)
Special Purpose:
Chapter I ECIA ..... (19,000)
ECIA -- Chapter I ..... (8,000)
Elementary & Secondary Education Title I .... (12,000)
ESEA, Title 1, State Institutions -- Delinquent ...(1,000)
Adult Basic Education-310 ..... (3,000)
SSA Incentive Payments ..... (50,000)
State Criminal Alien Assistance Program ... (6,800,000)
Other Special Purpose ..... (86,000)

19 Central Planning, Direction and Management

01-7000 Planning, Management and General Support $97,000
02-7000 Program Operations Support 265,000
Total Appropriation, Central Planning, Direction and Management..... $362,000
Personal Services:
Salaries and Wages ..... ($196,000)
Employee Benefits ..... (53,000)
Special Purpose:
Other Special Purpose ..... (113,000)

Total Appropriation, Department of Corrections $11,384,000

34 DEPARTMENT OF EDUCATION

30 Educational, Cultural and Intellectual Development

31 Direct Educational Services and Assistance

03-5060 Miscellaneous Grants-In-Aid $7,291,000
04-5060 Adult and Continuing Education 915,000
04-5064 Adult and Continuing Education 6,864,000
05-5060 Bilingual Education 3,242,000
05-5064 Bilingual Education 174,000
06-5060 Programs for Disadvantaged Youth 150,036,000
06-5064 Programs for Disadvantaged Youth 873,000
07-5060 Special Education 106,390,000
07-5065 Special Education 8,013,000
Total Appropriation, Direct Educational Services and Assistance $283,798,000
Personal Services:
Salaries and Wages ..... ($4,584,000)
Employee Benefits ..... (1,131,000)
Materials and Supplies ..... (612,000)

New Jersey State Library

Services Other Than Personal ..... (1,797,000)
Maintenance and Fixed Charges ..... (388,000)
Special Purpose:
Adult Basic Education -- Administration/ Discretionary ..... (2,000)
Bilingual Education, SEA Project -- Coordinating Technical Assistance ..... (3,000)
Emergency Immigrants Education Assistance -- Administration ..... (1,000)
Bilingual and Compensatory Education -- Homeless Children and Youth ..... (10,000)
Specialized Programs ..... (5,000)
IDEA -- Handicapped Discretionary ..... (2,000)
Pre-School Incentive Grant -- Administration/ Discretionar. ..... (63,000)
IDEA Part B -- LRC North ..... (34,000)
IDEA Part B -- LRC Central ..... (187,000)
IDEA Part B -- LRC South ..... (3,000)
IDEA Part B -- LRC North -- Satellite ..... (162,000)
Deaf/Blind Children Services -- Administration/Discretionary ..... (10,000)
Pre-School Regional T.A. Project LRC -- North ..... (14,000)
Pre-School Regional T.A. Project LRC -- Central ..... (21,000)
Pre-School Regional T.A. Project LRC -- South ..... (1,000)
Comprehensive System of Personnel Development (CSPD) ..... (16,000)
Early Intervention -- Child Find Outreach ..... (1,000)
New Jersey Partnership for Transition ..... (10,000)
Other Special Purpose ..... (517,000)
State Aid and Grants:
DEA -- Handicapped ..... (2,400,000)
Title VI -- Innovative Education Strategies, Programmatic ..... (7,291,000)
Adult Basic Education -- Administration/ Discretionary ..... (6,054,000)
Adult Education -- 353 Program, Discretionary ..... (915,000)
Emergency Immigrants Education Assistance -- Programmatic .....(3,242,000)
Migrant Education -- Administration/ Discretionary ..... (927,000)
Title I -- LEA, Disadvantaged ..... (144,637,000)
Bilingual and Compensatory Education -- Homeless Children and Youth ..... (365,000)
Title I -- Capital Expenses. ..... (2,235,000)
Even Start Family Literacy Grant -- Discretionary ..... (1,872,000)
Pre-School Incentive Grant -- Administration/Discretionary ..... (191,000)

IDEA Part B -- Handicapped,
Programmatic ..... (94,228,000)
Pre-School Incentive Grant --
Programmatic ..... (9,547,000)
New Jersey Partnership for Transition ..... (286,000)
Additions, Improvements and Equipment ..... (34,000)

32 Operation and Support of Educational Institutions

12-5011 Marie H. Katzenbach School for the Deaf $675,000
Total Appropriation, Operation and Support
of Educational Institutions $675,000
Personal Services:
Salaries and Wages ..... ($328,000)
Employee Benefits ..... (89,000)
Special Purpose:
Other Special Purpose ..... (23,000)
State Aid and Grants:
Deaf Blind Summer Program ..... (235,000)

33 Supplemental Educational and Training Programs

20-5060 General Vocational Education $16,346,000
20-5062 General Vocational Education 16,436,000
Total Appropriation, Supplemental Education
and Training Programs $32,782,000
Personal Services:
Salaries and Wages ..... ($1,415,000)
Employee Benefits ..... (383,000)
Materials and Supplies ..... (68,000)
Services Other Than Personal ..... (964,000)
Maintenance and Fixed Charges ..... (6,000)
Special Purpose:
Vocational Education -- Title II B Leadership
Activities ..... (1,000)
Vocational Curriculum Library --
Administration ..... (2,000)
Vocational Education Technical Preparation
Title III-E ..... (123,000)
Job Training Partnership Act Title II --
Youth ..... (174,000)
School to Work Opportunities ..... (215,000)
Other Special Purpose ..... (165,000)
State Aid and Grants:
Vocational Education Technical Preparation
Title III-E.. ..... (300,000)
Vocational Education -- Post Secondary &
Adult, Programmatic ..... .(5,775,000)
Vocational Education -- Title II B
Leadership Activities ..... (260,000)
Vocational Education -- Single Parent
Homemaker, Discretionary ..... (1,494,000)
Vocational Education -- Sex Bias,
Stereotyping -- Discretionary ..... (816,000)

Vocational Education Technical
Preparation Title III-E ..... (1,800,000)
Vocational Education -- Secondary
Programmatic ..... (10,571,000)
Work First New Jersey -- OSA ..... (150,000)
School to Work Opportunities ..... (8,100,000)

34 Educational Support Services

30-5060 Academic Programs and Standards $15,662,000
30-5063 Academic Programs and Standards 16,896,000
31-5060 Grants Management and Development 2,359,000
32-5061 Professional Development and Licensure 40,000
33-5067 Service to Local Districts 3,870,000
33-5091 Service to Local Districts 1,708,000
34-5064 Equal Educational Opportunity. 567,000
37-5120 School Nutrition 180,916,000
40-5060 Health, Safety and Community Services 10,985,000
40-5064 Health, Safety and Community Services 4,060,000
Total Appropriation, Educational Support Services. $237,063,000

Personal Services:
Salaries and Wages ..... ($8,426,000)
Employee Benefits. ..... (2,228,000)
Materials and Supplies ..... (431,000)
Services Other Than Personal ..... (2,458,000)
Maintenance and Fixed Charges ..... (15,000)
Special Purpose:
Vocational Education -- Administration ..... (4,000)
EESE, Title II -- Math/Science Training,
Exemplary ..... (6,000)
Vocational Education -- Occupational
Competencies ..... (1,000)
National Community Service -- Americorps ... (74,000)
Learn and Serve America (K-12) ..... (5,000)
Innovative Programs ..... (4,000)
Disability Funds NCS ..... (18,000)
Vocational Education -- Basic Grants,
Administration ..... (3,000)
IDEA Part B -- Handicapped, Administration .. (15,000)
Innovative Education, Title VI --
Discretionary ..... (20,000)
Vocational Education Technical Preparation .... (1,000)
National Community Service -- Americorps .... (4,000)
Goals 2000 -- Administration ..... (5,000)
Grants Management and Development ..... (90,000)
Troops-to-Teachers Program ..... (1,000)
IDEA, Part B -- Child Study Supervisors,
Administration ..... (43,000)
Child Nutrition -- State Administration ..... (201,000)
IDEA, Part B -- Child Study Supervisors ..... (35,000)
AIDS Education ..... (2,000)
Adult Basic Education -- Evaluation
and Training ..... (23,000)

Safe and Drug-Free Schools and Communities Act--Governor's Portion -- Program Expenditures ..... (37,000)
County and Regional Services ..... (6,000)
Hate Crimes Prevention Program ..... (12,000)
Vocational Education -- Sex Equity ..... (5,000)
IASA Administration -- Equal Employment Opportunity ..... (2,000)
Hate Crimes Prevention Program ..... (67,000)
Child Nutrition -- Administration ..... (181,000)
Title VI -- Innovative Program Strategies ..... (35,000)
AIDS Prevention Education ..... (2,000)
SDFSCA -- Governor's Portion -- Administration ..... (3,000)
Student Services ..... (3,000)
Character Education Partnership ..... (2,000)
Other Special Purpose ..... (872,000)

State Aid and Grants:
Title II -- Math/Science Training, Programmatic ..... (5,500,000)
EESA, Title II -- Math/Science Training, Exemplary ..... (167,000)
Statewide Systemic Initiative -- Administration/Discretionary ..... (3,000,000)
National Community Service -- Americorps ..... (6,200,000)
Goals 2000 ..... (9,995,000)
Eisenhower Math/Science Grant -- Critical Skills ..... (1,120,000)
Learn and Serve America (K-12) ..... (502,000)
Public Charter Schools ..... (2,650,000)
Child Nutrition -- School Lunch ..... (115,000,000)
Child Nutrition -- Special Milk ..... (1,200,000)
Child Nutrition -- School Breakfast, Programmatic ..... (18,570,000)
Child Care Food ..... (33,500,000)
Child Care Sponsor Administration ..... (1,467,000)
Child Care -- Cash for Commodities ..... (1,480,000)
Summer Food ..... (7,000,000)
Summer Sponsor Administration ..... (600,000)
Child Nutrition -- School Breakfast ..... (130,000)
Drug-Free Schools and Communities -- Programmatic ..... (8,893,000)
Drug-Free Schools and Communities -- Discretionary ..... (450,000)
Safe & Drug-Free Schools -- Governor's Portion, Discretionary ..... (1,792,000)
SDFSCA -- Law Enforcement Education Partnership ..... (300,000)
GoodStarts ..... (1,514,000)
Character Education Partnership ..... (200,000)

Additions, Improvements and Equipment ..... (493,000)

35 Education Administration and Management

42-5120	School Finance	$280,000
43-5092	Compliance and Auditing	479,000
99-5010	Management and Administrative Services	829,000
99-5093	Management and Administrative Services	12,425,000
	Total Appropriation, Educational Administration and Management	$14,013,000
	Personal Services:	
	Salaries and Wages ($700,000)	
	Employee Benefits (184,000)	
	Materials and Supplies (23,000)	
	Services Other Than Personal (345,000)	
	Maintenance and Fixed Charges (15,000)	
	Special Purpose:	
	IDEA Part B -- Handicapped, Finance (37,000)	
	Vocational Education -- State Admin. -- Compliance (2,000)	
	IDEA Part B -- Handicapped, Compliance (43,000)	
	Compliance (3,000)	
	Other Special Purpose (78,000)	
	State Aid and Grants:	
	Christa McAuliffe Fellowship Program (43,000)	
	Byrd Scholarship Program (784,000)	
	Technology Literacy Challenge Fund (11,756,000)	
	Total Appropriation, Department of Education	$568,331,000

42 DEPARTMENT OF ENVIRONMENTAL PROTECTION

40 Community Development and Environmental Management

42 Natural Resource Management

11-4870	Forest Resource Management	$1,705,000
12-4875	Parks Management	22,053,000
13-4880	Hunters' and Anglers' License Fund	9,316,000
14-4885	Shellfish and Marine Fisheries Management	5,690,000
21-4895	Natural Resources Engineering	200,000
	Total Appropriation, Natural Resource Management	$38,964,000
	Personal Services:	
	Salaries and Wages. ($2,830,000)	
	Employee Benefits (656,000)	
	Materials and Supplies (574,000)	
	Services Other Than Personal (3,570,000)	
	Maintenance and Fixed Charges (199,000)	
	Special Purpose:	
	Rural Community Fire Protection Program (17,000)	
	Forest Resource Management -- Cooperative Forest Fire Control (192,000)	
	Gypsy Moth Suppression (22,000)	
	Nursery - Cm - 4 (19,000)	
	Consolidated Forest Management (651,000)	
	Community Forestry Assessment (40,000)	
	Rural Forest Assistance (54,000)	
	Conservation Education (20,000)	
	Incentives Program (15,000)	

Stewardship Program ..... (85,000)
Forest Health Monitoring ..... (16,000)
Regional Forest Monitoring Program ..... (20,000)
Pinelands Grant -- Acquisitions ..... (3,236,000)
Historic Preservation Survey and Planning ... (842,000)
Endangered Plant Species
Supplemental Funding ..... (31,000)
National Recreational Trails ..... (323,000)
Liberty State Park -- Bus Terminal
(ISTEA) ..... (400,000)
Delaware and Raritan Canal State Park
Multi - Purpose Trail -- Phase II
(ISTEA) ..... (400,000)
Island Beach State Park Bikeway
Extension (ISTEA) ..... (53,000)
Sussex Branch Trail Connector (ISTEA) ..... (75,000)
Cape May Point State Park Bikeway
(ISTEA) ..... (200,000)
Liberty State Park Ferry Slip Restoration
(ISTEA) ..... (1,000,000)
Paulins Kill Valley Trail Improvements
(ISTEA) ..... (550,000)
Delaware and Raritan Canal State Park
Multi - Purpose Trail -- Phase III
(ISTEA) ..... (500,000)
Delaware and Raritan Canal State Park
Old Rose to Mulberry Street (ISTEA) ..... (250,000)
Liberty State Park Train Sheds -- Structural
Report (ISTEA) ..... (350,000)
Appalachian Trail Viewshed Acquisition
(ISTEA) ..... (81,000)
State Wetlands Conservation Plan ..... (109,000)
Hunters' and Anglers' License Fund ..... (585,000)
Hunter Safety Training ..... (124,000)
Endangered Species E-1-6 ..... (32,000)
Hunters' and Anglers' License Fund/
New Jersey Statewide Fisheries
Development Project ..... (137,000)
Habitat Restoration -- Cape May ..... (45,000)
Fish and Wildlife Input to Activities --
Projects of Others ..... (100,000)
New Jersey Fish, Wildlife and Anadromous
Fishery Coordination ..... (30,000)
Research in Freshwater Fisheries
Management ..... (117,000)
Wildlife Health Project ..... (23,000)
Fish Culture and Stocking Project ..... (140,000)
Aquatic Recreational Resource Awareness
and Education Project ..... (31,000)
Development of a Computerized Fish and
Wildlife Information System ..... (30,000)
Landscape Model for Rare Species Protection .. (7,000)
Wild Turkey Research ..... (6,000)

Approach for Rare Species ..... (27,000)
Wildlife Research and Management ..... (330,000)
Cape May Canal Boat Access Improvements ... (75,000)
Marine Fisheries Investigation and Management ..... (784,000)
Fisheries Management Council ..... (5,000)
Atlantic Coastal Fisheries ..... (17,000)
Inventory of New Jersey Surf Clam Resources ..... (29,000)
Marine Fisheries Field Office Improvements ... (22,000)
Artificial Reef Program ..... .(111,000)
Clean Vessels ..... (2,560,000)
Community Assistance Program ..... (96,000)
Other Special Purpose ..... (814,000)
State Aid and Grants:
Consolidated Forest Management ..... (93,000)
Historic Preservation Survey and Planning .... (64,000)
Additions, Improvements and Equipment .... (15,150,000)

43 Science and Technical Programs

01-4820	Radiation Protection	$667,000
02-4801	Air Pollution Control	.2,368,000
04-4835	Pesticide Control	660,000
07-4850	Water Monitoring and Planning	4,200,000
15-4801	Land Use Regulation	.2,260,000
18-4810	Science and Research	2,590,000
22-4861	Water Quality Management	350,000
90-4801	Management Policy and Planning	.5,610,000
	Total Appropriation, Science and Technical Programs	$18,705,000

Personal Services:
Salaries and Wages ..... ($3,976,000)
Employee Benefits ..... (1,083,000)
Materials and Supplies ..... (185,000)
Services Other Than Personal ..... (2,740,000)
Maintenance and Fixed Charges ..... (49,000)
Special Purpose:
Environmental Monitoring Program ..... (67,000)
Radon Program ..... (281,000)
Air Pollution Maintenance Program. ..... (1,035,000)
Greenhouse Gas Emission Bank. ..... (100,000)
Pesticide Technology ..... (66,000)
Pesticide Control Consolidated ..... (80,000)
Water Pollution Control Program ..... (962,000)
Clean Lakes Program ..... (1,500,000)
Coastal Zone Management Implementation ..... (172,000)
Coastal Zone Management Grant -- Section 309 ..... (54,000)
Coastal Zone Management -- 310 ..... (1,000,000)
Delaware Bay Estuary Program ..... (300,000)
New York/New Jersey Harbor Estuary Program ..... (490,000)
Inventory of Greenhouse Gas ..... (100,000)

Barnegat Bay Estuary Nomination ..... (168,000)
Ecosystem Indicators ..... (900,000)
New Jersey Ecological Research Partnership ..... (50,000)
Offshore Beach Replenishment ..... (50,000)
National Geologic Mapping Program ..... (66,000)
Earthquake Hazard Reduction ..... (35,000)
Water Pollution Control ..... (130,000)
Climate Change Action Plan (Recycling of Landfill Gases) ..... (200,000)
Water Monitoring and Planning ..... (767,000)
Non-Point Source Implementation (319H) ... (341,000)
Whippany River Watershed Management Project (104B3) ..... (214,000)
Other Special Purpose ..... (615,000)
Additions, Improvements and Equipment ..... (929,000)

44 Site Remediation

19-4815 Publicly -- Funded Site Remediation $100,200,000
23-4815 Hazardous Waste Management 360,000
27-4815 Responsible Party Site Remediation 8,300,000
Total Appropriation, Site Remediation $108,860,000
Personal Services:
Salaries and Wages ..... ($3,767,000)
Employee Benefits ..... (814,000)
Materials and Supplies ..... (60,000)
Services Other Than Personal ..... (23,083,000)
Maintenance and Fixed Charges ..... (73,000)
Special Purpose:
Brownfields Preliminary Assessment/Site Investigation ..... (20,000)
Superfund Grants ..... (75,000,000)
Hazardous Waste -- Resource Conservation Recovery Act ..... (34,000)
Preliminary Assessments/Site Inspections ..... (1,792,000)
CERCLA Grants ..... (750,000)
Underground Storage Tanks ..... (2,113,000)
Underground Storage Tanks ..... (108,000)
Other Special Purpose ..... (1,202,000)
Additions, Improvements and Equipment ..... (44,000)

45 Environmental Regulation

02-4892 Air Pollution Control $1,123,000
05-4840 Water Supply and Watershed Management 29,200,000
09-4860 Public Wastewater Facilities 82,000,000
15-4890 Land Use Regulation 1,734,000
16-4891 Water Monitoring and Planning 1,775,000
23-4910 Hazardous Waste Management 2,135,000
Total Appropriation, Environmental Regulation $117,967,000
Personal Services:
Salaries and Wages ..... ($2,997,000)
Employee Benefits ..... (821,000)

Materials and Supplies ..... (178,000)
Services Other Than Personal ..... (1,103,000)
Maintenance and Fixed Charges ..... (18,000)
Special Purpose:
Air Pollution Maintenance Program ..... (205,000)
Safe Drinking Water Act ..... (513,000)
Drinking Water State Revolving Fund .... (27,000,000)
Construction Grants Program ..... (2,000,000)
Coastal Zone Management Implementation ... (216,000)
Barnegat Bay Pumpout Stations ..... (50,000)
Mullica River/Great Bay Reserve ..... (100,000)
State Wetlands Conservation Plan ..... (45,000)
Wetlands Protection -- Passaic River Basin .... (23,000)
Municipal Water Pollution Prevention (104B3) ..... (50,000)
Publicly Owned Treatment Works Diagnostic .. (10,000)
Underground Injection Control ..... (27,000)
NPDES Implementation Support Program ..... (1,301,000)
Hazardous Waste -- Resource Conservation Recovery Act ..... (263,000)
Pollution Prevention Incentive ..... (100,000)
Other Special Purpose ..... (812,000)
State Aid and Grants:
Safe Water Drinking Act. ..... (100,000)
Construction Loan Revolving Fund ..... (80,000,000)
Additions, Improvements and Equipment ..... (35,000)

46 Environmental Planning and Administration

99-4800 Management and Administrative Services $1,050,000
Total Appropriation, Environmental Planning and Administration $1,050,000
Personal Services:
Salaries and Wages ..... ($86,000)
Materials and Supplies ..... (10,000)
Services Other Than Personal ..... (249,000)
Special Purpose:
Environmental Justice ..... (100,000)
National Spatial Data Infrastructure ..... (50,000)
GIS Database Development ..... (300,000)
Biodiversity Project ..... (100,000)
Additions, Improvements and Equipment ..... (155,000)

47 Enforcement Policy

02-4855 Air Pollution Control $2,928,000
15-4855 Land Use Regulation 529,000
23-4855 Hazardous Waste Management 1,886,000
Total Appropriation, Enforcement Policy $5,343,000
Personal Services:
Salaries and Wages ..... ($2,571,000)
Employee Benefits ..... (698,000)
Materials and Supplies ..... (37,000)
Services Other Than Personal ..... (400,000)

Maintenance and Fixed Charges ..... (41,000)
Special Purpose:
Air Pollution Maintenance Program ..... (710,000)
Coastal Zone Management Implementation ... (97,000)
Hazardous Waste -- Resource Conservation
Recovery Act ..... (339,000)
Other Special Purpose ..... (312,000)
Additions, Improvements and Equipment ..... (138,000)

Total Appropriation, Department of Environmental
Protection $290,889,000

46 DEPARTMENT OF HEALTH AND SENIOR SERVICES
20 Physical and Mental Health
21 Health Services

01-4215 Vital Statistics $615,000
02-4220 Family Health Services 123,901,000
03-4230 Epidemiology, Environmental and Occupational
Health Services 30,834,000
04-4240 Alcoholism, Drug Abuse and Addiction Services 46,820,000
08-4280 Laboratory Services 1,852,000
12-4245 AIDS Services 53,756,000
Total Appropriation, Health Services $257,778,000
Personal Services:
Salaries and Wages ..... ($26,190,000)
Employee Benefits ..... (6,988,000)
Materials and Supplies ..... (1,752,000)
Services Other Than Personal ..... (17,015,000)
Maintenance and Fixed Charges ..... (325,000)
Special Purpose:
Supplemental Food Program - W.I.C. ..... (57,000,000)
Other Special Purpose ..... (3,942,000)
State Aid and Grants:
Preventative Health and Health
Services Block Grant ..... (1,296,000)
Maternal and Child Health Block Grant .... (7,441,000)
Substance Abuse Block Grant ..... (385,000)
Essex County Healthy Start Initiative ..... (1,758,000)
Childhood Lead Poisoning ..... (935,000)
Supplemental Food Program -- W.I.C. .... (15,578,000)
Social Services Block Grant --
Family Planning ..... (1,664,000)
Family Planning Program -- Title X ..... (2,456,000)
Primary Care Service and Management
Planning ..... (162,000)
Pediatric AIDS Health Care Demonstration
Project ..... (1,939,000)
Immunization Project ..... (1,050,000)
Injury Demonstration Projects for
Evaluation of Youth Violence
Prevention ..... (242,000)
Early Intervention for Infants and Toddlers
with Disabilities (Part H) ..... (8,486,000)

Coordination of Home Visits to Families with Children in New Jersey ..... (260,000)
Early Intervention Program for Medicaid Recipients ..... (1,850,000)
Comprehensive Breast and Cervical Cancer -- Early Detection Program ..... (1,983,000)
New Jersey WIN Initiative Project ..... (328,000)
Preventive Health and Health Services Block Grant ..... (354,000)
Venereal Disease Project ..... (49,000)
Comprehensive AIDS Prevention and Surveillance Grant..... (62,000)
Tuberculosis Control Program ..... (7,070,000)
Lyme Disease Research ..... (141,000)
Immunization Project ..... (7,261,000)
Preventative Health and Health Services Block Grant ..... (558,000)
Substance Abuse Block Grant ..... (31,286,000)
Residential Substance Abuse Treatment for Pregnant and Postpartum Women ..... (909,000)
Social Services Block Grant -- Alcohol Rehabilitation Program ..... (520,000)
American Stop Smoking Intervention Study .. (499,000)
Newark Target Cities Project -- Substance Abuse ..... (2,146,000)
Substance Abuse Treatment Services for DYFS Referred Women ..... (327,000)
Substance Abuse Treatment Outcomes -- Pilot Study ..... (9,000)
Innovative Alcohol Impaired Drivers Program . (170,000)
HIV/AIDS Surveillance Grant. ..... (423,000)
AIDS Epidemiology Study of Blood Donors ... (78,000)
HIV/AIDS Prevention and Education Grant ..... (8,409,000)
Housing Opportunities For Persons with AIDS ..... (712,000)
Comprehensive AIDS Resources Grant ... (33,533,000)
Additions, Improvements and Equipment ..... (2,237,000)

22 Health Planning and Evaluation

06-4260 Health Facilities Evaluation $8,611,000
07-4270 Health Care Planning, Financing and Information Services 240,000
Total Appropriation, Health Planning and Evaluation. $8,851,000
Personal Services:
Salaries and Wages .....($4,714,000)
Employee Benefits .....(1,286,000)
Materials and Supplies ..... (58,000)
Services Other Than Personal ..... (523,000)
Maintenance and Fixed Charges ..... (373,000)
Special Purpose:
Other Special Purpose ..... (1,674,000)
State Aid and Grants:
State Office of Rural Health ..... (50,000)

Additions, Improvements and Equipment ..... (173,000)

25 Health Administration

99-4210 Management and Administrative Services $300,000
Total Appropriation, Health Administration $300,000
Personal Services:
Salaries and Wages ..... ($52,000)
Employee Benefits ..... (14,000)
Special Purpose:
Other Special Purpose ..... (6,000)
State Aid and Grants:
Preventative Health and Health Services
Block Grant ..... (228,000)

26 Senior Services

22-4275 Medical Services for the Aged $652,964,000
55-4275 Programs for the Aged 40,154,000
56-4275 Office of the Ombudsman 420,000
Total Appropriation, Health Administration $693,538,000
Personal Services:
Salaries and Wages ..... ($8,000,000)
Employee Benefits ..... (1,691,000)
Materials and Supplies ..... (97,000)
Services Other Than Personal ..... (1,554,000)
Maintenance and Fixed Charges ..... (580,000)
Special Purpose:
Older Americans Act -- Title III ..... (68,000)
Ombudsman for the Institutionalized
Elderly:Medicaid Reimbursement ..... (420,000)
Other Special Purpose ..... (528,000)
State Aid and Grants:
Older Americans Act -- Title III ..... (26,420,000)
Older Americans Act -- Title VII ..... (430,000)
USDA Older Americans Act -- Title III. .... (3,900,000)
Peer Grouping ..... (52,809,000)
Community Care Program for the Elderly
and Disabled (Federal Share) ..... (24,724,000)
Long Term Care Alternatives ..... (813,000)
Payments for Medical Assistance
Recipients -- Nursing Homes ..... (523,368,000
Medical Day Care ..... (13,000,000)
Medicaid Expansion - SOBRA ..... (31,065,000)
Preventive Health and Health Services
Block Grant ..... (1,400,000)
Counseling on Health Insurance for
Medicare Enrollees ..... (175,000)
Social Services Block Grant -- Senior
Services ..... (2,422,000)
Additions, Improvements and Equipment ..... (74,000)

Total Appropriation, Department of Health and
Senior Services $960,467,000

54 DEPARTMENT OF HUMAN SERVICES
20 Physical and Mental Health
23 Mental Health Services
7700 Division of Mental Health Services

08-7700 Community Services $8,965,000
99-7700 Management and Administrative Services 131,000
Total Appropriation, Division of Mental Health Services $9,096,000
Personal Services:
Salaries and Wages ..... ($443,000)
Special Purpose:
Enhancing Decision Support for DHM&H .... (92,000)
State Aid and Grants:
Camden Work Experience Rehabilitation and Collaboration Services Transit SED & SMI ..... (216,000)
Mental Health Systems Improvement Demonstration ..... (38,000)
Projects for Assistance in Transition from Homelessness (PATH) ..... (437,000)
Substance Abuse Block Grant ..... (200,000)
Block Grant Mental Health Services ..... (7,670,000)

24 Special Health Services
7540 Division of Medical Assistance and Health Services

21-7540 Health Services Administration and Management $55,208,000
22-7540 General Medical Services 1,325,760,000
Total Appropriation, Division of Medical Assistance and Health Services $1,380,968,000
Personal Services:
Salaries and Wages ..... ($14,724,000)
Employee Benefits ..... (78,000)
Materials and Supplies ..... (160,000)
Services Other Than Personal ..... (4,369,000)
Maintenance and Fixed Charges ..... (2,237,000)
Special Purpose:
Payments to Fiscal Agents ..... (13,774,000)
Eligibility Determination ..... (13,300,000)
Master Lease Debt Service Payments ..... (23,000)
Professional Standards Review Organization -- Utilization Review ..... (3,078,000)
Medicaid Managed Care Initiative (Health Benefits Coordinator) ..... (3,239,000)
State Aid and Grants:
Managed Care Initiative ..... (339,626,000)
Hospital Health Care Subsidy ..... (71,000,000)
Community Care Programs (Federal Share) ..... (89,921,000)
Payments for Medical Assistance Recipients -- Other Treatment Facilities .. (5,691,000)
Inpatient Hospital ..... (229,244,000)
Prescription Drugs ..... (165,922,000)
Outpatient Hospital ..... (134,840,000)
Physician ..... (40,844,000)

Home Health ..... (38,717,000)
Medicare B Payments ..... (54,668,000)
Dental ..... (11,994,000)
Psychiatric Hospital ..... (10,701,000)
Medical Supplies ..... (12,385,000)
Clinic ..... (44,907,000)
Transportation ..... (36,413,000)
Other Services ..... (17,751,000)
Unit Dose Contract Services ..... (2,308,000)
Consulting Pharmacy Services ..... (828,000)
Medicaid Expansion for Pregnant Women and Infants under One Year to 185 Percent of Poverty ..... (18,000,000)
Additions, Improvements and Equipment ..... (226,000)

30 Educational, Cultural and Intellectual Development
32 Operation and Support of Educational Institutions

01-7601	Purchased Residential Care	$97,026,000
02-7601	Social Supervision and Consultation	13,919,000
03-7601	Adult Activities	56,195,000
04-7601	Education and Day Training	1,669,000
05-7610	Residential Care and Habilitation Services	4,485,000
05-7620	Residential Care and Habilitation Services	19,203,000
05-7630	Residential Care and Habilitation Services	11,305,000
05-7640	Residential Care and Habilitation Services	11,296,000
05-7650	Residential Care and Habilitation Services	21,895,000
05-7660	Residential Care and Habilitation Services	13,528,000
05-7670	Residential Care and Habilitation Services	9,168,000
05-7690	Residential Care and Habilitation Services	8,268,000
98-7610	Physical Plant and Support Services	963,000
98-7620	Physical Plant and Support Services	1,389,000
98-7630	Physical Plant and Support Services	725,000
98-7640	Physical Plant and Support Services	1,544,000
98-7650	Physical Plant and Support Services	2,285,000
98-7660	Physical Plant and Support Services	484,000
98-7670	Physical Plant and Support Services	1,745,000
98-7690	Physical Plant and Support Services	1,012,000
99-7600	Management and Administrative Services	5,386,000
99-7610	Management and Administrative Services	725,000
99-7620	Management and Administrative Services	455,000
99-7630	Management and Administrative Services	696,000
99-7640	Management and Administrative Services	896,000
99-7650	Management and Administrative Services	979,000
99-7660	Management and Administrative Services	1,308,000
99-7670	Management and Administrative Services	807,000
99-7690	Management and Administrative Services	822,000
	Total Appropriation, Operation and Support of Educational Institutions	$290,178,000

Personal Services:
Salaries and Wages ..... ($134,414,000)
Materials and Supplies ..... (2,000)
Services Other Than Personal ..... (3,000)
Maintenance and Fixed Charges ..... (65,000)

Special Purpose: Medicaid --
Child Study Group ..... (1,350,000)
State Aid and Grants:
Community Care Waiver -- Title XIX .... (81,564,000)
Community Services Waiting List
Reduction Initiatives -- FY 1997 ..... (13,900,000)
Stresspite Childrens' Respite --
Temporary Child Care ..... (200,000)
After School Options -- Temporary
Child Care ..... (200,000)
Child Care and Crisis Nurseries Act
of 1986 ..... (200,000)
Developmental Disabilities Council ..... (1,183,000)
Day Care Services ..... (439,000)
Work-Study Training Program
for Caseworkers ..... (1,156,000)
Citizens Advocacy Program ..... (176,000)
Intermediate Care Facilities --
Mental Retardation ..... (55,326,000)

33 Supplemental Education and Training Programs

11-7560 Habilitation and Rehabilitation $7,263,000
12-7560 Instruction, Community Programs and Prevention 529,000
99-7560 Management and Administrative Services 1,229,000
Total Appropriation, Supplemental Education and Training
Programs. $9,021,000
Personal Services:
Salaries and Wages ..... ($4,249,000)
Employee Benefits ..... (56,000)
Materials and Supplies ..... (195,000)
Services Other Than Personal ..... (750,000)
Maintenance and Fixed Charges ..... (284,000)
State Aid and Grants:
Federal Vocational Rehabilitation for
Independent Living, Title VII - Part A ..... (99,000)
Federal Independent Living -- Supported
Employment ..... (207,000)
Federal Independent Living -- Part C,
Older Blind ..... (187,000)
Vocational Rehabilitation -- Direct Service . (2,522,000)
Preventive Health Block Grant ..... (95,000)
Social Services Block Grant ..... (271,000)
Additions, Improvements and Equipment ..... (106,000)

50 Economic Planning, Development and Security
53 Economic Assistance and Security

15-7550 Income Maintenance Management $711,381,000
Total Appropriation, Economic Assistance and Security $711,381,000
Personal Services:
Salaries and Wages ..... ($10,054,000)
Materials and Supplies ..... (278,000)
Services Other Than Personal ..... (13,007,000)
Maintenance and Fixed Charges ..... (1,148,000)

Special Purpose:
- Electronic Benefit Transfer, Evaluation and Development, Food Stamps ..... (731,000)
- Work First New Jersey -- Electronic Benefits Transfer -- Design and Development ..... (463,000)
- Work First New Jersey Technology Investment -- Food Stamps ..... (3,166,000)
- EBT -- Operational Food Stamp Match for CWA's ..... (1,931,000)
- Work First New Jersey -- Benefits Transfer Operational ..... (1,025,000)
- Work First New Jersey -- Technology Investments ..... (6,564,000)
- Non Public Assistance Legal Services, Child Support ..... (291,000)
- Work First New Jersey -- Child Care Block Grant ..... (302,000)
- Public Welfare Administration ..... (1,674,000)
- Federal Energy Assistance Program ..... (536,000)
- Work First New Jersey -- Technology Investments -- Title XIX ..... (286,000)
- Hospital Paternity Program ..... (1,113,000)
- Work First New Jersey -- Implementation -- Title IV-D ..... (455,000)
- Electronic Benefits Transfer -- Title IV-D ..... (1,156,000)
- Work First New Jersey -- Implementation -- Food Stamps ..... (249,000)
- Work First New Jersey -- Technology Investment -- Title IV-D. ..... (5,038,000)
- Work First New Jersey -- Child Support -- Program Legislative Initiatives ..... (6,602,000)

State Aid and Grants:
- Work First New Jersey -- County Administration ..... (50,000,000)
- Work First New Jersey -- Client Benefits ..... (259,805,000)
- Work First New Jersey -- Emergency Assistance -- TANF ..... (15,750,000)
- Refugee Resettlement Program ..... (1,500,000)
- Federal Energy Assistance Program ..... (23,130,000)
- County Administrative Expenses -- Food Stamp Program ..... (66,000,000)
- Title XIX ..... (48,000,000)
- Social Services Block Grant ..... (19,516,000)
- Title IV-D ..... .(24,000,000)
- Low Income Energy Assistance Program ..... (520,000)
- Refugee Resettlement/Cuban Haitian Entrant Program ..... (160,000)
- IV-D CSP Payments to CPD and County Sheriff ..... (2,000,000)
- Title XX Urban Empowerment Zone ..... (10,418,000)

Work First New Jersey -- Training Related Expenses ..... (6,646,000)
Work First New Jersey -- Work Activities . (41,917,000)
Work First New Jersey -- Child Care Block Grant ..... (64,816,000)
SSBG Child Care ..... (10,256,000)
Supplemental Security Income -- Title XIV ..... (150,000)
Work First New Jersey -- Training Related Expenses -- Food Stamps ..... (1,088,000)
Work First New Jersey -- Work Activities -- Food Stamps ..... (8,570,000)
AFDC Immunization Demonstration Program ..... (685,000)
Parents Fair Share -- Title IV-D ..... (375,000)
Additions, Improvements and Equipment ..... (10,000)

55 Social Services Programs

16-7570	Initial Response/Case Management	$75,198,000
17-7570	Substitute Care	41,180,000
18-7570	General Social Services	30,883,000
23-7580	Services for the Deaf	50,000
99-7570	Management and Administrative Services	14,748,000
	Total Appropriation, Division of Youth and Family Services	$162,059,000

Personal Services:
Salaries and Wages ..... ($49,201,000)
Materials and Supplies ..... (1,924,000)
Services Other Than Personal ..... (8,832,000)
Maintenance and Fixed Charges ..... (9,354,000)
State Aid and Grants:
Rutgers MSW Program ..... (900,000)
Respite Care ARC North ..... (150,000)
Transitional Residence ..... (600,000)
Family Violence Prevention and Services .. (1,049,000)
National Center for Child Abuse and Neglect ..... (80,000)
Substance Abuse Grant ..... (250,000)
Title XIX -- Children in Residential Centers ..... (220,000)
Respite Care ARC South ..... (150,000)
Title IV-A (Foster Care) ..... (5,000,000)
Newark New Start ..... (450,000)
Expanding Options for Permanency. ..... (100,000)
Title XIX (Other Residential) ..... (486,000)
Title XIX (Residential/Group Home) ..... (4,793,000)
Title XIX (Special Home Services Providers) ..... (2,574,000)
Title XIX (Subsidized Adoption) ..... (1,046,000)
Title XIX (Foster Care) ..... (2,847,000)
Title IV-E (Residential/Group Home) ..... (5,080,000)
Title IV-E (Special Home Services Providers) ..... (3,973,000)

Title IV-E (Subsidized Adoption) ..... (1,421,000)
Title IV-E (Foster Care) ..... (4,483,000)
Title IV-B (Residential/Group Home) ..... (128,000)
Title IV-B (Special Home Services
Providers) ..... (101,000)
Title IV-B (Subsidized Adoption) ..... (117,000)
Title IV-B (Foster Care) ..... .(2,669,000)
Title XIX -- Children in Residential
Centers ..... (23,000)
Office of Refugee Resettlement -- Social
Services ..... (1,483,000)
Targeted Assistance Disabilities Grant ..... (632,000)
Refugee Cash Management --
Unaccompanied Minors ..... (1,462,000)
Title XIX (Purchase of Day Care) ..... (75,000)
Title IV-E (Purchase of Day Care) ..... (1,237,000)
Title XIX -- Children in Residential
Centers ..... (1,521,000)
Family Preservation Services
(Title IV-B) ..... (8,011,000)
Title XIX (Family Support Services) ..... (913,000)
Title IV-E (Family Support Services) ..... (3,280,000)
Title IV-B (Family Support Services) ..... (1,631,000)
Title IV-A Emergency Assistance
to Families ..... (1,840,000)
Independent Living (Title IV-E) ..... (2,298,000)
Title IV A/E ..... (3,132,000)
Children's Justice Act ..... (375,000)
Involving Parents in Service Design ..... (80,000)
National Center for Child Abuse
and Neglect ..... (570,000)
Additions, Improvements and Equipment ..... (25,518,000)

70 Government Direction, Management and Control
76 Management and Administration
7500 Division of Management and Budget

87-7500 Research, Policy and Planning $2,574,000
99-7500 Management and Administrative Services 27,357,000
Total Appropriation, Division of Management and Budget $29,931,000
Personal Services:
Salaries and Wages. ..... ($187,000)
Special Purpose:
Community Based Residential
Program Grant. ..... (1,000,000)
Office of Prevention ..... (235,000)
Head Start State Collaboration Project ..... (145,000)
Title XIX, ICF/MR ..... (1,028,000)
DHS Adult Basic Education Program ..... (175,000)
IDEA (State Institutions), Human Services. .. (372,000)
Title I -- Part D Neglected and Delinquent. ... (814,000)
Federal Cost Recoveries ..... (14,701,000)
Title VI-B, Child Welfare Services. ..... (134,000)
Title IV-E, Foster Care ..... (288,000)

Low Income Energy Assistance
Block Grant ..... (49,000)
Title XIX, ICF/MR ..... (3,627,000)
Title XIX, Medical Assistance ..... (2,600,000)
Refugee Resettlement Program ..... (18,000)
Social Service Block Grant ..... (2,299,000)
Vocational Rehabilitation Act --
Section 120 ..... (148,000)
Food Stamp Program ..... (447,000)
Temporary Assistance to Needy Families
Block Grant ..... (604,000)
ACSE Title IV-D Child Support Program .... (299,000)
Other Special Purpose ..... (761,000)

Total Appropriation, Department of Human Services $2,592,634,000

62 DEPARTMENT OF LABOR

50 Economic Planning, Development and Security

51 Economic Planning and Development

18-4570 Planning and Research $7,341,000
Total Appropriation, Economic Planning and Development $7,341,000
Personal Services:
Salaries and Wages ..... ($4,601,000)
Employee Benefits ..... (1,215,000)
Materials and Supplies ..... (103,000)
Services Other Than Personal ..... (844,000)
Maintenance and Fixed Charges ..... (131,000)
Special Purpose:
E S 202 Covered Employment and Wages ..... (34,000)
Permanent Mass Layoff Plant Closings ..... (10,000)
Current Employment Statistics Additional to
Maintain Current Issue ..... (8,000)
Redesigned Occupational Safety and Health
(ROSH) ..... (26,000)
Other Special Purpose ..... (297,000)
Additions, Improvements and Equipment ..... (72,000)

52 Economic Regulation

12-4550 Workplace Standards $1,560,000
Total Appropriation, Economic Regulation $1,560,000
Personal Services:
Salaries and Wages ..... ($979,000)
Employee Benefits ..... (262,000)
Materials and Supplies ..... (15,000)
Services Other Than Personal ..... (77,000)
Maintenance and Fixed Charges ..... (78,000)
Special Purpose:
OSHA On-Site Consultation ..... (110,000)
Other Special Purpose ..... (19,000)
Additions, Improvements and Equipment ..... (20,000)

53 Economic Assistance and Security

01-4510 Unemployment Insurance $94,388,000

02-4515 Disability Determination 37,814,000
Total Appropriation, Economic Assistance and Security. $132,202,000
Personal Services:
Salaries and Wages ..... ($74,971,000)
Employee Benefits ..... (15,752,000)
Materials and Supplies ..... (1,292,000)
Services Other Than Personal ..... (11,613,000)
Maintenance and Fixed Charges ..... (9,481,000)
Special Purpose:
Old Age and Survivors' Insurance --
Disability Determination ..... (2,031,000)
Other Special Purpose ..... (8,219,000)
State Aid and Grants:
Old Age and Survivors' Insurance --
Disability Determination ..... (7,418,000)
Additions, Improvements and Equipment ..... (1,425,000)

54 Manpower and Employment Services

07-4535 Vocational Rehabilitation Services $44,053,000
09-4545 Employment Services 41,603,000
10-4545 Employment and Training Services 106,225,000
Total Appropriation, Manpower and Employment Services $191,881,000
Personal Services:
Salaries and Wages ..... ($38,244,000)
Employee Benefits ..... (10,142,000)
Materials and Supplies ..... (655,000)
Services Other Than Personal ..... (6,262,000)
Maintenance and Fixed Charges ..... (5,561,000)
Special Purpose:
Vocational Rehabilitation Act of 1973 ..... (20,000)
Job Search Assistance ..... (1,029,000)
JTPA Title II 5% Older Individuals ..... (1,306,000)
JTPA Title II 8% Education ..... (499,000)
Other Special Purpose ..... (4,275,000)
State Aid and Grants:
Vocational Rehabilitation Act of 1973 .... (17,225,000)
Rehabilitation of Supplemental Security
Income Beneficiaries ..... (2,000,000)
Comprehensive Services for Independent
Living ..... (600,000)
Technology Related Assistance Project ..... (550,000)
Supported Employment ..... (1,000,000)
Vocational Rehabilitation -- Basic
Support Program ..... (750,000)
Trade Adjustment Assistance Project ..... (6,882,000)
NAFTA Traditional Adjustment
Assistance ..... (1,000,000)
Job Training Partnership Act --
Title II-A, Training Services for the
Disadvantaged ..... (21,534,000)
Job Training Partnership Act --
Title II-B, Summer Youth Employment
and Training Program ..... (26,202,000)

Job Training Partnership Act -- Title III, Dislocated Workers ..... (35,000,000)
Job Training Partnership Act Title II-C -- Youth Training ..... (3,792,000)
Job Training Partnership Act Title II -- 8% Education ..... (1,996,000)
Job Training Partnership Act -- Title III-D, Discretionary Funding ..... (2,500,000)
Additions, Improvements and Equipment ..... (2,857,000)

Total Appropriation, Department of Labor $332,984,000

66 DEPARTMENT OF LAW AND PUBLIC SAFETY
10 Public Safety and Criminal Justice
12 Law Enforcement

06-1200	Patrol Activities and Crime Control	$8,302,000
07-1200	Police Services and Public Order	1,200,000
08-1200	Emergency Services	5,772,000
09-1020	Criminal Justice	59,655,000
24-1200	Marine Police Operations	1,520,000
	Total Appropriation, Law Enforcement	$76,449,000

Personal Services:
Salaries and Wages ..... ($5,771,000)
Cash In Lieu of Maintenance ..... (5,000)
Employee Benefits ..... (1,227,000)
Materials and Supplies ..... (195,000)
Services Other Than Personal ..... (829,000)
Maintenance and Fixed Charges ..... (93,000)
Special Purpose:
Occupant Protection Usage ..... (105,000)
D.W.I. Training ..... (156,000)
Drunk Driver Fund Program ..... (224,000)
Breathalyzer Training OHTS ..... (42,000)
Northern New Jersey Heroin and Money Laundering ..... (200,000)
State Police Narcotics Unit -- Super Grant Funding ..... (1,400,000)
DrugFire Program ..... (50,000)
Forensic DNA Lab ..... (1,200,000)
Earthquake Preparedness Grant ..... (150,000)
Hazardous Materials Transportation Uniform Safety Act ..... (275,000)
Incident Command (ISTEA). ..... (400,000)
State Identification System ..... (175,000)
Other Special Purpose ..... (177,000)
State Aid and Grants:
COPS Universal Hiring Grant ..... (6,000,000)
FEMA State Assistance Program ..... (200,000)
Hurricane Preparedness Program ..... (95,000)
Violence Against Women Act. ..... (18,000,000)
Victim Assistance Grants ..... (18,000,000)
High Intensity Drug Trafficking Area (HIDTA) ..... (300,000)

Drug Enforcement Administration
and Grants ..... (15,091,000)
Residential Treatment for
Substance Abuse ..... (700,000)
Local Law Enforcement Block Grant ..... (1,200,000)
Youth Gun Violence Initiative Grant ..... (250,000)
Community Policing Initiative Grant --
Part I ..... (200,000)
Community Policing Initiative Grant --
Part I ..... (200,000)
Nuclear Civil Protection and Planning ..... (3,400,000)
Additions, Improvements and Equipment ..... (139,000)

13 Special Law Enforcement Activities

03-1160 Office of Highway Traffic Safety $5,407,000
Total Appropriation, Special Law Enforcement Activities $5,407,000
Personal Services:
Salaries and Wages ..... ($1,099,000)
Employee Benefits ..... (297,000)
Materials and Supplies ..... (97,000)
Services Other Than Personal ..... (752,000)
Maintenance and Fixed Charges ..... (133,000)
Special Purpose:
Other Special Purpose ..... (89,000)
State Aid and Grants:
Emergency Services ..... (460,000)
NHTSA 402 -- Youthful Driver ..... (75,000)
Traffic Engineering Services Project --
FHWA Section 402 ..... (250,000)
Safe Communities Program ..... (25,000)
Speed Program ..... (200,000)
Selective Enforcement Management ..... (501,000)
Highway Safety -- Safety Restraints
Program Management ..... (62,000)
School Bus Set Aside Program ..... (20,000)
Alcohol Education Materials ..... (396,000)
Drunk Driver Prevention ..... (550,000)
FHWA Program Management ..... (141,000)
OP Special Traffic Safety Program. ..... (225,000)
Additions, Improvements and Equipment ..... (35,000)

18 Juvenile Services

34-1500 Juvenile Community Programs $1,730,000
38-1505 Education Programs 252,000
38-1510 Education Programs 201,000
99-1500 Management and Administrative Services 4,356,000
99-1505 Management and Administrative Services 100,000
Total Appropriation, Juvenile Services $6,639,000
Personal Services:
Salaries and Wages ..... ($906,000)
Employee Benefits ..... (193,000)
Materials and Supplies ..... (11,000)
Services Other Than Personal ..... (112,000)

Maintenance and Fixed Charges ..... (1,000)
Special Purpose:
Risk Reduction ..... (200,000)
Americorps ..... (250,000)
Private Industry Council -- JTPA Funds (MSW) ..... (250,000)
Elizabeth and Union Day Programs ..... (200,000)
Title I -- Part D, Neglected and Delinquent ... (545,000)
Challenge Grant ..... (335,000)
Title V Funding ..... (540,000)
Juvenile Boot Camp Renovation Grant .... (1,000,000)
Other Special Purpose ..... (33,000)
State Aid and Grants:
Juvenile Justice Delinquency Prevention ... (2,000,000)
Juvenile Monitoring Programs -- Juvenile Justice Initiative ..... (60,000)
Additions, Improvements and Equipment ..... (3,000)

19 Central Planning, Direction and Management

99-1000 Management and Administrative Services $18,300,000
Total Appropriation, Central Planning, Direction and Management $18,300,000
Special Purpose:
National Criminal History Program -- OAG ..... ($700,000)
Truth In Sentencing Incentive Grant ..... (17,600,000)

80 Special Government Services
82 Protection of Citizens' Rights

16-1350 Protection of Civil Rights $650,000
19-1440 Victims of Crime Compensation 1,600,000
Total Appropriation, Protection of Citizens' Rights $2,250,000
Personal Services:
Salaries and Wages ..... ($588,000)
Employee Benefits ..... (58,000)
Materials and Supplies ..... (4,000)
Special Purpose:
Victim Compensation Award ..... (1,600,000)

Total Appropriation, Department of Law and Public Safety $109,045,000

67 DEPARTMENT OF MILITARY AND VETERANS' AFFAIRS

10 Public Safety and Criminal Justice
14 Military Services

30-3620 Physical Plant and Support Services $10,102,000
40-3620 New Jersey National Guard Support Services 4,108,000
Total Appropriation, Military Services $14,210,000
Personal Services:
Salaries and Wages ..... ($4,925,000)
Student Aides ..... (360,000)
Employee Benefits ..... (959,000)
Materials and Supplies ..... (2,736,000)
Services Other Than Personal ..... (1,344,000)

Maintenance and Fixed Charges ..... (480,000)
Special Purpose:
Army Training and Technology Lab ..... (290,000)
Additions, Improvements and Equipment ..... (3,116,000)

80 Special Government Services
83 Services to Veterans

50-3610 Veterans' Outreach and Assistance $847,000
Total Appropriation, Services to Veterans $847,000
Personal Services:
Salaries and Wages ..... ($305,000)
Employee Benefits ..... (102,000)
Materials and Supplies ..... (5,000)
Services Other Than Personal ..... (39,000)
Special Purpose:
Transitional Housing ..... (350,000)
Other Special Purpose ..... (26,000)
Additions, Improvements and Equipment ..... (20,000)

Total Appropriation, Department of Military and Veterans' Affairs $15,057,000

74 DEPARTMENT OF STATE
30 Educational, Cultural and Intellectual Development
37 Cultural and Intellectual Development Services

05-2530 Support of the Arts $564,000
06-2535 Museum Services 233,000
Total Appropriation, Cultural and Intellectual Development Services $797,000
Personal Services:
Salaries and Wages ..... ($407,000)
Special Purpose:
National Endowment for the Arts Partnership ..... (157,000)
Delaware Water Gap National Recreational Area ..... (70,000)
Institute of Museum Services -- General Support Grant ..... (113,000)
National Endowment for the Arts -- Museum Exhibition ..... (50,000)

80 Special Government Services
82 Protection of Citizens' Rights

17-2581 Mental Health Screening Services $200,000
Total Appropriation, Protection of Citizens' Rights $200,000
Personal Services:
Salaries and Wages. ..... ($200,000)

Total Appropriation, Department of State $997,000

78 DEPARTMENT OF TRANSPORTATION
10 Public Safety and Criminal Justice
11 Vehicular Safety

01-6400 Motor Vehicle Services $4,000,000
Total Appropriation, Vehicular Safety $4,000,000

Special Purpose:
Motor Carrier Safety Assistance Program . ($4,000,000)

60 Transportation Programs
61 State Highway Facilities

02-6200 Transportation Systems Improvements -- Planning $18,500,000
10-6300 Interstate Program 52,511,000
28-6300 Demonstration Program 57,275,000
29-6300 Congestion Mitigation and Air Quality Program 58,050,000
36-6300 National Highway System 86,450,000
37-6300 Surface Transportation Program 204,600,000
40-6300 Bridge Program 140,352,000
65-6200 Rail Freight Lines 1,000,000
71-6200 Supportive Services Program 500,000
Total Appropriation, State Highway Facilities. $619,238,000

Special Purpose:
Highway Planning and Research ..... ($8,500,000)
Metropolitan Planning Funds. ..... (7,000,000)
New Jersey Statewide Public Transportation Grant ..... (3,000,000)
Rail Freight Lines Hazardous Materials .... (1,000,000)
Support Services - Disadvantaged Business Enterprises ..... (500,000)

Route	Section	Description	County	Amount
Special Purpose:				
INTERSTATE PROGRAM				
1. CONSTRUCTION				
		Preventive maintenance	Various	($500,000)
80	5AW 10L	Saddle River Road to South Summit Avenue, eastbound local lanes, rehabilitation and operational improvements	Bergen	(10,150,000)
80	G	Garden State Parkway to Route 17, rehabilitation and operational improvements	Bergen	(15,000,000)
80	(17)	Interchange ramps at Madison Avenue	Passaic	(2,500,000)
287	6M	Ramp relocation at Routes 202 and 206	Somerset	(2,396,000)
287		Montville to New York State line, noisewall construction	Morris Bergen	(2,965,000)
295	1BB	Exit 18: north of Clonmell Creek to south of Mantua Creek, operational improvements	Gloucester	(19,000,000)
Special Purpose				
DEMONSTRATION PROGRAM				
1. CONSTRUCTION				
		Paulsboro Bridge: Billingsboro Road (CR 653) over Conrail, grade separation	Gloucester	(1,500,000)

		Marlton Circle to Cherry Hill Headquarters, Traffic Operations Center, south interconnection	Camden	(3,000,000)
		Various transportation grants	Various	(1,000,000)
21	4M 6J	Hope Avenue to Dayton Avenue, highway on new alignment	Passaic	(15,500,000)
21	6L	Dayton Avenue to north of Ackerman Avenue, highway on new alignment	Passaic	(5,500,000)
2.	DESIGN			
		Ocean City - Longport Bridge, replacement	Atlantic Cape May	(1,700,000)
4 208	1L 2W 3T	Virginia Drive to Garden State Parkway, rehabilitation and operational improvements	Bergen	(4,000,000)
21	2M	Green Street to Orange Street, widening	Essex	(3,175,000)
21	TSM 4	Clay Street to Passaic Street, widening	Essex	(1,800,000)
70	(4)	Bridge over Manasquan River, replacement	Monmouth Ocean	(12,700,000)
3.	RIGHT-OF-WAY			
21	2M	Green Street to Orange Street, widening	Essex	(1,900,000)
78	5CD	West Peddie Street ramps	Essex	(5,500,000)
Special Purpose:				
	CONGESTION MITIGATION AND AIR QUALITY PROGRAM			
1.	CONSTRUCTION			
		Diesel truck catalytic converters	Various	(9,000,000)
		Enhanced vehicle inspection and maintenance program	Various	(45,000,000)
		Port Jersey Railroad; vicinity of Greenville Yard, intermodal freight facility	Hudson	(750,000)
		Transportation Management Associations	Various	(3,200,000)
2.	PLANNING			
		Transportation Management Association support	Various	(100,000)
Special Purpose:				
	NATIONAL HIGHWAY SYSTEM			
1.	CONSTRUCTION			
		Preventive maintenance	Various	(5,000,000)
1	(28)	Signalized entrance to Grand City	Hudson	(3,500,000)
9		Container to north of Rott Avenue, rehabilitation	Bergen	
23 80		Flyovers at Route I-80 west to Route 23 north	Passaic	(1,900,000)
29	10C 11B	Ferry Street to Lamberton Road, system connectivity	Mercer	(8,000,000)
46	12H	Interchange improvements at Riverview Drive	Passaic	(5,750,000)

80 G	Garden State Parkway to Route 17, rehabilitation and operational improvements	Bergen	(5,000,000)
95	Interchange improvements at Scotch Road	Mercer	(5,000,000)
124 (1)	East of South Street to west of Passaic River, rehabilitation	Morris	(4,600,000)
2. DESIGN			
1 6T 16E 130 1B 171	Interchange improvements at Route 1/ 130 interchange	Middlesex	(2,000,000)
4 2AC	Fairview Avenue to Johnson Avenue, rehabilitation and operational improvements	Bergen	(600,000)
9 25C 35 25L	Grade separated interchange at Routes 9 and 35; Victory Circle elimination	Middlesex	(1,400,000)
17	Vicinity of Essex Street (northbound only), drainage improvement	Bergen	(100,000)
18 2A Ext	River Road to Hoes Lane Extension along Metlars Lane, highway on new alignment	Middlesex	(1,000,000)
29	South of Lalor Street to vicinity of Cass Street, landscape improvements	Mercer	(250,000)
29	Intersection improvements at Parkside Avenue	Mercer	(200,000)
30 (17)	West of Oak Avenue to east of Jefferson Avenue, rehabilitation	Camden	(131,000)
40 2F 322	Cardiff Circle elimination	Atlantic	(400,000)
46 (52)	Intersection improvements at Plymouth and Clinton Roads	Essex Morris	(1,800,000)
47	Intersection improvements at Cattell Road	Gloucester	(100,000)
47 55F	Interchange at Route 47 and Route 55, operational and safety improvements	Cumberland	(400,000)
73 130	Taunton Avenue and Chestnut Avenue; Route 130: Baldwin Run; Westfield Avenue, drainage improvements	Camden	(380,000)
95 31	Interchange at Route 31, improvement	Mercer	(1,400,000)
206 (39)	Old York Road and Rising Sun Road, Route I-295 to Route 68, operational improvements	Burlington	(700,000)
287 80	Route I-287 and Route I-80 flyovers	Morris	(3,000,000)
287 10	Interchange modification at Route 10	Morris	(1,600,000)

3. RIGHT-OF-WAY				
1	2S 3J	Washington Road to Harrison Street (Millstone Bypass), grade separated interchange	Mercer	(2,000,000)
4	2AE	Garden State Parkway to Farview	Bergen	(14,509,000)
17	2P 3G	Avenue, Route 4 and Route 17 interchange replacement		
10	4L	Intersection improvement at Ridgedale Avenue, operational improvements	Morris	(3,000,000)
18	4E 6E	North of Hillsdale Avenue to south of County Road 516, roadway improvements	Middlesex	(4,000,000)
30	1J 13D	Collingswood Circle elimination	Camden	(500,000)
130				
40	2F	Cardiff Circle elimination	Atlantic	(900,000)
322				
47	16C	Intersection improvements at Deptford Avenue/Turkey Hill Road	Gloucester	(830,000)
202		Route 31 to Wertsville Road,	Hunterdon	(1,500,000)
31		operational Improvements		
4. PROJECT DEVELOPMENT				
1	2S 3J	Washington Road to Harrison Street (Millstone Bypass), grade separated interchange, relocated CR 571	Mercer	(1,000,000)
18	2A	River Road to Hoes Lane Extension	Middlesex	(4,000,000)
Ext		along Metlars Lane, highway on new alignment		
Special Purpose:				
SURFACE TRANSPORTATION PROGRAM				
1. CONSTRUCTION				
		Bridge deck patching	Various	(5,500,000)
		Bridge painting	Various	(6,000,000)
		Cedarbrook Road, Route 73 to County Line, resurfacing	Camden	(1,030,000)
		Disadvantaged Business Enterprises	Various	(200,000)
		Drainage rehabilitation, and maintenance	Various	(2,050,000)
		Emergency Service Patrol	Various	(3,750,000)
		Gloucester County resurfacing	Gloucester	(1,500,000)
		Greentree Road, County Route 639 to County Route 630, reconstruction	Gloucester	(3,750,000)
		Incident and congestion mitigation management, operational support	Various	(200,000)
		MAGIC, Phase 1 (Routes 80, 46, 4,3, and 280), operational support	Various	(3,000,000)
		Maintenance, preventive	Various	(5,000,000)
		Motor vehicle accident record processing	Various	(1,300,000)
		Paulsboro Bridge, Billingsport Road over Conrail, grade separation	Gloucester	(5,750,000)

	Pre-apprenticeship training for minorities and females	Various	(1,000,000)
	Resurfacing program	Various	(4,920,000)
	Signs program	Various	(3,010,000)
	State infrastructure bank	Various	(1,000,000)
	State Police enforcement and safety services	Various	(4,500,000)
	Sussex Turnpike, Route 10 to east of West Hanover Avenue, reconstruction	Morris	(5,000,000)
	Traffic monitoring systems	Various	(2,000,000)
	Traffic Operations Centers	Various	(4,670,000)
	Traffic signal replacement	Various	(3,400,000)
	Transportation Demand Management Program	Various	(3,000,000)
	Value engineering	Various	(100,000)
	Youth employment and TRAC programs	Various	(250,000)
1 9 322 50	Green Street to Route 35, widening and bridge replacement	Middlesex	(7,500,000)
	Interchange improvements at interchange of Route 322 and Route 50	Atlantic	(8,575,000)
	Future projects to be selected, North Jersey Transportation Planning Authority	Various	(12,500,000)
	Newark-Jersey City Turnpike between Schuyler Avenue and Route I-280 interchange, and Route I-280 interchange and Route 7, widening	Hudson	(5,400,000)
4 2AE 17 2P 3G	Garden State Parkway to Farview Avenue, Route 4 and Route 17, interchange replacement	Bergen	(4,000,000)
15 4C	Houses Corner Road, realignment of intersection with Route 15 and railroad grade separation)	Sussex	(10,000,000)
202 10D	Vicinity of Church Street to north of Finley Avenue and Childs Road, rehabilitation	Somerset	(1,000,000)
	Future projects to be selected, South Jersey Transportation Planning Organization	Various	(3,500,000)
	Future projects to be selected, Dela-Delaware Valley Regional Planning Commission	Various	(650,000)
	Burlington handicap ramps, Phase III	Burlington	(400,000)
	Camden City sign management program	Camden	(215,000)
	Camden County sign management program	Camden	(1,250,000)
	Gloucester County bus purchase	Gloucester	(60,000)

	Maple Avenue, Morris Street to County Line, resurfacing	Camden	(1,025,000)
	Whitehead Road over Amtrak, replacement	Mercer	(6,000,000)
	Accident reduction program	Various	(1,800,000)
	Rail-highway grade crossing program	Various	(3,700,000)
	Restriping program	Various	(3,110,000)
	Rumble strips	Various	(1,500,000)
	Safety management system	Various	(3,500,000)
	Bicycle route, Stirling to Millington	Morris	(100,000)
	Clinton and High Bridge Trails	Hunterdon	(500,000)
	Millville-High Street restoration, Phase V	Cumberland	(250,000)
	Somerset County access improvements to transit stations	Somerset	(500,000)
	Sussex Branch Trail	Sussex	(1,100,000)
	Transportation enhancements	Various	(8,715,000)
	USS New Jersey, port facility	Hudson	(500,000)
9	Route 109 to Delaware Bay, bicycle improvements	Cape May	(265,000)
33	Roadside rehabilitation program	Mercer	(1,000,000)
33 Fwy.		Middlesex Monmouth	
2. DESIGN			
9 4M 6C 34	South of Perrine Road to Poor Farm Road, operational improvements	Middlesex	(300,000)
168 (1)	Route I-295 to Haddon Avenue/ Sixth Avenue, rehabilitation	Camden	(300,000)
1 (27) 9	Ridgefield Circle elimination	Bergen	(150,000)
17 3H 5AE	East Ridgewood Avenue over Route 17, rehabilitation)	Bergen	(550,000
21 2N 22 15K 1&9 2AN	Bridge over Route I-78 and Amtrak, replacement	Essex	(4,000,000)
23	South of Lower Unionville Road to south of Spring Street, operational improvements	Sussex	(500,000)
46 (34)	Interchange improvements at Passaic Avenue and Two Bridges Road	Essex	(600,000)
	Creek Road from Moorestown-Bridgeboro Road to Centerton Road, rehabilitation	Burlington	(1,500,000)
	Tuckahoe Road, 500 feet north of Marsh Lake Branch to Route 40, reconstruction	Gloucester Atlantic	(340,000)
73 (5) 70	Marlton Circle, elimination	Burlington	(500,000)
130 (16)	Intersection improvements, Renaissance Boulevard to Adams Lane	Middlesex	(1,000,000)
440	Roadside rehabilitation program	Middlesex	(100,000)

3. RIGHT-OF-WAY				
21,22	2N	Bridge over Route I-78	Essex	(4,000,000)
1&9	15K	and Amtrak, replacement		
	2AN			
23	7D 8C	Intersection improvements at	Sussex	(600,000)
94		Route 23 and Route 94		
31	8P	Bridge over Raritan Valley Line	Hunterdon	(2,000,000)
		Railroad, replacement		
40		Intersection improvements at	Atlantic	(110,000)
50		Routes 40/50 and Mill Street		
		Arnot Street Bridge over the	Bergen	(425,000)
		Saddle River, replacement		
		Vernon-Glenwood Road from	Sussex	(200,000)
		Carol Drive to Ann Place, realign-		
		ment; Glenwood-Martin Station		
		Road intersection with CR 667 &		
		CR 565, intersection improvements		
1	(6)	Magnolia Avenue Bridge over Route	Union	(200,000)
9		1&9, elimination		
22		Intersection improvements at	Warren	(1,800,000)
519		Belvidere Road, County Route 519		
31		Flemington Bypass, Route 202	Hunterdon	(2,000,000)
202		to Route 31, highway on new		
		alignment		
206	14A	206 Bypass, Belle Mead-Griggstown	Somerset	(12,000,000)
	15A	Road to Old Somerville Road,		
		highway on new alignment		
		Hartford Road, Route 38 to NJIT	Burlington	(50,000)
		entrance, rehabilitation		
4. PLANNING				
		Historic corridor studies	Various	(250,000)
		Planning and research	Various	(2,000,000)
5. PROJECT DEVELOPMENT				
		Maintenance management system	Various	(400,000)
		Pavement management system	Various	(3,450,000)
		Project development, preliminary	Various	(1,200,000)
		engineering		
		North Jersey Transportation Planning	Various	(2,000,000)
		Authority		
		Delaware Valley Regional Planning	Various	(1,000,000)
		Commission		
		Bicycle and pedestrian facilities/	Various	(500,000)
		accommodations		
		Sidewalk installation at Market Street,	Mercer	(30,000)
		Route 129, Barlow Street intersection		
		West Jersey Seashore Rail-Trail	Atlantic	(50,000)
		facility		
Special Purpose:				
BRIDGE PROGRAM				
1. CONSTRUCTION				
		Beaver Dam bridge over Beaver	Ocean	(14,258,000)
		Dam Creek (South Branch),		
		replacement		

	Bridge inspections, local bridges	Various	(4,200,000)
	Bridge inspections, State bridges	Various	(9,250,000)
	Bridge painting	Various	(1,000,000)
	Madison Avenue bridge over Hackensack River, replacement	Bergen	(2,400,000)
	Whitehead Road bridge over Amtrak, replacement	Mercer	(6,000,000)
21,22 2N 1&9 15K 2AN	Bridge over Route I-78 and Amtrak, replacement	Essex	(28,000,000)
21 2N	Relocate NJDOT maintenance facility property needed for viaduct project	Essex	(10,000,000)
35 8M	Bridge over Navesink River, replacement	Monmouth	(23,450,000)
35 12P	Victory Bridge over Raritan River, replacement	Middlesex	(1,000,000)
	Black River Road bridge over Herzog Brook, replacement	Somerset	(1,500,000)
	Burnt Hill Road bridge, replacement	Somerset	(1,300,000)
	Cranbury Neck Road bridge over Millstone River, replacement	Mercer Middlesex	(5,120,000)
	High Street bridge over Tenakill Broad, replacement	Bergen	(1,670,000)
	Ramp construction from Jackson Street to Raymond Boulevard	Essex	(1,250,000)
	Jacksonville-Hedding Road bridge over Assiscunk Creek, replacement	Burlington	(2,985,000)
	Kinnaman Avenue bridge over Pohatcong Creek, replacement	Warren	(1,600,000)
	Love Road bridge over Chambers Brook, replacement	Somerset	(1,400,000)
2. DESIGN			
	Doremus Avenue bridge over Oak Island Yards, replacement	Essex	(4,000,000)
	Tomlin Station Road bridges over Nehonsey Brook and White Sluice Race, replacement	Gloucester	(250,000)
1&9 1K 46	Eastbound bridge over Route 4, replacement	Bergen	(1,250,000)
1&9T (25)	Bridge over St. Paul's Avenue and Conrail, replacement	Hudson	(3,000,000)
9 1M	Rehabilitate existing Route 9 Edison Bridge	Middlesex	(300,000)
9 3Q	Bridge over North Branch of Forked River, replacement	Ocean	(400,000)
9 17B	Bridge over Bass River, replacement	Burlington	(650,000)
9 23 E	Bridge over County Route 522 and Conrail, replacement	Monmouth	(300,000)

21 (6)	NJ Transit bridge over Route 21, replacement	Essex	(1,900,000)
40 12 E	Bridge over Babcock Creek, replacement	Atlantic	(500,000)
46 7L 8K	Two bridges over Rockaway River, Route 15, NJ Transit Boonton Line, and M&E Line, replacement	Morris	(1,500,000)
47 4E 5D	Bridge over Dennis Creek, replacement	Cape May	(350,000)
49 2A	Bridge over Salem Creek, replacement	Salem	(700,000)
206 10C	Bridge over Little Shabakunk Creek, replacement	Mercer	(300,000)
	Groveville-Allentown Road bridge over Doctors Creek, replacement	Mercer	(400,000)
	Kennedy Avenue bridge over Wallkill River, replacement	Sussex	(220,000)
3. RIGHT-OF-WAY			
35 5J 3H 71	Bridge over Shark River and North Channel, replacement	Monmouth	(2,400,000)
50 2E 3B	Bridge over Tuckahoe River, replacement	Atlantic	(150,000)
	Colonial Road bridge over tributary to Pond Brook, replacement	Bergen	(350,000)
	Daniel Road bridge over Manalapan Brook, replacement	Middlesex	(54,000)
	Iron Bridge Road bridge over Crosswicks Creek, replacement	Mercer Burlington	(200,000)
	Lamington Road bridge, replacement	Somerset	(200,000)
	Lumberton-Vincentown Road bridge over south branch of Rancocas Creek, replacement	Burlington	(100,000)
	Maple Grange Road bridge over Pochuck Creek, replacement	Sussex	(75,000)
	Marlton Pike bridge over southwest branch of Rancocas Creek, replacement	Burlington	(50,000)
	Mount Pleasant Place bridge over west branch of Rahway River, replacement	Essex	(150,000)
	Vincentown-Retreat Road bridge over south branch of Rancocas Creek, replacement	Burlington	(150,000)
CR 542	Wading River bridge over Wading River, replacement of pilings and bulkhead	Burlington	(100,000)
	Washington Avenue bridge over Furnace Brook, replacement	Warren	(20,000)
4. PLANNING			
	Historic bridge preservation plan	Various	(300,000)
5. PROJECT DEVELOPMENT			
	Bridge management system	Various	(400,000)

1&9 4T	Bridge over Elizabeth River, replacement	Union	(750,000)
7 (2)	Bridge over Hackensack River, Wittpen Bridge, replacement	Hudson	(750,000)
36 3K	Bridge over Shrewsbury River, replacement	Monmouth	(1,000,000)
52 (1)	Bridges over Beach Thorofare, Rainbow Channel, Elbow Thorofare, and Ship Channel, replacement	Cape May	(750,000)

In order to provide the department with the flexibility to administer appropriations of federal funds, the commissioner may use moneys from the federal programs identified hereinabove as Interstate Program, Demonstration Program, Congestion Mitigation and Air Quality Program, National Highway System, Surface Transportation Program, and Bridge Program to finance the cost of the construction, design, right-of-way, planning, and project development phases of work of any project listed under any federal program pursuant to the following transfer provisions. The Commissioner of Transportation may transfer federal funds among projects having the same phase of work, subject to the approval of the Director of the Division of Budget and Accounting. The commissioner shall apply to the Director of the Division of Budget and Accounting for permission to transfer federal funds among projects having different phases of work. If the Director of the Division of Budget and Accounting shall consent thereto, the request to transfer federal funds among projects having different phases of work shall be transmitted to the Legislative Budget and Finance Officer for approval or disapproval and returned to the Director of the Division of Budget and Accounting. The Joint Budget Oversight Committee or its successor shall be empowered to review all transfers submitted to the Legislative Budget and Finance Officer and may direct the Legislative Budget and Finance Officer to approve or disapprove any transfer.

The unexpended balances of federal appropriations as of June 30, 1997 in this department are appropriated for expenditure on previously and currently authorized projects.

62 Public Transportation

96-6310 Federal Transit Administration $268,750,000
Total Appropriation, Public Transportation $268,750,000

Special Purpose:
FEDERAL TRANSIT ADMINISTRATION:

Comet II overhaul	Various	($22,500,000)
Montclair Connection	Morris Essex Passaic	(19,340,000)
Rail support facilities and equipment	Various	(1,200,000)
Signals and communications	Various	(12,930,000)
Track program	Various	(4,000,000)
Tunnel and bridge rehabilitation	Various	(4,400,000)
Vehicle overhaul - rail	Various	(6,900,000)
Amtrak - Northeast Corridor Joint Benefit Agreement	Various	(25,000,000)
Accessibility for people with disabilities, platform and stations	Various	(4,300,000)
Automatic passenger transportation systems	Various	(1,060,000)
Building capital leases	Various	(8,330,000)
Bus support facilities and equipment	Various	(1,000,000)
Clean Air programs	Various	(1,120,000)

Emission control/rebuilt engines	Various	(1,000,000)
Environmental compliance	Various	(1,000,000)
Hamilton Transit Complex	Mercer	(5,600,000)
Hoboken Terminal/yard rehabilitation	Hudson	(5,000,000)
Information services	Various	(3,000,000)
Light rail transit base maintenance facility	Essex	(15,900,000)
Market Street bus maintenance facility	Passaic	(3,000,000)
Newark Penn Station	Essex	(1,960,000)
Penn Station New York improvements		(3,300,000)
Rail support facilities and equipment	Various	(3,500,000)
Study and development	Various	(220,000)
Vehicle overhaul - bus	Various	(8,940,000)
Vehicle overhaul - rail	Various	(5,190,000)
Hudson-Bergen Light Rail Transit System	Hudson Bergen	(64,000,000)
Secaucus Transfer	Bergen Hudson Passaic	(26,260,000)
Operating assistance	Various	(8,800,000)

64 Regulation and General Management

05-6070 Access and Use Management. $8,000,000
Total Appropriation, Regulation and General Management $8,000,000
Special Purpose:
Airport Fund . . . . . ($8,000,000)

Total Appropriation, Department of Transportation $899,988,000

82 DEPARTMENT OF THE TREASURY

30 Educational, Cultural and Intellectual Development

36 Higher Educational Services

46-2150 Student Assistance Programs. $14,502,000
Total Appropriation, Higher Educational Services $14,502,000
Personal Services:
Salaries and Wages . . . . . ($7,039,000)
Employee Benefits . . . . . (1,850,000)
Materials and Supplies . . . . . (417,000)
Services Other Than Personal . . . . . (2,079,000)
Maintenance and Fixed Charges . . . . . (874,000)
Special Purpose:
Other Special Purpose . . . . . (385,000)
State Aid and Grants:
State Student Incentive Grant Program . . . . (1,310,000)
National Health Service Corps -- Student Loan Repayment Program . . . . . (182,000)
Additions, Improvements and Equipment . . . . . (366,000)

50 Economic Planning, Development and Security
52 Economic Regulation

54-2007	Utility Regulation	$600,000
56-2014	Energy Resource Management	1,725,000
	Total Appropriation, Economic Regulation	$2,325,000
Personal Services:		
	Salaries and Wages	($1,043,000)
	Employee Benefits	(256,000)
Materials and Supplies		(1,000)
Services Other Than Personal		(230,000)
Special Purpose:		
	Division of Gas Expansion	(600,000)
	Institutional Conservation Program --	
	Schools and Hospitals	(105,000)
	Other Special Purpose	(90,000)
	Total Appropriation, Department of the Treasury	$16,827,000

98 THE JUDICIARY
10 Public Safety and Criminal Justice
15 Judicial Services

04-9725	Criminal Courts	$325,000
05-9730	Family Courts	2,000,000
05-9813	Family Courts	.691,000
05-9823	Family Courts	830,000
05-9833	Family Courts	363,000
05-9843	Family Courts	.406,000
05-9853	Family Courts	769,000
05-9863	Family Courts	574,000
05-9873	Family Courts	570,000
05-9883	Family Courts	684,000
05-9893	Family Courts	.177,000
05-9903	Family Courts	257,000
05-9913	Family Courts	435,000
05-9923	Family Courts	.810,000
05-9933	Family Courts	396,000
05-9943	Family Courts	401,000
05-9953	Family Courts	.849,000
07-9740	Probation Services	.8,402,000
07-9814	Probation Services	.1,688,000
07-9824	Probation Services	.1,973,000
07-9834	Probation Services	1,481,000
07-9844	Probation Services	3,189,000
07-9854	Probation Services	4,672,000
07-9864	Probation Services	2,609,000
07-9874	Probation Services	.1,720,000
07-9884	Probation Services	1,588,000
07-9894	Probation Services	1,582,000
07-9904	Probation Services	.1,085,000
07-9914	Probation Services	2,156,000
07-9924	Probation Services	2,003,000
07-9934	Probation Services	1,510,000
07-9944	Probation Services	1,204,000

07-9954 Probation Services 2,299,000
Total Appropriation, Judicial Services $49,698,000
Personal Services:
Salaries and Wages ..... ($30,254,000)
Employee Benefits ..... (8,156,000)
Materials and Supplies ..... (486,000)
Services Other Than Personal ..... (2,446,000)
Maintenance and Other Fixed Charges ..... (362,000)
State Aid and Grants:
Child Support and Paternity Program Title IV-D (Family Court) ..... (2,000,000)
Child Support and Paternity Program Title IV-D (Probation) ..... (5,500,000)
Additions, Improvements and Equipment ..... (494,000)

Total Appropriation, Judiciary $49,698,000

Total Appropriation, Federal Funds $6,041,554,000

Notwithstanding any State law to the contrary, no State agency shall accept or expend federal funds except as appropriated by the Legislature or otherwise provided in this act.

In addition to the federal funds appropriated in this act, there are appropriated the following federal funds, subject to allotment by the Director of the Division of Budget and Accounting: emergency disaster aid funds; pass-through grants to political subdivisions of the State over which the State is not permitted to exercise discretion in the use or distribution of the funds and for which no State matching funds are required; the first 25 percent of unanticipated grant awards, and up to 25 percent of increases in previously anticipated grant awards for which no State matching funds are required except, for the purpose of this section, federal funds received by one executive agency that are ultimately expended by another executive agency shall not be considered pass-through grants; federal financial aid funds for students attending post-secondary educational institutions in excess of the amount specifically appropriated; provided however, that the Director of the Division of Budget and Accounting shall notify the Legislative Budget and Finance Officer of such grants; and all other grants of $500,000 or less which have been awarded competitively.

For the purposes of federal funds appropriations, "political subdivisions of the State" means counties, municipalities, school districts, or agencies thereof, regional, county or municipal authorities, or districts other than interstate authorities or districts; "discretion" refers to any action in which an agency may determine either the amount of funds to be allocated or the recipient of the allocation; and "grants" refers to one-time, or time limited awards, which are received pursuant to submission of a grant application in competition with other grant applications.

The unexpended balances of federal funds as of June 30, 1997 are continued for the same purposes.

The Director of the Division of Budget and Accounting shall inform the Legislative Budget and Finance Officer by November 1, 1997 of any unexpended balances which are continued.

The appropriate executive agencies shall prepare and submit to the Senate Budget and Appropriations Committee and the Assembly Appropriations Committee, or their successors, by March 1, 1998, reports on proposed expenditures during fiscal year 1998 for the following federal programs: the alcohol, drug abuse and mental health block grant; the education block grant; the community services block grant; the jobs training

partnership block grant; the low income energy assistance block grant; the maternal and child health block grant; the preventive health and health services block grant; the small cities block grant; the social services block grant; and the child care block grant. These reports shall account for all federal, State and local funds which are anticipated to be expended on block grant programs, shall provide an accounting of block grant expenditures during the prior fiscal year, and shall provide a detailed list of contracts awarded to provide service under the block grants.

Out of the appropriations herein, the Director of the Division of Budget and Accounting is empowered to approve payments to liquidate any unrecorded liabilities for materials delivered or services rendered in prior fiscal years, upon the written recommendations of any department head or his designated representative. The Director of the Division of Budget and Accounting shall reject any recommendations for payment which the director deems improper.

The sum herein appropriated to the Department of Transportation for the Hudson-Bergen Light Rail Transit System is hereby appropriated, to the extent necessary, to pay the principal of and interest on the grant anticipation notes issued by the New Jersey Transit Corporation.

To the extent that federal funds are received in fiscal year 1998 pursuant to the full funding grant agreement for the Hudson-Bergen Light Rail Transit System subsequent to the payment by the New Jersey Transportation Trust Fund Authority of its obligations under a Standby Deficiency Agreement, such federal funds are hereby appropriated to the New Jersey Transportation Trust Fund Authority to be allotted to projects as shall be determined by the Commissioner of Transportation.

In order to permit flexibility in the handling of appropriations and ensure the timely payment of claims to providers of medical services, amounts may be transferred to and from the various items of appropriation within the General Medical Services program classification, and within the federal matching funding, in the Division of Medical Assistance and Health Services in the Department of Human Services, and within the Medical Services for the Aged program classification, and within the federal matching funding, in the Division of Senior Services in the Department of Health and Senior Services, subject to the approval of the Director of the Division of Budget and Accounting. Notice thereof shall be provided to the Legislative Budget and Finance Officer on the effective date of the approved transfer.

Grand Total Appropriation, All Funds $22,828,192,000

2. The Director of the Division of Budget and Accounting shall make such correction of the title, text or account number of an appropriation necessary to make such appropriation available in accordance with legislative intent. Such correction shall be by written ruling, reciting in appropriate detail the facts thereof, and reasons therefor, attested by the signature of the Director of the Division of Budget and Accounting and filed in the Division of Budget and Accounting of the Department of the Treasury as an official record thereof, and any action thereunder, including disbursement and the audit thereof, shall be legally binding and of full force and virtue. An official copy of each such written ruling shall be transmitted to the Legislative Budget and Finance Officer, upon the effective date of the ruling.

3. There are appropriated, subject to allotment by the Director of the Division of Budget and Accounting and with the approval of the Legislative Budget and Finance Officer, private contributions, revolving funds and dedicated funds received, receivable or estimated to be received for the use of the State or its agencies in excess of those anticipated, unless otherwise provided herein, and the unexpended balances as of June 30, 1997 of such funds, subject to the approval of the Director of the Division of Budget and Accounting.

4. There are appropriated, subject to allotment by the Director of the Division of Budget and Accounting, the following: sums required to refund amounts credited to the State Treasury which do not represent State revenue; sums received representing insurance to cover losses by fire and other casualties and the unexpended balance as of June 30, 1997 of such sums; sums received by any State department or agency from the sale of equipment, when such sums are received in lieu of trade-in value in the replacement of such equipment; and sums received in the State Treasury representing refunds of payments made from appropriations provided in this act.

5. There are appropriated, subject to allotment by the Director of the Division of Budget and Accounting, sums required to satisfy receivables previously established from which non-reimbursable costs and ineligible expenditures have been incurred.

6. There are appropriated, subject to allotment by the Director of the Division of Budget and Accounting, from federal or other non-State sources amounts not to exceed the cost of services necessary to document and support retroactive claims.

7. There are appropriated such sums as may be required to pay interest liabilities to the federal government as required by the Treasury/State agreement pursuant to the provisions of the Cash Management Improvement Act of 1990, subject to the approval of the Director of the Division of Budget and Accounting.

8. No funds shall be expended by any State Department in the Executive Branch in connection with a contract for the production of films, videotapes, video conferences, video-assisted training or multi-media projects that include video images unless the New Jersey Public Broadcasting Authority is invited to submit a bid or price quote as part of any formal or informal contract award process.

9. The unexpended balances as of June 30, 1997 in the accounts of the several departments and agencies heretofore appropriated or established in the category of Additions, Improvements and Equipment are appropriated, subject to the approval of the Director of the Division of Budget and Accounting.

10. Unless otherwise provided, balances remaining as of June 30, 1997 in accounts of appropriations enacted subsequent to April 1, 1997 are appropriated.

11. a. To permit flexibility in the handling of appropriations, any department or agency that receives an appropriation by law, may, subject to the provisions of this section, or unless otherwise provided in this act, apply to the Director of the Division of Budget and Accounting for permission to transfer funds from one item of appropriation to a different item of appropriation. For the purposes of this section, "item of appropriation" means the spending authority identified by an organization code, appropriation source, and program code, unique to the item. If the director consents to the transfer, the amount transferred shall be credited by the director to the designated item of appropriation and notice thereof shall be provided to the Legislative Budget and Finance Officer on the effective date of the approved transfer. However, the director, after consenting thereto, shall submit the following transfer requests to the Legislative Budget and Finance Officer for legislative approval or disapproval unless otherwise provided in this act:

(1) Requests for the transfer of State and other nonfederal funds, in amounts greater than $300,000, to or from any item of appropriation;

(2) Requests for the transfer of State and other nonfederal funds, in amounts greater than $50,000, to or from any Special Purpose account as defined by major object 5, or Grant account, as defined by major object 6, within an item of appropriation, from or to a different item of appropriation;

(3) Requests for the transfer of State and other nonfederal funds, in amounts greater than $50,000, to or from any Special Purpose or Grant account in which the identifying organization code, appropriation source, and program code, remain the same, provided that the transfer would effect a change in the legislative intent of the appropriations;

(4) Requests for the transfer of State funds, in amounts greater than $50,000, between items of appropriation in different departments or between items of appropriation in different appropriation classifications herein entitled as Direct State Services, Grants-In-Aid, State Aid, Capital Construction and Debt Service;

(5) Requests for the transfer of federal funds, in amounts greater than $300,000, from one item of appropriation to another item of appropriation, if the amount of the transfer to an item in combination with the amount of the appropriation to that item would result in an amount in excess of the appropriation authority for that item, as defined by the program class;

(6) Requests for such other transfers as are appropriate in order to ensure compliance with the legislative intent of this act.

b. The Joint Budget Oversight Committee or its successor may review all transfer requests submitted for legislative approval and may direct the Legislative Budget and Finance Officer to approve or disapprove any such transfer request. Transfers submitted for legislative approval pursuant to paragraph (4) of subsection a. of this section shall be made only if approved by the Legislative Budget and Finance Officer at the direction of the committee.

c. The Legislative Budget and Finance Officer shall approve or disapprove requests for the transfer of funds submitted for legislative approval within 10 working days of the physical receipt thereof and shall return them to the director. If any provision of this act or any supplement thereto requires the Legislative Budget and Finance Officer to approve or disapprove requests for the transfer of funds, the request shall be deemed to be approved by the Legislative Budget and Finance Officer if, within 20 working days of the physical receipt of the request, he has not disapproved the request and so notified the requesting officer. However, this time period shall not pertain to any transfer request under review by the Joint Budget Oversight Committee or its successor, provided notice of such review has been given to the director.

d. No amount appropriated for any capital improvement shall be used for any temporary purpose except extraordinary snow removal or extraordinary transportation maintenance subject to the approval of the Director of the Division of Budget and Accounting. However, an amount from any appropriation for an item of capital improvement may be transferred to any other item of capital improvement subject to the approval of the director, and, if in an amount greater than $300,000, subject to the approval of the Legislative Budget and Finance Officer.

e. The provisions of subsections a. through d. of this section shall not apply to appropriations made to the Legislative branch of State government. To permit flexibility in the handling of these appropriations, amounts may be transferred to and from the various items of appropriation by the appropriate officer or his designee with notification given to the director on the effective date thereof.

f. Notwithstanding any provisions of this section to the contrary, transfers to and from the Special Purpose appropriation to the Governor for

emergency or necessity under the State Contingency Fund and transfers from the appropriations to the various accounts in the category of Salary and Other Benefits, both in the Inter-Departmental Accounts, shall not be subject to legislative approval or disapproval.

12. When the duties or responsibilities of any department or branch, except for the Legislature and any of its agencies, are transferred to any other department or branch, it shall be the duty of the Director of the Division of Budget and Accounting and the director is hereby empowered to transfer funds appropriated for the maintenance and operation of any such department or branch to such department or branch as shall be charged with the responsibility of administering the functions so transferred. The Director of the Division of Budget and Accounting shall have the authority to create such new accounts as may be necessary to carry out the intent of the transfer. Information copies of such transfers shall be transmitted to the Legislative Budget and Finance Officer upon the effective date thereof. If such transfers may be required among appropriations made to the Legislature and its agencies, the Legislative Budget and Finance Officer, subject to the approval of the President of the Senate and the Speaker of the General Assembly, is hereby empowered and it shall be that officer's duty to effect such transactions hereinabove described and to notify the Director of the Division of Budget and Accounting upon the effective date thereof.

13. The Director of the Division of Budget and Accounting is empowered and it shall be the director's duty in the disbursement of funds for payment of expenses classified as employee benefits, debt service, rent, telephone, motor pool, insurance, postage, lease payments on equipment purchases and compensation awards to credit or transfer to the Department of the Treasury, to an Inter-Departmental account, or to the General Fund, as applicable, from any other department, branch or non-State fund source out of funds appropriated thereto, such sums as may be required to cover the costs of such payment attributable to such other department, branch or non-State fund source as the director shall determine. Receipts in any non-State funds are appropriated for the purpose of such transfer.

14. The Director of the Division of Budget and Accounting is empowered to establish revolving and dedicated funds as required. Notice of the establishment of such funds shall be transmitted to the Legislative Budget and Finance Officer, upon the effective date thereof.

15. The Governor is empowered to direct the State Treasurer to transfer from any State department to any other State department such sums as may

be necessary for the cost of any emergency occasioned by aggression, civil disturbance, sabotage, disaster, or for flood loss expenses for State owned structures to comply with Federal Insurance Administration requirements.

16. Upon request of any department receiving non-State funds, the Director of the Division of Budget and Accounting is empowered to transfer such funds from that department to other departments as may be charged with the responsibility for the expenditure thereof.

17. From appropriations to the various departments of State government, the Director of the Division of Budget and Accounting is empowered to transfer sums sufficient to pay any obligation due and owing in any other department or agency.

18. Notwithstanding the provision of any other law, the State Treasurer may transfer from any fund in his custody, deposited with the State Treasurer pursuant to law, sufficient sums to enable payments from any appropriation made herein for any obligations due and owing. Any such transfer shall be restored out of the taxes or other revenue received in the Treasury in support of this act. Except for transfers from the several funds whose statutes provide for interest earnings to accrue to the fund, all such transfers shall be without interest. When the statute provides for interest earnings, it shall be calculated at the average rate of earnings during the fiscal year from the State's general investments.

19. Unless otherwise provided, federal grant and project receipts representing reimbursement for agency and central support services, indirect and administrative costs, as determined by the Director of the Division of Budget and Accounting, shall be transmitted to the Department of the Treasury for credit to the General Fund; provided however, that a portion of the indirect and administrative cost recoveries received which are in excess of the amount anticipated may be reclassified into a dedicated account and returned to State departments and agencies, as determined by the Director of the Division of Budget and Accounting, who shall notify the Legislative Budget and Finance Officer of the amount of such funds returned, the departments or agencies receiving such funds and the purpose for which such funds will be used, within 10 working days of any such transaction. Such receipts shall be forwarded to the Director of the Division of Budget and Accounting upon completion of the project or at the end of the fiscal year, whichever occurs earlier.

20. Notwithstanding the provisions of P.L.1954, c.48 (C.52:34-6 et seq.), sums appropriated for services for the various State departments and agencies may be expended for the purchase of contract services from the New Jersey Marine Sciences Consortium as if it were a State government agency pursuant to subsection (a) of section 5 of P.L.1954, c.48 (C.52:34-10).

21. The Director of the Division of Budget and Accounting may settle any claim not exceeding $2,000 due and owing to the State.

22. Notwithstanding any other provisions of this act, the State Treasurer, upon warrant of the Director of the Division of Budget and Accounting, shall pay any claim not exceeding $4,000 out of any appropriations made to the several departments, provided such claim is recommended for payment by the head of such department. The Legislative Budget and Finance Officer shall be notified of the amount and description of any such claim at the time such payment is made. Any claimant who has presented a claim not exceeding $4,000, which has been denied or not recommended by the head of such department, shall be precluded from presenting said claim to the Legislature for consideration.

23. Out of the appropriations herein, the Director of the Division of Budget and Accounting is empowered to approve payments to liquidate any unrecorded liabilities for materials delivered or services rendered in prior fiscal years, upon the written recommendation of any department head, or his designated representative. The Director of the Division of Budget and Accounting shall reject any recommendations for payment which the director deems improper.

24. The Director of the Division of Budget and Accounting may, upon application therefor, allot from appropriations made to any official, department, commission or board, a sum to establish a petty cash fund for the payment of expenses under rules and regulations established by the director. Allotments thus made by the Director of the Division of Budget and Accounting shall be paid to such person as shall be designated as the custodian thereof by the official, department, commission or board making a request therefor, and the money thus allotted shall be disbursed by such custodian who shall require a receipt therefor from all persons obtaining money from the fund. The director shall make regulations governing disbursement from petty cash funds.

25. The Legislative Budget and Finance Officer with the cooperation and assistance of the Director of the Division of Budget and Accounting is authorized to adjust this appropriations bill to reflect any reorganizations which have been implemented since the presentation of the Governor's Budget Recommendation Document dated January 29, 1997.

26. State agencies shall prepare and submit a copy of their agency or departmental budget requests for fiscal year 1999 by October 1, 1997 and a copy of their spending plans involving all State, federal and other non-State funds to the Director of the Division of Budget and Accounting and the Legislative Budget and Finance Officer by November 1, 1997, and updated spending plans on February 1, and May 1, 1998. The spending plans shall account for any changes in departmental spending which differ from this appropriation act and all supplements to this act. The spending plans shall be submitted on forms specified by the Director of the Division of Budget and Accounting.

27. The Director of the Division of Budget and Accounting is empowered to transfer or credit appropriations to any State agency for services provided, or to be provided, by that agency to any other agency or department; provided further, however, that funds have been appropriated or allocated to such agency or department for the purpose of purchasing these services.

28. The Director of the Division of Budget and Accounting shall provide the Legislative Budget and Finance Officer with copies of all BB-4s, Application for Non-State funds, and accompanying project proposals or grant applications, which require a State match and that may commit or require State support after the grant's expiration.

29. Notwithstanding the provisions of P.L.1943, c.188 (C.52:14-17.1 et seq.), the rate of reimbursement for mileage allowed for employees traveling by personal automobile on official business shall be $.25 per mile.

30. Notwithstanding any other provisions in this act, no unexpended balances as of June 30, 1997 are appropriated without the approval of the Director of the Division of Budget and Accounting, except that the Legislative Branch of State government shall be exempt from this provision. The Director of the Division of Budget and Accounting shall notify the Legislative Budget and Finance Officer of those instances in which unexpended balances are not appropriated pursuant to this section.

31. There are appropriated, subject to the approval of the Director of the Division of Budget and Accounting, from interest earnings of the various bond funds, such sums as may be necessary for the State to comply with the federal "Tax Reform Act of 1986," Pub.L.99-514 (26 U.S.C. s.1 et seq.), which requires issuers of tax-exempt debt obligations to rebate any arbitrage earnings to the federal government.

32. In order to provide effective cash flow management for revenues and expenditures of the General Fund and the Property Tax Relief Fund in the implementation of the fiscal year 1998 annual appropriations act, there are appropriated from the General Fund such sums as may be required to pay the principal of and interest on tax and revenue anticipation notes including notes in the form of commercial paper (hereinafter collectively referred to as short-term notes), together with any costs or obligations relating to the issuance thereof or contracts related thereto, according to the terms set forth herein. Provided further that, to the extent that short-term notes are issued for cash flow management purposes in connection with the Property Tax Relief Fund, there are appropriated from the Property Tax Relief Fund such sums as may be required to pay the principal of those short-term notes.

33. The State Treasurer is authorized to issue short-term notes, which notes shall not constitute a general obligation of the State or a debt or a liability within the meaning of the State Constitution and the State Treasurer is authorized to pay any costs or obligations relating to the issuance of such short-term notes or contracts relating thereto. Such short-term notes shall be issued in such amounts and at such times as the State Treasurer shall deem necessary for the above stated purposes and for the payment of related costs, and on such terms and conditions, sold in such manner and at such prices, bearing interest at such fixed or variable rate or rates, renewable at such time or times, and entitled to such security, and using such paying agents as shall be determined by the State Treasurer. The State Treasurer is authorized to enter into such contracts and to take such other actions, all as determined by the State Treasurer to be appropriate to carry out the above cash flow management purposes. The State Treasurer shall give consideration to New Jersey-based vendors in entering into such contracts. Whenever the State Treasurer issues such short-term notes, the State Treasurer shall report on each such issuance to the Chairman of the Senate Budget and Appropriations Committee and the Chairman of the Assembly Appropriations Committee.

34. None of the funds appropriated to the Executive Branch of State government for Information Processing, Development, Telecommunica-

tions, and Related Services (External), Information Processing-Internal, and Information Processing and Telecommunications Equipment shall be available to pay for any information processing services or equipment without the review of the Office of Telecommunications and Information Systems and compliance with Statewide policies and standards; authorization and approval by the Office of Telecommunications and Information Systems is required for expenditure of amounts in excess of the current Direct Purchase Authorization (DPA) threshold.

35. The unexpended balances as of June 30, 1997 in accounts that are funded by Interfund Transfers are appropriated, subject to the approval of the Director of the Division of Budget and Accounting.

36. Notwithstanding the provisions of P.L.1990, c.44 (C.52:9H-14 et seq.), balances in the Surplus Revenue Fund may be appropriated to offset reductions in federal funds.

37. Notwithstanding the provisions of P.L.1983, c.303 (C.52:27H-60), each of the municipalities in which an enterprise zone is designated whose separate account in the enterprise zone assistance fund was reduced in fiscal year 1995 shall be entitled to receive such additional sums, not to exceed 100% of the annual sales tax revenue collected by certified vendors in their individual zones, to be distributed in a cumulative amount not to exceed: Bridgeton ($690,000), Elizabeth ($3,300,000), Jersey City ($3,870,000), Kearny ($780,000), Orange ($285,000), Vineland ($2,655,000), subject to the approval of the Director of the Division of Budget and Accounting.

38. Whenever any county, municipality, or school district entitled to receive State aid from appropriations made herein withholds funds from State agencies entitled to payment for services, the Director of the Division of Budget and Accounting is authorized to withhold State aid payments to such county, municipality, or school district and transfer the same as payment for funds so withheld.

39. If the sum provided in this act for a State aid payment pursuant to formula is insufficient to meet the full requirements of the formula, all recipients of State aid shall have their allocation proportionately reduced, subject to the approval of the Director of the Division of Budget and Accounting.

40. There is appropriated $560,000 from the Alcohol Education, Rehabilitation and Enforcement Fund for transfer to the General Fund as State revenue.

41. There is appropriated $450,000 from the Housing Assistance Fund for transfer to the General Fund as State revenue in reimbursement for prior years' expenditures for purposes consistent with those authorized by the New Jersey Housing Assistance Bond Act of 1968, P.L. 1968, c.127.

42. There is appropriated $2,750,000 from the Mortgage Assistance Fund for transfer to the General Fund as State revenue.

43. There is appropriated $7,000,000 from the New Home Warranty Security Fund for transfer to the General Fund as State revenue.

44. There is appropriated $9,000,000 from the .53 surcharge component of the Health Care Subsidy Fund for transfer to the General Fund as State revenue.

45. Notwithstanding any other law to the contrary, each local school district which participates in the Special Education Medicaid Initiative shall receive a percentage of the federal revenue that the district's participation yields for the current year claims. The percentage share for local school districts shall be 15% of the first $53,000,000 of federal reimbursements realized. After federal reimbursements are realized in excess of $53,000,000, local school districts shall receive a percentage of such revenue based on the level of participation they achieve. Each district's reimbursement percentage shall be calculated as the product of its special education enrollment multiplied by the percentage of its enrolled pupils eligible for the federal free lunch program. Districts with a participation rate of 80% or more shall receive 85% of its share of federal revenues in excess of $53,000,000 in recognition of their successful efforts to maximize participation. Each district with a participation rate of 60% to 79% shall receive 50% of its share of federal revenues in excess of $53,000,000. Each district with a participation rate of less than 60% shall receive 15% of its share of federal revenues in excess of $53,000,000.

46. The administrative costs of the Special Education Medicaid Initiative, including the participation of a consultant, are appropriated and shall be paid from the revenue received, subject to the approval of the Director of the Division of Budget and Accounting.

47. There are appropriated, subject to the approval of the Director of the Division of Budget and Accounting, from the General Fund such sums as are necessary to pay interest, at the average rate of earnings during the fiscal year from the State's general investments, to those bond funds that have borrowed money from the General Fund or other bond funds and that have insufficient resources to accrue and pay the interest expense on such borrowing.

48. In addition to the amounts appropriated hereinabove, such sums as may be necessary are appropriated to fund the costs of the collection of debts, taxes and other fees and charges owed to the State, including but not limited to the services of auditors and attorneys and enhanced compliance programs, subject to the approval of the Director of the Division of Budget and Accounting.

49. Notwithstanding any provision of law to the contrary, any unexpected balance remaining in the New Jersey Medical Malpractice Reinsurance Recovery Fund after all financial obligations of the New Jersey Medical Malpractice Reinsurance Association are satisfied, as determined by the Director of the Division of Budget and Accounting, is appropriated for transfer to the General Fund as State revenue.

50. There is appropriated, subject to the approval of the Director of the Division of Budget and Accounting, for each project identified below funds not to exceed the amount below for each purpose identified, provided that that project does not receive before April 1,1998, an appropriation from bond funds established pursuant to the "Port of New Jersey Revitalization, Dredging, Environmental Cleanup, Lake Restoration, and Delaware Bay Area Economic Development Bond Act of 1996," P.L.1996, c.70 or the "Urban and Rural Centers Unsafe Buildings Demolition Bond Act," P.L.1997, c.125.

Echo Lake, Howell Township	$150,000
Shadow Lake, Middletown Township	$102,000
Wesley Lake Dredging	$ 50,000
Franklin Borough Lake Dredging	$275,000
McCarter Pond Dredging, Fair Haven	$100,000
Blackwood Lake	$200,000
Seawood Harbor Dredge Project	$100,000
Freehold Demolition Project	$200,000

51. Notwithstanding any law or regulation to the contrary, undistributed United Hospital Medical Center's (UHMC) calendar year (CY) 1997 Charity Care and Hospital Health Care Subsidy (HHCS) balances shall be reallocated and distributed in accordance with all applicable federal laws and regulations and in the following manner:

Charity Care supplemental subsidies of $8,616,354 shall be made to Disproportionate Share Hospitals that meet all of the following criteria: (1) The hospital is eligible for a 1997 Charity Care subsidy under the methodology in P.L.1996, c.28 (C.26:2H-18.52 et al.). (2) The hospital drew its patients in 1995 from the same zip codes as UHMC. The Department of Health and Senior Services shall determine, using 1995 UB-PS data, those zip codes from which UHMC either drew at least 1% of its adult admissions or 2.5% of its pediatric admissions, or if UHMC admissions represented at least 5% of admissions to all hospitals from the zip code. (3) The hospital provided in 1995 at least 3% of the admissions for patients living in zip codes identified in (2) above that had inpatient admissions at hospitals other than UHMC.

HHCS allocations of $3,643,430 shall be made to Disproportionate Share Hospitals that meet all of the following criteria: (1) The hospital drew its patients in 1995 from the same zip codes as UHMC. The Division of Medical Assistance and Health Services (division) shall determine, using 1995 UB-PS data, those zip codes from which UHMC either drew at least 1% of its adult admissions or 2.5% of its pediatric admissions, or if UHMC admissions represented at least 5% of admissions to all hospitals from that zip code. (2) The hospital provided in 1995 at least 5% of Hospital Relief Subsidy Fund (HRSF) problem-billed admissions for patients living in zip codes identified in (1) above that had inpatient HRSF problem-billed admissions at hospitals other than UHMC.

The division shall pay eligible hospitals 50% percent of the available Charity Care funding in a lump sum payment during calendar year 1997. This payment will be final and will not be subject to reconciliation. The formula for this payment is the percentage that each eligible hospital represents of all inpatient admissions from zip codes identified in the preceding paragraph multiplied by $4,308,177. The amount remaining shall be distributed in a lump sum payment during State fiscal year 1998 but after March 1, 1998. This amount shall be distributed to eligible hospitals identified in the preceding paragraph. The Department of Heath and Senior Services shall compare charity care priced claims written off between March 1, 1997 and December 31, 1997 with charity care priced claims written off between March 1, 1996 and December 31, 1996. If the sum of the positive differences between the 1997 period and the 1996 period is greater than $8,616,354, each hospital shall receive a payment equal to its

portion of the increase multiplied by $8,616,354, minus the amount paid out above. If the sum of the positive differences between the 1997 period and the 1996 period is less than $8,616,354, each hospital shall receive a payment equal to its actual increase minus the amount paid out above. Any amounts remaining shall be returned to the Unemployment Insurance Trust Fund as specified in P.L.1996, c.28 (C.26:2H-18.52 et al.).

The HHCS to be reallocated shall be redistributed among eligible hospitals based upon an eligible hospital's percentage of market share HRSF problem-billed admissions as a percentage of all market share HRSF problem-billed admissions of eligible hospitals. The reallocated funds shall be distributed on a monthly basis, beginning July 1997, through the remaining months of calendar year 1997.

When the data source utilized to calculate and distribute future Disproportionate Share Hospital (DSH) payments contains UHMC data, or any other hospital which is not eligible to receive payments in the distribution period due to its closure, the Statewide DSH distribution shall be calculated, as defined in N.J.A.C.10:52-8.2 for all hospitals in the data source, and shall be adjusted for the hospital closure, using the same methodology as defined in the preceding paragraphs.

52. This act shall take effect July 1, 1997.

Approved June 27, 1997.

CHAPTER 132

AN ACT appropriating funds from the Petroleum Overcharge Reimbursement Fund to the Department of Community Affairs.

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

1. There is appropriated, from the "Petroleum Overcharge Reimbursement Fund," created pursuant to section 1 of P.L.1987, c.231 (C.52:18A-209), the sum of $2,380,000 to the Department of Community Affairs to be used for retrofitting or replacement of heating systems or other energy-related conservation measures as warranted, for low-income households. The Commissioner of the Department of Community Affairs shall administer the distribution of these monies.

2. This act shall take effect immediately.

Approved June 27, 1997.

CHAPTER 133

A SUPPLEMENT to "An Act making appropriations for the support of the State Government and the several public purposes for the fiscal year ending June 30, 1997 and regulating the disbursement thereof," approved June 28, 1996 (P.L.1996, c.42.).

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

1. Upon certification by the Director of the Division of Budget and Accounting that federal funds to support the expenditures listed below are available, the following sums are appropriated:

FEDERAL FUNDS
46 DEPARTMENT OF HEALTH AND SENIOR SERVICES
20 Physical and Mental Health
21 Health Services

12-4245 AIDS Services..... $7,281,000
Grants:
Comprehensive AIDS Resources Grant Grant.....($7,281,000)

2. All federal funds appropriated in this section may be accounted for in accordance with receivable accounting procedures as may be determined by the Director of the Division of Budget and Accounting.

3. This act shall take effect immediately.

Approved June 27, 1997.

CHAPTER 134

AN ACT concerning taxes on hazardous substances, amending P.L.1976, c.141.

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

1. Section 9 of P.L.1976, c.141 (C.58:10-23.11h) is amended to read as follows:

C.58:10-23.11h Imposition of tax; measurement; amount; return; filing; failure to file; penalty; presumptive evidence; powers of director.

9. a. There is hereby levied upon each owner or operator of one or more major facilities a tax to insure compensation for cleanup costs and

damages associated with any discharge of hazardous substances to be paid by the transferee; provided, however, that in the case of a major facility which operates as a public storage terminal for hazardous substances owned by others, the owner of the hazardous substance transferred to such major facility or his authorized agent shall be considered to be the transferee or transferor, as the case may be, for the purposes of this section and shall be deemed to be a taxpayer for purposes of this act. Where such person has failed to file a return or pay the tax imposed by this act within 60 days after the due date thereof, the director shall forthwith take appropriate steps to collect same from the owner of the hazardous substance. In the event the director is not successful in collecting said tax, then on notice to the owner or operator of the public storage terminal of said fact said owner or operator shall not release any hazardous substance owned by the taxpayer. The director may forthwith proceed to satisfy any tax liability of the taxpayer by seizing, selling or otherwise disposing of said hazardous substance to satisfy the taxpayer's tax liability and to take any further steps permitted by law for its collection. For the purposes of this act, public storage terminal shall mean a public or privately owned major facility operated for public use which is used for the storage or transfer of hazardous substances. The tax shall be measured by the number of barrels or the fair market value, as the case may be, of hazardous substances transferred to the major facility; provided, however, that the same barrel, including any products derived therefrom, subject to multiple transfers from or between major facilities shall be taxed only once at the point of the first transfer.

When a hazardous substance other than petroleum which has not been previously taxed is transferred from a major in-State facility to a facility which is not a major facility, the transferor shall be liable for tax payment for said transfer.

b. (1) The tax shall be $0.0150 per barrel transferred and in the case of the transfer of hazardous substances other than petroleum or petroleum products, the tax shall be the greater of $0.0150 per barrel or 1.0% of the fair market value of the product plus $0.0025 per barrel; provided, however, that with respect to transfers of hazardous substances other than petroleum or petroleum products which are or contain any precious metals to be recycled, refined, or rerefined in this State, which are transferred into this State subsequent to being recycled, refined or rerefined, or which are or contain elemental phosphorus, the tax shall be $0.0150 per barrel of the hazardous substance; and provided further, however, that the total aggregate tax due for any individual taxpayer which has paid the tax in the 1986 tax year shall not exceed 125% of the tax due and payable by that taxpayer during the 1986 tax year plus an additional $0.0025 per

barrel; except that for a hazardous substance which is directly converted to, and comprises more than 90% by weight of, a non-hazardous final product, the taxpayer shall pay no more than 100% of the tax due and payable in the 1986 tax year plus an additional $0.0025 per barrel. In computing 125% of the tax due and payable by the taxpayer during the 1986 tax year, for taxes due after January 1, 1996 from an owner or operator of one or more major facilities who has continuously since 1986 filed a combined tax return for more than one major facility but who prior to January 1, 1996 has closed one or more of those major facilities, a taxpayer shall include 1986 taxes arising from major facilities which (1) caused the taxpayer to incur a tax liability in 1986, and (2) continue to cause the taxpayer to incur a tax liability during the current tax year. For transfers which are or contain elemental phosphorus, in computing the 125% of the taxes due and payable by the taxpayer during the 1986 tax year, a taxpayer shall calculate the tax at $0.015 per barrel. For the purposes of this section, "precious metals" means gold, silver, osmium, platinum, palladium, iridium, rhodium, ruthenium and copper. In the event of a major discharge or series of discharges of petroleum or petroleum products resulting in reasonable claims against the fund exceeding the existing balance of the fund, the tax shall be levied at the rate of $0.04 per barrel of petroleum or petroleum products transferred, until the revenue produced by such increased rate equals 150% of the total dollar amount of all pending reasonable claims resulting from the discharge of petroleum or petroleum products; provided, however, that such rate may be set at less than $0.04 per barrel transferred if the administrator determines that the revenue produced by such lower rate will be sufficient to pay outstanding reasonable claims against the fund within one year of such levy. For the purposes of determining the existing balance of the fund, the administrator shall not include any amount in the fund collected from the $0.0025 per barrel increase in the tax imposed pursuant to P.L.1990, c.78 and dedicated for hazardous substance discharge prevention in accordance with paragraph (2) of this subsection.

Interest received on moneys in the fund shall be credited to the fund.

(2) An amount of $0.0025 per barrel collected from the proceeds of the tax imposed pursuant to this subsection shall be deposited into the New Jersey Spill Compensation Fund and dedicated for the purposes of P.L.1990, c.78 and for other authorized purposes designed to prevent the discharge of a hazardous substance.

c. (1) Every taxpayer and owner or operator of a public storage terminal for hazardous substances shall on or before the 20th day of the month following the close of each tax period render a return under oath to the director on such forms as may be prescribed by the director

indicating the number of barrels of hazardous substances transferred and where appropriate, the fair market value of the hazardous substances transferred to or from the major facility, and at said time the taxpayer shall pay the full amount of the tax due.

(2) Every taxpayer or owner or operator of a major facility or vessel which transfers a hazardous substance, as defined in this act, and who is subject to the tax under subsection a. shall within 20 days after the first such transfer in any fiscal year register with the director on such form as shall be prescribed by him.

d. If a return required by this act is not filed, or if a return when filed is incorrect or insufficient in the opinion of the director, the amount of tax due shall be determined by the director from such information as may be available. Notice of such determination shall be given to the taxpayer liable for the payment of the tax. Such determination shall finally and irrevocably fix the tax unless the person against whom it is assessed, within 30 days after receiving notice of such determination, shall apply to the director for a hearing, or unless the director on his own motion shall redetermine the same. After such hearing the director shall give notice of his determination to the person to whom the tax is assessed.

e. Any taxpayer who shall fail to file his return when due or to pay any tax when the same becomes due, as herein provided, shall be subject to such penalties and interest as provided in the "State Tax Uniform Procedure Law," R.S.54:48-1 et seq. If the Division of Taxation determines that the failure to comply with any provision of this section was excusable under the circumstances, it may remit such part or all of the penalty as shall be appropriate under such circumstances.

f. (1) (Deleted by amendment, P.L.1987, c.76.)

(2) (Deleted by amendment, P.L.1987, c.76.)

g. In addition to the other powers granted to the director in this section, he is hereby authorized and empowered:

(1) To delegate to any officer or employee of his division such of his powers and duties as he may deem necessary to carry out efficiently the provisions of this section, and the person or persons to whom such power has been delegated shall possess and may exercise all of said 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.

h. The tax imposed by this act shall be governed in all respects by the provisions of the "State Tax Uniform Procedure Law," R.S.54:48-1 et seq., except only to the extent that a specific provision of this act may be in conflict therewith.

i. (Deleted by amendment, P.L.1986, c.143.)

2. This act shall take effect immediately.

Approved June 27, 1997.

CHAPTER 135

AN ACT concerning the sale of real property by the State and concerning the State House Commission, amending and supplementing P.L.1962, c.220, amending R.S.52:20-1 and R.S.52:20-4, and supplementing chapter 20 of Title 52 of the Revised Statutes.

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

1. Section 3 of P.L.1962, c.220 (C.52:31-1.3) is amended to read as follows:

C.52:31-1.3 Application, construction of act.

3. (a) The provisions of this act shall apply to real property or interests therein that have a value of $500,000 or less and to easements that have a value of $100,000 or less.

(b) The provisions of this act shall be deemed to be additional and supplemental to any existing authority to sell property of the State and shall not be deemed to be in derogation of such existing authority. Nothing in this act, P.L.1962, c.220 (C.52:31-1.1 et seq.), as amended and supplemented, shall be construed to affect, amend, alter or repeal any provision of any other law relating to the disposition of public lands for recreation and conservation, farmland preservation, or any other public purpose.

2. R.S.52:20-1 is amended to read as follows:

State House Commission, composition, compensation, terms.

52:20-1. The State House Commission shall consist of the Governor, who shall be the presiding officer, the State Treasurer, and the Director of the Division of Budget and Accounting or their designees, or the persons upon whom shall devolve by law the powers, duties and emoluments of said offices respectively, for the time being, and two members of the Senate appointed by the President thereof and two members of the General Assembly appointed by the Speaker thereof, no more than one of either group of two being of the same political party or their alternates. Each alternate for an appointed member shall also be a member of the

Senate or General Assembly appointed by the President or Speaker, as appropriate, and shall have full voting powers when required to attend commission meetings. The members of the commission shall serve without pay in connection with all such duties as are prescribed in this chapter. The appointed members of the commission shall serve as members thereof for terms co-extensive with their respective terms as members of the Houses of the Legislature from which they were appointed.

C.52:31-1.8 Notification to municipality of State's determination to sell, convey interest in real property.

3. When a determination is made by the head or principal executive of any State department to sell and convey all or any part of the State's interest in any real property held by the department and the improvements thereon or to grant an easement in or across such property, without regard to the value of the property or easement, upon a finding that the department does not require such property or interest for any public purpose and that such sale is in the best interests of the State or that a grant of such easement is in the best interests of the State, the department shall notify in writing the governing body of each municipality in which the property is located that the determination has been made by the department for the sale or conveyance of the State's interest or the grant of an easement. The notice shall be made regardless of the value of the property and also shall state whether approval by the State House Commission is required prior to the sale or conveyance or grant. The notice shall be sent at least 14 days prior to any further action taken by the department after the determination in order to permit a municipal review and formulation of a response, if any. This notification shall apply to all property to be sold or conveyed or for which an easement is to be granted pursuant to the authorization granted by P.L.1962, c.220 (C.52:31-1.1 et seq.) or pursuant to any other statute or authority.

C.52:31-1.3a Approval of State House Commission required for sale, conveyance of real property; exceptions.

4. Notwithstanding any other provision of law to the contrary, the sale or conveyance by the head or principal executive of any State department of all or part of the State's interest in any real property and the improvements thereon or the grant of an easement in or across such property shall require the approval of the State House Commission without regard to the value of the property or easement or to the means by which the property was acquired by the State, unless the sale or conveyance or grant is a disposition of public lands for recreation and conservation, farmland preservation, or any other public purpose.

5. R.S.52:20-4 is amended to read as follows:

Meetings of commission, copies of minutes.

R.S.52:20-4. All meetings of the commission shall be open to the public and all the business of the commission shall be transacted at public meetings held in the State House at such time and place as the commission shall prescribe. The commission shall meet at least once every three calendar months, but may meet more frequently at such times as determined by the chairperson of the commission.

The secretary shall transmit to each member of the commission a copy of the minutes of each meeting within twenty-four hours after the adjournment thereof. The minutes of the commission shall be open to inspection by any citizen of the State at all times during business hours.

6. This act shall take effect immediately.

Approved June 27, 1997.

CHAPTER 136

AN ACT concerning transportation projects, amending P.L.1966, c.301, P.L.1986, c.56, P.L.1979, c.150 and P.L.1995, c.108 and supplementing Title 27 of the Revised Statutes.

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

C.27:1D-1 Findings, declarations relative to transportation projects.

1. The Legislature finds and declares that:

a. A safe and efficient transportation system is essential to the economic and social well-being of the State and its people, and is a sound economic investment opportunity for both private and public resources.

b. The use of public-private transportation initiatives would enhance the ability of the State to provide a safe and efficient transportation system through use of alternate funding sources and private sector efficiencies; supplement the State's transportation resources in order to allow the State to use its limited resources for other needed projects; and encourage and promote business and employment opportunities for the citizens of New Jersey.

C.27:1D-2 Definitions relative to transportation projects.

2. As used in this act:

"Commissioner" means the Commissioner of Transportation.

"Corporation" means the New Jersey Transit Corporation.

"Department" means the Department of Transportation.

"Demonstration project" means a transportation project selected by the commissioner pursuant to section 3 of this act.

"Developer" means a public or private entity or consortia thereof selected by the public partner from among proposers to develop a demonstration project.

"Intelligent transportation systems" mean the equipment, facilities, property, information management and communications resources which are necessary or desirable for the advancement, management, or operation of a multi-modal transportation network.

"Project agreement" or "demonstration project agreement" means a contract or agreement entered into by the commissioner with a developer providing the terms and conditions under which the developer shall undertake a demonstration project.

"Public highways" means public roads, streets, expressways, freeways, parkways, motorways and boulevards, including bridges, tunnels, overpasses, underpasses, interchanges, rest areas, express bus roadways, bus pullouts and turnarounds, park-ride facilities, traffic circles, grade separations, intelligent transportation systems, traffic control devices, the elimination or improvement of crossings of railroads and highways, whether at grade or not at grade, and any facilities, equipment, property, rights of way, easements and interests therein needed for the construction, improvement and maintenance of highways or intelligent transportation systems.

"Public partner" means the Department of Transportation or the New Jersey Transit Corporation, as the case may be.

"Public transportation project" means, in connection with public transportation service, passenger stations, shelters and terminals, automobile parking facilities, ramps, track connections, signal systems, power systems, information and communication systems, roadbeds, transit lanes or rights of way, equipment storage and servicing facilities, bridges, grade crossings, rail cars, locomotives, motorbuses and other motor vehicles, maintenance and garage facilities, revenue handling equipment and any other equipment, facility or property useful for or related to the provision of public transportation service.

"Transportation project" means, in addition to public highways and public transportation projects, any equipment, facility or property useful or related to the provision of any ground, waterborne or air transportation for the movement of people and goods.

C.27:1D-3 Selection of demonstration projects.

3. a. Commencing with the fiscal year beginning after the effective date of this act and for the next four succeeding fiscal years, the commissioner is authorized to select up to seven transportation projects from the list of transportation projects for which monies have been appropriated in the annual appropriations acts for those five fiscal years to serve as demonstration projects. No more than seven demonstration projects shall be selected by the commissioner pursuant to this act.

b. Selection by the commissioner of demonstration projects pursuant to subsection a. of this section which are public transportation projects shall be made with the approval of the board of the corporation.

c. If a transportation project is not listed in the annual appropriations acts, the commissioner may submit that project as a demonstration project to the Legislature for approval. The commissioner shall make the submission to the Legislature to the President of the Senate and the Speaker of the General Assembly on a day when both houses are meeting. The President and the Speaker shall cause the date of submission to be entered upon the Senate Journal and the Minutes of the General Assembly, respectively. Unless the project as described in the submission is disapproved by adoption of a concurrent resolution to this effect by the affirmative vote of a majority of the authorized membership of both houses within the time period prescribed in this subsection, the project shall be deemed approved and the public partner shall be authorized to undertake the project. The time period shall commence on the day of submission and expire on the forty-fifth day after submission or for a house not meeting on the forty-fifth day, on the next meeting day of that house.

d. Notwithstanding the provisions of this section to the contrary, demonstration projects shall be subject to the approval of the Joint Budget Oversight Committee or its successor.

C.27:1D-4 Solicitation of proposals by public partner.

4. a. A public partner is authorized to solicit proposals in the five fiscal years after the effective date of this act, as provided in subsection a. of section 3 of this act, from developers to plan, design, construct, equip, operate, finance, improve and maintain, or any combination thereof, demonstration projects selected by the commissioner pursuant to section 3 of this act.

b. A public partner shall select proposals for negotiation of demonstration project agreements based on the overall benefit to the State, the qualifications and financial strength of the proposer, the proposer's responsiveness to the public partner's requirements, the total project cost

to be incurred by the public partner, the nature of project financing, the revenues to be generated by the project on behalf of and in support of the State, the impact of any direct or indirect user fees and any other evaluation criteria the public partner deems appropriate. The public partner shall negotiate with one or more proposers to reach a project agreement in the best interests of the State, except that in the event that a private developer, private entity or private consortia benefits from the use of public monies for the construction of a demonstration project pursuant to this act, the project agreement with the developer shall provide that any construction contract entered into by the developer, a private entity or private consortia, to effectuate the agreement shall conform to those requirements concerning advertisement, pre-qualification, bid and award provided for by law for construction contracts entered into by the department or corporation, as the case may be.

c. Any power possessed by a public partner pursuant to this act or any other act or any function performed by the department or the corporation, as the case may be, with respect to transportation projects may be used by that public partner to facilitate the planning, designing, construction, equipment, financing, improvement, maintenance and operation, or any combination thereof, of demonstration projects selected pursuant to this act. Project agreements entered into pursuant to this act may provide for full reimbursement to the State for services rendered by the public partner or other State entities or agencies or for the provision of revenues generated to the State. The public partner is authorized to enter into financing, funding, and credit agreements on such terms as the commissioner deems favorable to the State to promote the purposes of this act. All credit agreements entered into by the public partner pursuant to this act shall be subject to concurrence by the State Treasurer.

d. A project agreement entered into pursuant to this act shall provide for a public involvement and information process to apply to each demonstration project. The purpose of the public involvement and information process shall be to disseminate and provide information about the demonstration project to the public, prospective project users, and the residents of communities affected by the project, and to establish a formal means by which interested persons may comment upon the project and make suggestions.

e. Upon entering into a project agreement pursuant to this act, the public partner shall publish a notice in a newspaper circulating in the county in which the demonstration project will be located describing the project and the responsibilities of the developer and the public partner with respect to the project. If a demonstration project will be located in more than one county or have a regional impact, the notice shall also be

published in a publication circulating in the region in which the demonstration project will be located.

C.27:1D-5 Financial conditions; arrangements of projects.

5. a. The department's financial participation in any demonstration project undertaken pursuant to this act shall be subject to legislative appropriation. The corporation's financial participation in any demonstration project undertaken pursuant to this act shall be subject to the availability of funds. Participation by a public partner may take the form of loans or such other financial credit arrangements as may be appropriate to advance an approved project. Agreements entered into pursuant to this act to facilitate such participation shall provide that such loans or other credit arrangements made by the public partner shall yield a reasonable return and be amortized over the term of such agreement, or such lesser period as may be agreed to by the parties.

b. A project agreement entered into pursuant to this act shall provide for the allocation of ownership, leasehold, and other property interests in demonstration projects.

c. The project agreement may authorize the developer to set and impose rents, fares or user fees for use of a facility constructed by it and may require that over the term of the agreement, the rent, fare or fee revenues received by the developer be applied to repayment of the developer's capital outlay costs, interest expense, costs associated with operations, fare or user fee collection, facility management, reimbursement of the State's project review and oversight costs, repayment of loans, revenues to the State, technical and law enforcement services, and a reasonable return on investment to the developer.

d. The project agreement shall specify the manner in which rents, fares or user fees are to be established or revised, the procedures for receiving public comment on the establishment or revision of fares or user fees, including the holding of a public hearing thereon, and the procedures by which the public partner shall oversee the establishment or revision of fares or user fees provided, however, that no fares or user fees shall be subject to oversight unless the developer receives public monies for 10 percent or greater of its operating expenses.

C.27:1D-6 Laws applicable to demonstration projects.

6. Traffic and other laws applicable on the State transportation system shall be enforceable, as appropriate, on demonstration projects constructed by and leased by a developer pursuant to this act.

C.27:1D-7 Demonstration projects subject to State, federal laws.

7. a. Demonstration projects selected pursuant to this act shall be designed, constructed, operated and maintained in accordance with all applicable environmental requirements and all other applicable State and federal laws and regulations necessary to the protection of the public health, safety and welfare.

b. Unless determined otherwise by the corporation, in its sole discretion, the plans and specifications for each demonstration project shall comply with the corporation's standards for public transportation projects.

c. Unless determined otherwise by the commissioner, in his sole discretion, the plans and specifications for each transportation project other than public transportation projects shall comply with the department's standards for transportation projects.

C.27:1D-8 Immunities, defenses applicable to demonstration projects.

8. All absolute and qualified immunities and defenses provided to public entities and public employees by the "New Jersey Tort Claims Act," N.J.S.59:1-1 et seq., the "New Jersey Contractual Liability Act," N.J.S.59:13-1 et seq., and any other law shall apply to all interests held and activities performed by the department, the corporation and other State agencies in connection with the demonstration projects selected pursuant to this act.

C.27:1D-9 Public partner may defend, indemnify.

9. a. The public partner may agree to defend and indemnify any person, who, pursuant to a written agreement with the public partner entered into in accordance with this act, designs, constructs, operates, maintains, leases or otherwise holds an interest in a demonstration project, against claims, causes of action, demands, costs or judgments against that person arising as a direct result of the design, construction, interest, operation, or maintenance of that demonstration project. The public partner is authorized to reach agreements to defend and indemnify a person upon the terms and limitations the public partner deems reasonable and appropriate.

b. A determination by the public partner to defend and indemnify pursuant to this section does not bar, reduce, limit or affect any remedies which the public partner may have to enforce the agreement between the public partner and the developer to assert a claim for damages to which the public partner may be entitled arising out of the developer's failure to perform the agreement, or for the recovery of funds expended for the defense of the developer if the defense was undertaken in response to a claim or cause of action brought against the developer which is proven to

have arisen from gross negligence, willful misconduct, fraud, intentional tort, bad faith or criminal conduct.

c. No one other than the person operating, maintaining, leasing or otherwise holding an interest in the demonstration project pursuant to an agreement with the public partner has the right to enforce any agreement for defense or indemnification between that person and the public partner.

10. Section 5 of P.L.1966, c.301 (C.27:1A-5) is amended to read as follows:

C.27:1A-5 Additional functions, powers, duties of commissioner.

5. The commissioner, as head of the department, shall have all of the functions, powers and duties heretofore vested in the State Highway Commissioner and shall, in addition to the functions, powers and duties vested in him by this act or by any other law:

(a) Develop and maintain a comprehensive master plan for all modes of transportation development, with special emphasis on public transportation. Such plan shall be revised and updated at least every five years;

(b) Develop and promote programs to foster efficient and economical transportation services in the State;

(c) Prepare plans for the preservation, improvement and expansion of the public transportation system, with special emphasis on the coordination of transit modes and the use of rail rights of way, highways and public streets for public transportation purposes;

(d) Enter into contracts with the New Jersey Transit Corporation for the provision and improvement of public transportation services;

(e) Coordinate the transportation activities of the department with those of other public agencies and authorities;

(f) Cooperate with interstate commissions and authorities, State departments, councils, commissions and other State agencies, with appropriate federal agencies, and with interested private individuals and organizations in the coordination of plans and policies for the development of air commerce and air facilities;

(g) Make an annual report to the Governor and the Legislature on the department's operations, and render such other reports as the Governor shall from time to time request or as may be required by law;

(h) Promulgate regulations providing for the charging of and setting the amount of fees for certain services performed by and permits issued by the department, including but not limited to the following:

(1) Providing copies of documents prepared by or in the custody of the department;

(2) Aeronautics permits;

(3) Right-of-way permits;

(4) Traffic signal control systems;

(i) Develop and promote programs for the preservation, improvement and expansion of freight railroads, with special emphasis on the use of rail rights of way for the purpose of providing rail freight service;

(j) Develop and promote a program to ensure the safety and continued operation of aviation facilities in New Jersey;

(k) Enter into agreements with a public or private entity or consortia thereof to provide for the development of demonstration projects through the use of public-private partnerships pursuant to sections 1 through 9 of P.L.1997, c.136 (C.27:1D-1 through C.27:1D-9); and

(l) Do any and all things necessary, convenient or desirable to effectuate the purposes of P.L.1966, c.301 (C.27:1A-1 et seq.) and to exercise the powers given and granted in that act.

11. Section 2 of P.L.1986, c.56 (C.27:1A-5.1) is amended to read as follows:

C.27:1A-5.1 Rail freight authority.

2. The commissioner, pursuant to subsection (i) of section 5 of P.L.1966, c.301 (C.27:1A-5), may:

a. Plan, design, construct, equip, operate, improve and maintain, either directly or by contract with any public or private entity, a railroad, subway, street traction or electric railway, or connecting roadways and facilities for the purpose of carrying freight in this State or between this State and points in other states;

b. Acquire by purchase, condemnation, lease, gift or otherwise, on terms and conditions and in the manner he deems proper, any land or property, real or personal, tangible or intangible, which he may determine is reasonably necessary for the purposes of this section;

c. Lease as lessor, sell or otherwise dispose of, on terms and conditions which he may prescribe as appropriate, real and personal property, including tangible or intangible property and consumable goods; or any interest therein, to any public or private entity in the exercise of his powers and the performance of his duties under this section, and may, in order to provide or encourage adequate and efficient rail freight service, lease or otherwise permit the use or occupancy of property without cost or at a nominal rental;

d. Upon declaration by him that there are no other prospects for competitive bidding, make, negotiate or award any purchase, contract or agreement pursuant to this section without advertisement.

12. Section 5 of P.L.1979, c.150 (C.27:25-5) is amended to read as follows:

C.27:25-5 Powers and duties of corporation.

5. In addition to the powers and duties conferred upon it elsewhere in this act, the corporation may do all acts necessary and reasonably incident to carrying out the objectives of this act, including but not in limitation thereof the following:

a. Sue and be sued;

b. Have an official seal and alter the same at pleasure;

c. Make and alter bylaws for its organization and internal management and for the conduct of its affairs and business;

d. Maintain an office at such place or places within the State as it may determine;

e. Adopt, amend and repeal such rules and regulations as it may deem necessary to effectuate the purposes of this act, which shall have the force and effect of law; it shall publish the same and file them in accordance with the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.) with the Director of the Office of Administrative Law;

f. Call to its assistance and avail itself of the service of such employees of any federal, State, county or municipal department or agency as it may require and as may be available to it for said purpose;

g. Apply for, accept and expend money from any federal, State, county or municipal agency or instrumentality and from any private source; comply with federal statutes, rules and regulations, and qualify for and receive all forms of financial assistance available under federal law to assure the continuance of, or for the support or improvement of public transportation and as may be necessary for that purpose to enter into agreements, including federally required labor protective agreements;

h. Plan, design, construct, equip, operate, improve and maintain, either directly or by contract with any public or private entity, public transportation services, capital equipment and facilities or any parts or functions thereof, and other transportation projects, or any parts or functions thereof, which may be funded under section 3 of the federal Urban Mass Transportation Act of 1964, Pub.L.88-365 (49 U.S.C. s.1602), or any successor or additional federal act having substantially the same or similar purposes or functions; the operation of the facilities of the corporation, by the corporation or any public or private entity, may include appropriate and reasonable limitations on competition in order that maximum service may be provided most efficiently to the public;

i. Apply for and accept, from appropriate regulatory bodies, authority to operate public transportation services where necessary;

j. Purchase, lease as lessee, or otherwise acquire, own, hold, improve, use and otherwise deal in and with real or personal property, or any interest therein, from any public or private entity, wherever situated;

k. Lease as lessor, sell or otherwise dispose of on terms which the corporation may prescribe, real and personal property, including tangible or intangible property and consumable goods, or any interest therein, to any public or private entity, in the exercise of its powers and the performance of its duties under this act. In order to provide or encourage adequate and efficient public transportation service, the corporation may lease or otherwise permit the use or occupancy of property without cost or at a nominal rental;

l. Restrict the rights of persons to enter upon or construct any works in or upon any property owned or leased by the corporation, except under such terms as the corporation may prescribe; perform or contract for the performance of all acts necessary for the management, maintenance and repair of real or personal property leased or otherwise used or occupied pursuant to this act;

m. Establish one or more operating divisions as deemed necessary. Upon the establishment of an operating division, there shall be established a geographically coincident advisory committee to be appointed by the Governor with the advice and consent of the Senate. The committee shall consist of county and municipal government representatives and concerned citizens, in the number and for such terms as may be fixed by the corporation, and shall advise the corporation as to the public transportation service provided in the operating division. At least two members of each advisory committee shall be public transportation riders, including but not limited to urban transit users and suburban commuters as appropriate. One public member from the board of the corporation shall serve as a liaison to each advisory committee;

n. Set and collect fares and determine levels of service for service provided by the corporation either directly or by contract including, but not limited to, such reduced fare programs as deemed appropriate by the corporation; revenues derived from such service may be collected by the corporation and shall be available to the corporation for use in furtherance of any of the purposes of this act;

o. Set and collect rentals, fees, charges or other payments from the lease, use, occupancy or disposition of properties owned or leased by the corporation; such revenues shall be available to the corporation for use in furtherance of any of the purposes of this act;

p. Deposit corporate revenues in interest bearing accounts or in the State of New Jersey Cash Management Fund established pursuant to section 1 of P.L.1977, c.281 (C.52:18A-90.4);

q. Delegate to subordinate officers of the corporation such powers and duties as the corporation shall deem necessary and proper to carry out the purposes of this act;

r. Procure and enter into contracts for any type of insurance and indemnify against loss or damage to property from any cause, including loss of use and occupancy, against death or injury of any person, against employees' liability, against any act of any member, officer, employee or servant of the corporation, whether part-time, full-time, compensated or noncompensated, in the performance of the duties of his office or employment or any other insurable risk. In addition, the corporation may carry its own liability insurance;

s. Promote the use of public transportation services, coordinate ticket sales and passenger information and sell, lease or otherwise contract for advertising in or on the equipment or facilities of the corporation;

t. Adopt and maintain employee benefit programs for employees of the corporation including, but not limited to, pension, deferred compensation, medical disability, and death benefits, and which programs may utilize insurance contracts, trust funds, and any other appropriate means of providing the stipulated benefits, and may involve new plans or the continuation of plans previously established by entities acquired by the corporation;

u. Own, vote, and exercise all other rights incidental to the ownership of shares of the capital stock of any incorporated entity acquired by the corporation pursuant to the powers granted by this act;

v. 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 corporation, or to carry out any power expressly or implicitly given in this act;

w. Notwithstanding the provisions of section 17 of P.L.1979, c.150 (C.27:25-17) or any other law to the contrary, (1) issue operating grant anticipation notes which shall be secured and retired from operating assistance grants authorized under section 9 of the federal Urban Mass Transportation Act of 1964, Pub.L.88-365 (49 U.S.C. s.1602), or any successor or additional federal act having substantially the same or similar purposes or functions and (2) issue capital grant anticipation notes which shall be secured and retired from capital assistance grants authorized under section 3 or section 9 of the federal Urban Mass Transportation Act of 1964, Pub.L.88-365 (49 U.S.C. s.1602), or any successor or additional federal act having substantially the same or similar purposes or functions. As used in this subsection, "operating grant anticipation notes" or "capital grant anticipation notes" (hereinafter referred to as "notes") means credit obligations issued in anticipation of these grants. The notes shall be

authorized by a resolution or resolutions of the corporation, and may be issued in one or more series and shall bear the date, or dates, bear interest at the rate or rates of interest per annum, be in the denomination or denominations, be in the form, carry the conversion or registration privileges, have the rank or priority, be executed in such manner as the resolution or resolutions require. The notes may be sold at public or private sale at the price or prices and in the manner that the corporation determines. The notes of the corporation, the sale or transfer thereof, and the income derived therefrom by the purchasers of the notes, shall, at all times, be free from taxation for State or local purposes, under any law of the State or any political subdivision thereof. Notes may be issued under the provisions of P.L.1979, c.150 (C.27:25-1 et seq.) without obtaining the consent of any department, division, commission, board, bureau or agency of the State, and without any other proceedings, conditions, or things which are specifically required by P.L.1979, c.150 (C.27:25-1 et seq.). The notes issued pursuant to P.L.1979, c.150 (C.27:25-1 et seq.) shall not in any way create or constitute any indebtedness, liability or obligation of the State or of any political subdivision thereof or of the corporation, except as provided herein.

The notes shall be payable solely from (1) note proceeds, to the extent not disbursed to the corporation, (2) grant payments if, as, and when received from the federal government, and (3) investment earnings on note proceeds, to the extent not disbursed to the corporation. Each note shall contain on its face a statement to the effect that the corporation is obligated to pay the principal thereof or the interest thereon only from these grants to the corporation and from the proceeds of the notes and investment earnings on the proceeds of the notes, to the extent not disbursed to the corporation, and that neither the faith and credit nor the taxing power of the State or of any political subdivision thereof or of the corporation is pledged to the payment of the principal and interest on these notes. Neither the members of the corporation's board nor any person executing the transactions are personally liable on those notes nor are they otherwise liable for their actions; and

x. Enter into agreements with a public or private entity or consortia thereof to provide for the development of demonstration projects through the use of public-private partnerships pursuant to sections 1 through 9 of P.L.1997, c.136 (C.27:1D-1 through C.27:1D-9).

13. Section 12 of P.L.1995, c.108 (C.27:1B-21.5) is amended to read as follows:

C.27:1B-21.5 Duties of commissioner, loans, conditions; reports.

12. a. Notwithstanding the provisions of any other law to the contrary, the commissioner is authorized to enter into agreements with public or private entities or consortia thereof for the loan of federal funds appropriated to the department for the purpose of financing all, or a portion of, the costs incurred for the planning, acquisition, engineering, construction, reconstruction, repair and rehabilitation of a transportation project by that public or private entity or consortia thereof.

b. The commissioner, with the approval of the State Treasurer, shall establish rules and regulations governing the qualifications of the applicants, the application procedures, the criteria for awarding loans, and the standards for establishing the amount, terms and conditions of each loan. The rules and regulations shall provide that the term of the loan agreement shall be consistent with terms and conditions as provided by applicable federal law.

c. Loans granted pursuant to this section shall be considered an investment or reinvestment of Special Transportation Fund funds within the meaning of subsection a. of section 21 of P.L.1984, c.73 (C.27:1B-21). Payments of interest and principal on loans granted pursuant to this section shall be credited to a special subaccount of the Special Transportation Fund and may be used for financing authorized projects. Monies appropriated from the special subaccount pursuant to this section shall be in addition to the total State amount authorized to be appropriated in a fiscal year pursuant to section 8 of P.L.1987, c.460 (C.27:1B-21.1).

d. Each loan made pursuant to this section shall require the specific approval of the Joint Budget Oversight Committee, except for those loans agreed to by the commissioner as part of an agreement for a demonstration project approved pursuant to P.L.1997, c.136 (C.27:1D-1 et al.). The Chairman of the Joint Budget Oversight Committee may request periodic reports from the commissioner on the status of any or all loans. The commissioner shall provide reports so requested on a timely basis.

e. Transportation projects which are the subject of a loan agreement entered into pursuant to this section shall be included in the annual report of proposed projects prepared pursuant to section 22 of P.L.1984, c.73 (C.27:1B-22) for the fiscal year in which the loan amount for those projects is to be appropriated.

14. This act shall take effect immediately.

Approved June 27, 1997.

CHAPTER 137

AN ACT concerning the age of retirement for certain members of the Police and Firemen's Retirement System of New Jersey.

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

1. Notwithstanding the provisions of section 5 of P.L.1944, c.255 (C.43:16A-5) to the contrary:

a. any member of the Police and Firemen's Retirement System of New Jersey who shall not have established 25 years of creditable service on the effective date of this act shall be permitted to continue such membership after attainment of age 65 years until the first day of the calendar month immediately following the calendar month in which the member establishes 25 years of creditable service, or until the first day of the calendar month after five years shall have elapsed following the member's attainment of age 65 years, or until January 1, 1998, whichever is earliest, upon which first day or date, as the case may be, the member shall be retired; and

b. in the case of policemen, an employer other than the State may authorize each policeman member in service with that employer at the time of the reinstatement of the mandatory retirement age of 65 years pursuant to section 4(j) of the Age Discrimination in Employment Act of 1967, 29 U.S.C.s.623(j), reenacted and amended by the Age Discrimination in Employment Amendments of 1996, Pub.L.104-208, who has established at least 25 years of creditable service on or before the effective date of this act and who attains or shall have attained the age of 65 years on or before December 31, 1997 to continue employment with the employer and enrollment in the retirement system until January 1, 1998, whereupon the member shall be retired. Such authorization shall become effective upon adoption by the governing body of the employer of an appropriate ordinance or resolution, as the case may be, and the filing of a certified copy of that ordinance or resolution with the board of trustees of the retirement system, and upon such filing, the ordinance or resolution shall be irrevocable.

2. Notwithstanding the provisions of N.J.S.11A:4-4 through 11A:4-6 or any other law, rule or regulation to the contrary, no eligible list established under Title 11A of the New Jersey Statutes in a political subdivision whereof the governing body shall have adopted an ordinance or resolution under subsection b. of section 1 of this act to fill a vacancy

or vacancies in a position or positions as a policeman covered by the Police and Firemen's Retirement System that is in effect on the effective date of this act or becomes effective after that date and on or before December 31, 1997 shall expire or be cancelled or otherwise terminated before February 1, 1998.

3. This act shall take effect immediately and shall expire February 1, 1998.

Approved June 27, 1997.

CHAPTER 138

AN ACT concerning nonprofit corporations and amending N.J.S. 15A:4-3, N.J.S.15A:4-5 and N.J.S.15A:15-1.

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

1. N.J.S. 15A:4-3 is amended to read as follows:

Change of registered office or registered agent.

15A:4-3. Change of Registered Office or Registered Agent.

a. A domestic corporation or a foreign corporation authorized to conduct activities in this State may change its registered office or its registered agent, or both. When the registered office is changed, or when the registered agent is changed, or dies, resigns or becomes disqualified, the corporation shall, by resolution of the board, forthwith fix the address of the new registered office or designate the successor registered agent or both, as the case may be.

b. The corporation shall forthwith file in the office of the Secretary of State a certificate executed on behalf of the corporation setting forth:

(1) The name of the corporation;

(2) If the registered agent is not being changed, the name of the registered agent;

(3) If the registered agent is being changed, the names of the registered agent being succeeded and of the successor registered agent;

(4) If the registered office is not being changed, the address of the then registered office;

(5) If the registered office is being changed, the address of the registered office immediately prior to the change, and the address of the new registered office;

(6) That the address of its registered office and the address of its registered agent will be identical after the change; and

(7) That the change in registered office, or registered agent, or both, is made pursuant to resolution of the board.

c. The registered agent of one or more domestic or foreign corporations may change the registered office of the corporation or corporations to another address in this State by filing in the office of the Secretary of State a certificate executed by the agent and setting forth:

(1) The names of all the corporations whose registered offices are being changed and for which it is the registered agent, listed in alphabetical order;

(2) The address of the registered office of each corporation immediately prior to the change, and the address of the new registered office;

(3) That the address of the registered office of each corporation and the address of its registered agent will be identical after the change; and

(4) A statement that at least 20 days' prior notice of the change has been given to each corporation in writing.

The change of the registered office of each of the corporations named in the certificate shall become effective upon the date of the filing or at a later time, not to exceed 30 days after the date of filing, as may be set forth in the certificate.

d. (Deleted by amendment, P.L.1997, c.138).

2. N.J.S.15A:4-5 is amended to read as follows:

Annual report to Secretary of State.

15A:4-5. Annual Report to Secretary of State.

a. Every domestic corporation and every foreign corporation authorized to conduct activities in this State shall file in the office of the Secretary of State, within the time prescribed by this section, an annual report, executed on behalf of the corporation, setting forth:

(1) the name of the corporation and, in the case of a foreign corporation, the jurisdiction of its incorporation;

(2) the address, including the actual location as well as postal designation, if different, of the registered office of the corporation in this State, and the name of its registered agent in this State at that address, and, if a foreign corporation, the address of its main or headquarters office; and

(3) the names and addresses of the trustees and the officers of the corporation, which addresses shall be either the residence address of that person or other address where that person regularly receives mail and which is not the address of the corporation.

b. The Secretary of State shall designate a date for filing annual reports for each corporation required to submit a report pursuant to this section and shall annually notify the corporation of the date so designated not less than 60 days prior to that date. The corporation shall file the report within 30 days before or within 30 days after the date so designated. If the date so designated is not more than six months after the date on which an annual report pursuant to the provisions of prior law was filed or on which the certificate of incorporation became effective, the corporation shall not be required to file an annual report until one year after the first occurrence of the date so designated.

c. If the report is not filed for two consecutive years, the certificate of incorporation of the corporation or the certificate of authority of a foreign corporation shall, after written demand for the reports by the Secretary of State by certified mail addressed to the corporation at the last address appearing of record in the office of the Secretary of State, be revoked for the failure to file reports. No corporation shall be subject to the revocation of its certificate of incorporation or its certificate of authority if it shall, within 60 days after the written demand, file the reports required by law and pay to the Secretary of State the fee provided by law for the filing of each report. Any corporation having its certificate of incorporation or its certificate of authority revoked may cause a reinstatement of the certificate upon payment to the Secretary of State of: the fee then payable upon the filing of the certificate of incorporation; a current annual report fee; and payment of a reinstatement filing assessment as set forth in N.J.S. 15A:15-1. The reinstatement relates back to the date of issuance of the proclamation revoking the certificate of incorporation or the certificate of authority and shall validate all actions taken in the interim. In the event that in the interim the corporate name has become unavailable, the Secretary of State shall issue the certificate upon, in the case of a domestic corporation, the filing of an amendment to its certificate of incorporation to change the corporate name to an available name, and, in the case of a foreign corporation, the filing of an amended certificate of authority adopting an alternate name. The Secretary of State shall provide the forms necessary to effect annual report reinstatements.

d. The Secretary of State shall furnish annual report forms, shall keep all the reports and shall prepare an alphabetical index thereof. The reports and index shall be open to public inspection at proper hours.

3. N.J.S. 15A:15-1 is amended to read as follows:

Filing fees of the Secretary of State.

15A:15-1. Filing Fees of the Secretary of State. On filing any certificate or other papers relative to corporations in the office of the Secretary of State, there shall be paid to the Secretary of State filing fees as follows:

a. Certificate of incorporation and amendments thereto:
(1) for filing the original certificate of incorporation $50.00
(2) for filing a certificate of amendment of the certificate of incorporation including any number of amendments $50.00
(3) for filing a certificate of abandonment of one or more amendments of the certificate of incorporation $50.00
(4) for filing a certificate of merger or a certificate of consolidation.....$50.00
(5) for filing a certificate of abandonment of a merger or consolidation $50.00
b. Restated certificate of incorporation: for filing a restated certifi cate of incorporation including any amendments of the certificate of incorporation concurrently adopted $50.00
c. Dissolution of corporation:
(1) for filing a certificate of dissolution.....$50.00
(2) for filing a certificate of revocation of dissolution proceedings.....$50.00
d. Admission and withdrawal of foreign corporation:
(1) for filing an application for a certificate of authority to conduct activities in this State and issuing a certificate of authority.....$100.00
(2) for filing an application for an amended certificate of authority to conduct activities in this State and issuing an amended certificate of authority.....$50.00
(3) for filing an application for withdrawal from this State and issuing a certificate of withdrawal.....$50.00
(4) for filing a certificate of change of post office address to which process may be mailed by the Secretary of State.....$25.00
(5) for filing a certificate, order or decree with respect to the dissolution of a foreign corporation, the termination of its existence, or the cancellation of its authority, and issuing a certificate of withdrawal.....$50.00
e. Registered office and registered agent:
(1) for filing a certificate of change of address of registered office, or change of registered agent or both.....$10.00

(2) for filing a certificate of change of address of registered agent where such certificate effects a change in the address of the registered office of one or more corporations, for each corporation named in the certificate.....$10.00
(3) for filing an affidavit of resignation of a registered agent.....$10.00
f. Annual report:
for each such report required to be filed.....$15.00
g. Reinstatement filing assessment:
payment of a reinstatement filing assessment.....$50.00.

4. This act shall take effect immediately.

Approved June 27, 1997.

CHAPTER 139

AN ACT concerning certain domestic and foreign entities authorized to transact business in this State and revising various parts of the statutory law.

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

1. N.J.S.14A:4-3 is amended to read as follows:

Change of registered office or registered agent.

14A:4-3. Change of registered office or registered agent.

(1) A domestic corporation or a foreign corporation authorized to transact business in this State may change its registered office or its registered agent, or both. When the registered office is changed, or when the registered agent is changed, or dies, resigns or becomes disqualified, the corporation shall, by resolution of the board, forthwith fix the address of the new registered office or designate the successor registered agent or both, as the case may be.

(2) Such corporation shall forthwith file in the office of the Secretary of State a certificate executed on behalf of the corporation setting forth

(a) the name of the corporation;

(b) if the registered agent is not being changed, the name of the registered agent;

(c) if the registered agent is being changed, the names of the registered agent being succeeded and of the successor registered agent;

(d) if the registered office is not being changed, the address of the then registered office;

(e) if the registered office is being changed, the address of the registered office immediately prior to the change, and the address of the new registered office;

(f) that the address of its registered office and the address of its registered agent will be identical after the change; and

(g) that the change in registered office, or registered agent, or both, is made pursuant to resolution of the board.

(3) The registered agent of one or more domestic or foreign corporations may change the registered office of such corporation or corporations to another address in this State by filing in the office of the Secretary of State a certificate executed by such agent and setting forth

(a) the names of all the corporations whose registered offices are being changed and for which he or it is the registered agent, listed in alphabetical order;

(b) the address of the registered office of each such corporation immediately prior to the change, and the address of the new registered office;

(c) that the address of the registered office of each such corporation and the address of its registered agent will be identical after the change; and

(d) a statement that at least 20 days' prior notice of the change has been given to each such corporation in writing.

The change of the registered office of each of the corporations named in the certificate shall become effective upon the date of such filing or at such later time, not to exceed 30 days after the date of filing, as may be set forth in the certificate.

(4) (Deleted by amendment, P.L.1997, c.139.)

2. N.J.S.14A:4-4 is amended to read as follows:

Resignation of registered agent.

14A:4-4. Resignation of registered agent.

(1) The registered agent of a domestic corporation or a foreign corporation authorized to transact business in this State may resign by complying with the provisions of this section.

(2) The registered agent shall serve a notice of resignation by certified mail, return receipt requested, upon the president, or any vice president, or the secretary or treasurer of the corporation at the address last known

to the agent, and shall make an affidavit of such service. The notice shall also advise the recipient of the requirements of subsection 14A:4-3(1). If such service cannot be made, the affidavit shall so state, and shall state briefly why such service cannot be made. The affidavit, together with a copy of the notice of resignation, shall be filed in the office of the Secretary of State.

(3) Such resignation shall become effective upon the expiration of 30 days after the filing in the office of the Secretary of State of the affidavit under this section or upon the designation by the corporation of a new registered agent pursuant to this act, whichever is earlier. If the corporation fails to designate a new registered agent within said 30-day period, the corporation shall thereafter be deemed to have no registered agent or registered office in this State.

(4) (Deleted by amendment, P.L.1997, c.139.)

3. N.J.S.14A:4-5 is amended to read as follows:

Annual report to Secretary of State.

14A:4-5. Annual report to Secretary of State.

(1) Every domestic corporation and every foreign corporation authorized to transact business in this State shall file in the office of the Secretary of State, within the time prescribed by this section, an annual report, executed on behalf of the corporation, or executed by the registered agent, setting forth

(a) The name of the corporation and, in the case of a foreign corporation, the jurisdiction of its incorporation;

(b) The address of the registered office of the corporation in this State, and the name of its registered agent in this State at such address;

(c) The names and addresses of the directors and officers of the corporation;

(d) (Deleted by amendment, P.L.1988, c.94.)

(e) The address of its main business or headquarters office; and

(f) The address of its principal business office in New Jersey, if any.

(2) The Secretary of State shall designate a date for filing annual reports for each corporation required to submit a report pursuant to this section and shall annually notify the corporation of the date so designated not less than 60 days prior to such date. The corporation shall file the report within 30 days before or 30 days after the date so designated. If the date so designated is not more than six months after the date on which an annual report pursuant to the provisions of prior law was filed or on which the certificate of incorporation became effective, the corporation

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shall not be required to file an annual report until one year after the first occurrence of the date so designated.

(3) (Deleted by amendment, P.L.1997, c.139.)

(4) The Secretary of State shall furnish annual report forms, shall keep in his office all such reports and shall prepare an alphabetical index thereof, which reports and index shall be open to public inspection at proper hours.

(5) In the event a domestic corporation fails to file an annual report for two consecutive years with the Secretary of State, then, after written notice by certified mail to the corporation at its last known main business or headquarters office or at the address of its registered agent, the Secretary of State may issue a proclamation declaring that the certificate of incorporation of the corporation has been revoked and that all powers conferred by law upon it shall thereafter be inoperative and void. The proclamation of the Secretary of State shall be filed in the office of the Secretary of State. No corporation's certificate of incorporation shall be revoked pursuant to this subsection if, within 30 days after the giving of notice, it files the reports required by law and pays to the Secretary of State all of the fees due for the filing of the reports.

(6) In the event a foreign corporation fails to file an annual report for two consecutive years with the Secretary of State, then, after written notice by certified mail to the corporation at its last known main business or headquarters office or at the address of its registered agent, the Secretary of State may issue a proclamation declaring that the certificate of authority to do business of the corporation and the powers conferred by law upon it shall be revoked. The proclamation of the Secretary of State shall be filed in the office of the Secretary of State. No corporation's certificate of authority shall be revoked pursuant to this paragraph if, within 30 days after the giving of notice, it files the reports required by law and pays to the Secretary of State all of the fees due for the filing of the reports.

(7) If the certificate of incorporation of a domestic corporation or a certificate of authority of a foreign corporation has been revoked by proclamation, the certificate shall be reinstated by proclamation of the Secretary of State upon: (a) payment by the corporation of all fees due to the Secretary of State, consisting of a reinstatement filing fee of $50, tax clearance filing fee of $20, current annual report fee, all delinquent annual report fees, and a reinstatement assessment of $200; and (b) certification of the Director of the Division of Taxation that no cause exists for revocation of the corporation's certificate of incorporation or certificate of authority pursuant to R.S.54:11-2. The reinstatement relates back to the date of issuance of the proclamation revoking the certificate of

incorporation or the certificate of authority and shall validate all actions taken in the interim. In the event that in the interim the corporate name has become unavailable, the Secretary of State shall issue the certificate upon, in the case of a domestic corporation, the filing of an amendment to its certificate of incorporation to change the corporate name to an available name, and, in the case of a foreign corporation, the filing of an amended certificate of authority adopting an assumed name. The Secretary of State shall provide the forms necessary to effect annual report reinstatements.

4. N.J.S.15A:12-11 is amended to read as follows:

Dissolution in action brought by the Attorney General.

15A:12-11. Dissolution in Action Brought by the Attorney General.

a. The Attorney General may bring an action in the Superior Court for the dissolution of a corporation upon the ground that the corporation:

(1) Has procured its organization through fraudulent misrepresentation or concealment of a material fact;

(2) Has had its certificate of incorporation revoked under subsection c. of section 15A:4-5 (failure to file its annual report);

(3) Has conducted activities after the period of duration specified in its certificate of incorporation and has neither amended its certificate of incorporation to extend the period nor proceeded to liquidate and cease activities;

(4) Has repeatedly exceeded the authority conferred upon it by law;

(5) Has repeatedly conducted its business in an unlawful manner;

(6) Has misused or improperly failed to use its powers, privileges or franchises;

(7) Is insolvent;

(8) Has suspended its ordinary activities for lack of funds;

(9) Is conducting its activities in violation of its certificate of incorporation or, with respect to specific assets, in violation of any terms, conditions, or restrictions applicable to those assets imposed upon it;

(10) Is conducting its activities at a great loss and with great prejudice to the interests of its creditors or members; or

(11) Is conducting activities in a manner which is prejudicial to the public.

b. The Superior Court may proceed in the action in a summary manner or otherwise. Upon a showing by clear and convincing evidence of any cause set forth in subsection a. of this section, the court may declare the corporation dissolved and a copy of the order of the court may be filed in the office of the Secretary of State as evidence thereof.

c. The enumeration in subsection a. of this section of grounds for dissolution shall not exclude any other statutory or common law action by the Attorney General for the dissolution of a corporation or the revocation or forfeiture of its corporate franchises.

5. Section 8 of P.L.1995, c.96 (C.42:1-44) is amended to read as follows:

C.42:1-44 Limited liability partnership; filing application, registration; reinstatement; annual reports.

8. a. To become a limited liability partnership, a partnership shall file in the Office of the Secretary of State an application stating the name of the partnership; the address of its principal office; the address of the registered office and name of the registered agent for service of process as required by this act; a brief statement of the business in which the partnership engages; any other matters that the partnership determines to include; and that the partnership thereby applies for status as a limited liability partnership.

b. Before doing business in this State, a foreign limited liability partnership shall register as a foreign limited liability partnership in the Office of the Secretary of State by filing an application setting forth the name of the partnership and, if different, the name under which it proposes to do business in this State; the State, territory or possession where formed; date of formation; the address of its principal office; if the partnership's principal office is not located in this State, the address of the registered office and the name and address of the registered agent for service of process, as required by this act; a statement that the partnership validly exists as a limited liability partnership under the laws of the jurisdiction of its formation; and a brief statement of the nature of the business or purpose to be conducted or promoted in this State.

c. The application shall be executed by a majority in interest of the partners or by one or more of the partners authorized to execute an application.

d. The Secretary of State shall register as a limited liability partnership or foreign limited liability partnership any partnership that files a completed application that substantially conforms with the requirements of this act, accompanied by the appropriate fee.

e. A partnership registered pursuant to this section shall file, in each year following the year in which its application is filed, on a date specified by the Secretary of State, an annual report. The annual report shall be on a form provided by the Secretary of State, and shall indicate any material change in the information contained in the partnership's application for registration. If the annual report is not filed or the filing

fee is not paid for two consecutive years, the registration of a limited liability partnership or foreign limited liability partnership shall, after written demand for the annual report by the Secretary of State by mail addressed to the limited liability partnership or foreign limited liability partnership at the last address appearing of record in the office of the Secretary of State, remain filed but be transferred to an inactive list. A limited liability partnership or foreign limited liability partnership shall not have its registration transferred to the inactive list if it shall, within 60 days after the written demand, file the annual report and fee required by this act. If the registration of a domestic or foreign limited liability partnership has been placed on the inactive list, the registration shall be reinstated by proclamation of the Secretary of State upon payment of all fees due to the Secretary of State, consisting of a reinstatement filing fee of $50, current annual report fee, all delinquent annual report fees, and a reinstatement filing assessment of $200. Reinstatement relates back to the date of issuance of the proclamation placing the certificate of registration on the inactive list and shall validate all actions taken in the interim. If the limited liability partnership name of a domestic or foreign limited liability partnership has become unavailable in the interim, the Secretary of State shall issue the reinstatement upon the filing of a name change certificate that changes the name to an available name. The Secretary of State shall provide the forms necessary to effect annual report reinstatements.

f. Registration is effective immediately after the date an application is filed in the Office of the Secretary of State, and remains effective until it is voluntarily withdrawn by filing in the Office of the Secretary of State a written withdrawal notice executed by a majority in interest of the partners or by one or more partners of the partnership authorized to execute a withdrawal notice.

g. A partnership continues as a limited liability partnership if there has been substantial compliance with the requirements of this act. After the filing of an application, the status of a partnership as a limited liability partnership, or the liability of the partners thereof, shall not be affected by errors or changes in the information stated in the application.

h. If an instrument filed in the Office of the Secretary of State pursuant to this section is an inaccurate record of the facts stated therein, or was defectively or erroneously executed, the instrument may be corrected by filing in the Office of the Secretary of State a certificate of correction by a partner. The certificate of correction shall specify the inaccuracy or defect to be corrected and shall set forth the correction. The instrument so corrected shall be deemed to have been effective in its corrected form as of its original filing date except as to persons who

actually relied in good faith upon the inaccurate portion of the instrument and who are adversely affected by the correction. As to these persons, the correction shall be effective as of the effective date of filing of the certificate of correction. Such filing shall only be made if the Secretary of State consents to the filing.

i. The Secretary of State may provide forms for application for registration, notice of changes or payment of the annual fee.

j. Any limited liability partnership formed pursuant to an agreement governed by this section or any foreign limited liability partnership transacting business in this State under this section shall be exempt from the filing requirements of R.S.56:1-1 et seq.

k. The fact that an application or annual report is on file in the Office of the Secretary of State is notice that the partnership is a limited liability partnership or foreign limited liability partnership and is notice of all other facts set forth in the application or annual report.

6. Section 66 of P.L.1983, c.489 (C.42:2A-69) is amended to read as follows:

C.42:2A-69 Annual report to the Secretary of State by domestic limited partnerships.

66. Annual report to the Secretary of State by domestic limited partnerships.

a. Every domestic limited partnership authorized in this State shall file in the Office of the Secretary of State, within the time prescribed by this section, an annual report, executed on behalf of the limited partnership or executed by the registered agent setting forth:

1. The name of the limited partnership;

2. The address, including the actual location as well as the postal designation, if different, of the registered agent in this State; and

3. The name of the registered agent.

b. The Secretary of State shall designate a date of filing annual reports for each limited partnership required to submit a report pursuant to this section.

c. If the report is not filed for two consecutive years, the certificate of limited partnership shall, after written demand for the reports by the Secretary of State by mail addressed to the limited partnership at the last address appearing of record in the office of the Secretary of State, remain filed but be transferred to an inactive list. A limited partnership shall not have its certificate of limited partnership transferred to the inactive list if it shall, within 60 days after the written demand, file the reports required by law and pay to the Secretary of State the fee provided by law for the filing of each report.

d. (1) Any domestic limited partnership on the inactive list may return to active status by:

(a) Paying to the Secretary of State the current annual report fee, all delinquent annual report fees, a reinstatement filing fee of $50 and a reinstatement filing assessment of $200; and

(b) Submitting a certificate of amendment adopting a name which complies with paragraph (4) of subsection a. of section 6 of P.L.1983, c.489 (C.42:2A-6), if the name of the inactive limited partnership does not comply with paragraph (4) of subsection a. of section 6.

(2) The Secretary of State shall provide the forms necessary to effect annual report reinstatements.

e. A limited partnership whose certificate has been transferred to the inactive list shall remain a limited partnership formed under this chapter or under R.S.42:2-1 et seq., but no name reservations, transfers of reserved names, or certificates of amendment may be filed until the limited partnership whose certificate has been placed on the inactive list regains active status. A limited partner of a limited partnership is not liable as a general partner of the limited partnership solely by reason of the transfer of the certificate of limited partnership to the inactive list.

f. The Secretary of State shall furnish annual report forms, shall keep all the reports and shall prepare an index thereof. The reports shall be open to public inspection at proper hours.

7. Section 67 of P.L.1983, c.489 (C.42:2A-70) is amended to read as follows:

C.42:2A-70 Annual report to Secretary of State by foreign limited partnership.

67. Annual report to Secretary of State by foreign limited partnership.

a. Every foreign limited partnership authorized to transact business in this State shall file in the office of the Secretary of State, within the time prescribed by this section, an annual report, executed on behalf of the foreign limited partnership setting forth:

1. The name of the foreign limited partnership;

2. The address, including the actual location as well as postal designation, if different, of the registered agent in this State; and

3. The name of the registered agent.

b. The Secretary of State shall designate a date for filing annual reports for each foreign limited partnership required to submit a report pursuant to this section.

c. If the report is not filed for two consecutive years, the certificate of a foreign limited partnership to transact business in this State shall, after written demand for the reports by the Secretary of State by certified mail

addressed to the foreign limited partnership at the last address appearing of record in the office of the Secretary of State, be revoked for the failure to file reports. A foreign limited partnership shall not be subject to the revocation of its certificate to transact business in this State if it shall, within 60 days after the written demand, file the reports required by law and pay to the Secretary of State the fee provided by law for the filing of each report.

d. Any foreign limited partnership may, within two years of the revocation of its certificate to transact business in this State, cause a reinstatement of the certificate upon:

(1) payment to the Secretary of State of the current annual report fee, all delinquent annual report fees, a reinstatement filing fee of $50 and a reinstatement filing assessment of $200; and

(2) compliance with the requirements of subsection c. of section 6 of P.L.1983, c.489 (C.42:2A-6), if the name of the inactive foreign limited partnership does not comply with the provisions of paragraph (4) of subsection a. of section 6 of P.L.1983, c.489 (C.42:2A-6).

e. A limited partner of a foreign limited partnership is not liable as a general partner of the foreign limited partnership solely by reason of the revocation, pursuant to this section, of the certificate of authority to transact business in this State.

f. The Secretary of State shall furnish annual report forms, including the forms necessary to effect annual report reinstatements, shall keep all the reports and shall prepare an index thereof. The reports shall be open to public inspection at proper hours.

8. Section 7 of P.L.1993, c.210 (C.42:2B-7) is amended to read as follows:

C.42:2B-7 Agent resignation; successor.

7. a. The registered agent of a domestic limited liability company or a foreign limited liability company authorized to transact business in this State may resign by complying with the provisions of this section.

b. The registered agent of a foreign or domestic limited liability company may resign and appoint a successor registered agent by filing a certificate in the office of the Secretary of State, stating that it resigns and the name and address of the successor registered agent. There shall be attached to such certificate a statement executed by the affected limited liability company ratifying and approving such change of registered agent. Upon such filing, the successor registered agent shall become the registered agent of each limited liability company which has ratified and approved the substitution and the successor registered agent's address, as

stated in such certificate, shall become the address of each limited liability company's registered office in this State. The Secretary of State shall furnish to the successor registered agent upon request a certified copy of the certificate of resignation. Filing of the certificate of resignation shall be deemed to be an amendment of the certificate of formation of the limited liability company affected thereby and the limited liability company shall not be required to take any further action with respect thereto, to amend its certificate of formation under this act.

c. The registered agent of a limited liability company may resign without appointing a successor registered agent by complying with the following provisions:

(1) The registered agent, or, in the case of a registered agent who is deceased or has been declared incompetent by a court of competent jurisdiction, his legal representative, shall serve a notice of resignation by certified mail, return receipt requested, upon the limited liability company at the address last known to the agent, and shall make an affidavit of such service. If service cannot be made, the affidavit shall so state, and shall state briefly why service cannot be made. The affidavit, together with a copy of notice of resignation, shall be filed in the office of the Secretary of State.

(2) The resignation shall become effective 30 days after filing the affidavit of service in the office of the Secretary of State or upon the designation by the limited liability company of a new registered agent pursuant to this act, whichever is earlier. If the limited liability company fails to designate a new registered agent within the 30-day period, the limited liability company shall thereafter be deemed to have no registered agent or registered office in this State, until the limited liability company files a certificate of change of address of registered office and registered agent indicating the new registered office and registered agent.

9. Section 11 of P.L.1993, c.210 (C.42:2B-11) is amended to read as follows:

C.42:2B-11 Certificate of formation; filing.

11. a. In order to form a limited liability company, one or more authorized persons must execute a certificate of formation. The certificate of formation shall be filed in the office of the Secretary of State and set forth:

(1) The name of the limited liability company;

(2) The address of the registered office and the name and address of the registered agent for service of process required to be maintained by section 6 of this act;

(3) That the limited liability company has two or more members;

(4) If the limited liability company is to have perpetual existence, regardless of whether the limited liability company is subject to any dissolution contingencies, then the word "perpetual" shall be stated; if the limited liability company is to have a specific date of dissolution, regardless of whether the limited liability company is subject to any dissolution contingencies, the latest date on which the limited liability company is to dissolve; and

(5) Any other matters the members determine to include therein.

b. A limited liability company is formed at the time of the filing of the initial certificate of formation in the office of the Secretary of State or at any later date or time specified in the certificate of formation if, in either case, there has been substantial compliance with the requirements of this section. A limited liability company formed under this act shall be a separate legal entity, the existence of which as a separate legal entity shall continue until cancellation of the limited liability company's certificate of formation.

10. Section 14 of P.L.1993, c.210 (C.42:2B-14) is amended to read as follows:

C.42:2B-14 Cancellation of certificate of formation; one member company.

14. a. A certificate of formation shall be canceled upon the dissolution and the completion of winding up of a limited liability company, or upon the filing of a certificate of merger or consolidation if the limited liability company is not the surviving or resulting entity in a merger or consolidation.

b. A certificate of cancellation shall be filed in the office of the Secretary of State to accomplish the cancellation of a certificate of formation upon the dissolution and the completion of winding up of a limited liability company and shall set forth:

(1) The name of the limited liability company;

(2) The date of filing of its certificate of formation;

(3) The reason for filing the certificate of cancellation;

(4) The future effective date or time (which shall be a date or time certain) of cancellation if it is not to be effective upon the filing of the certificate; and

(5) Any other information the person filing the certificate of cancellation determines.

c. A certificate of formation shall not be canceled, and no certificate of cancellation shall be required to be filed, when a limited liability company has only one member, and the certificate of formation shall

remain valid when a limited liability company has only one member, if within 90 days of the date on which the limited liability company first had only one member, one or more additional members are admitted. If no additional member is admitted within that 90-day period, the certificate of formation of that limited liability company shall be canceled and a certificate of cancellation shall be filed on and as of the end of that 90-day period.

11. Section 18 of P.L.1993, c.210 (C.42:2B-18) is amended to read as follows:

C.42:2B-18 Certificate of formation serves as notice.

18. A certificate of formation filed in the office of the Secretary of State is notice that the entity formed in connection with the filing of the certificate of formation is a limited liability company formed under the laws of this State and is notice of all other facts set forth therein which are required or permitted to be set forth in a certificate of formation by paragraphs (1) and (2) of subsection a. of section 11 of this act. If any provision of an operating agreement is inconsistent with the information contained in the certificate of formation of that limited liability company, as amended, on file with the office of the Secretary of State, the operating agreement shall be controlling except with respect to any third party who can show actual and reasonable reliance to the detriment of that third party, upon the information contained in the certificate of formation.

12. Section 22 of P.L.1993, c.210 (C.42:2B-22) is amended to read as follows:

C.42:2B-22 Operating agreement, classes of members.

22. a. An operating agreement may provide for classes or groups of members having such relative rights, powers and duties as the operating agreement may provide, and may make provision for the future creation in the manner provided in the operating agreement of additional classes or groups of members having such relative rights, powers and duties as may from time to time be established, including rights, powers and duties senior to existing classes and groups of members. An operating agreement may provide for the taking of an action, including the amendment of the operating agreement, without the vote or approval of any member or class or group of members, including an action to create under the provisions of the operating agreement a class or group of limited liability company interests that was not previously outstanding.

b. An operating agreement may grant to all or certain identified members or a specified class or group of the members the right to vote,

separately or with all or any class or group of managers or members, on any matter. Voting by members may be on a per capita, number, financial interest, class, group or any other basis.

c. An operating agreement which grants a right to vote may set forth provisions relating to notice of the time, place or purpose of any meeting at which any matter is to be voted on by any manager or class or group of managers, waiver of any such notice, action by consent without a meeting, the establishment of a record date, quorum requirements, voting in person or by proxy, or any other matter with respect to the exercise of any such right to vote.

13. Section 24 of P.L.1993, c.210 (C.42:2B-24) is amended to read as follows:

C.42:2B-24 Dissociation of membership.

24. A member shall be dissociated from a limited liability company upon the occurrence of any of the following events:

a. Unless otherwise provided in an operating agreement, or with the written consent of all members,

(1) the limited liability company receives notice of the member's resignation as a member, or on a later date specified by the member;

(2) an event agreed to in the operating agreement as causing the member's dissociation;

(3) a member:

(a) becomes a debtor in bankruptcy;

(b) executes an assignment for the benefit of creditors;

(c) seeks, consents to or acquiesces in the appointment of a trustee, receiver or liquidator of the member or of all or substantially all of that member's properties; or

(d) fails, within 90 days after the appointment, without the member's consent or acquiescence, of a trustee, receiver or liquidator of the member or of all or substantially all of that member's properties, to have the appointment vacated or stayed, or fails within 90 days after the expiration of a stay to have the appointment vacated; or

b. (1) the member's expulsion pursuant to the operating agreement;

(2) the member's expulsion by the unanimous vote of the other members if:

(a) it is unlawful to carry on the limited liability company with that member;

(b) there has been a transfer of all of that member's transferable interest in the limited liability company, other than a transfer for security purposes, or a court order charging the member's interest;

(c) within 90 days after the limited liability company notifies a corporate member that it will be expelled because it has filed a certificate of dissolution or the equivalent, its charter has been revoked, or its right to conduct business has been suspended by the jurisdiction of its incorporation, there is no revocation of the certificate of dissolution or no reinstatement of its charter or its right to conduct business; or

(d) a limited liability company or a partnership that is a member has been dissolved and its business is being wound up;

(3) on application by the limited liability company or another member, the member's expulsion by judicial determination because:

(a) the member engaged in wrongful conduct that adversely and materially affected the limited liability company's business;

(b) the member willfully or persistently committed a material breach of the operating agreement; or

(c) the member engaged in conduct relating to the limited liability company business which makes it not reasonably practicable to carry on the business with the member as a member of the limited liability company;

(4) in the case of a member who is an individual:

(a) the member's death;

(b) the appointment of a guardian or general conservator for the member; or

(c) a judicial determination that the member has otherwise become incapable of performing the member's duties under the operating agreement;

(5) in the case of a member that is a trust or is acting as a member by virtue of being a trustee of a trust, distribution of the trust's entire transferable interest in the limited liability company, but not merely by reason of the substitution of a successor trustee;

(6) in the case of a member that is an estate or is acting as a member by virtue of being a personal representative of an estate, distribution of the estate's entire transferable interest in the limited liability company, but not merely by reason of the substitution of a successor personal representative; or

(7) dissolution of a member who is not an individual, partnership, corporation, trust or estate.

C.42:2B-24.1 Rights of dissociated member.

14. Upon a member's dissociation, the dissociated member has, subject to section 39 of P.L.1993, c.210 (C.42:2B-39), only the rights of an assignee of a member's limited liability interest.

15. Section 27 of P.L.1993, c.210 (C.42:2B-27) is amended to read as follows:

C.42:2B-27 Management of company, control.

27. a. (1) Unless otherwise provided in an operating agreement, the management of a limited liability company shall be vested in its members in proportion to the then current percentage or other interest of members in the profits of the limited liability company owned by all of the members, the decision of members owning more than 50 percent of the then current percentage or other interest in the profits controlling; (2) provided, however, that if an operating agreement provides for the management, in whole or in part, of a limited liability company by one or more managers, the management of the limited liability company, to the extent so provided, shall be vested in the manager or managers who shall be chosen by the members in the manner provided in the operating agreement. The managers shall also hold the offices and have the responsibilities accorded to them by the members and set forth in an operating agreement. Subject to section 37 of this act, a manager shall cease to be a manager as provided in an operating agreement.

b. (1) If a limited liability company is managed by its members, unless otherwise provided in the operating agreement, each member shall have the authority to bind the limited liability company. In addition, unless otherwise provided in the operating agreement, or to the extent that a court of competent jurisdiction determines that the operating agreement is without effect in this regard, each member in a limited liability company managed by its members shall also have the authority to file for insolvency or reorganization under appropriate State or federal law, so long as that filing has the prior approval of members then owning more than 50 percent of the interests in the profits of the limited liability company.

(2) If the limited liability company is managed by a manager or managers, the managers shall, in addition to all other authority accorded by the operating agreement, have the authority to file for insolvency or reorganization under appropriate State or federal law, unless otherwise provided in the operating agreement, except to the extent a court of competent jurisdiction determines that the operating agreement is without effect in this regard.

16. Section 39 of P.L.1993, c.210 (C.42:2B-39) is amended to read as follows:

C.42:2B-39 Distribution to resigning member.

39. a. Except as provided in this act, upon resignation any resigning member is entitled to receive any distribution to which he is entitled under an operating agreement and, if not otherwise provided in an operating agreement, he is entitled to receive, within a reasonable time after resignation, the fair value of his limited liability company interest as of the date of resignation based upon the net present value of his right to share in distributions from the limited liability company, less all applicable valuation discounts, unless the operating agreement provides for another distribution formula. If the resignation of a member violates an operating agreement, in addition to any remedies otherwise available under applicable law, a limited liability company may recover from the resigning member damages for breach of the operating agreement and offset the damages against the amount otherwise distributable to the resigning member.

b. As used in subsection a. of this section, "all applicable valuation discounts" shall include discounts for lack of liquidity, relative size of holding, absence of any trading market and comparable factors.

17. Section 44 of P.L.1993, c.210 (C.42:2B-44) is amended to read as follows:

C.42:2B-44 Company interest assignable; rights of assignee.

44. a. A limited liability company interest is assignable in whole or in part except as provided in an operating agreement. The assignee of a member's limited liability company interest shall have no right to participate in the management of the business and affairs of a limited liability company except as provided in an operating agreement and upon:

(1) The approval of all of the members of the limited liability company other than the member assigning his limited liability company interest; or

(2) Compliance with any procedure provided for in the operating agreement.

b. Unless otherwise provided in an operating agreement:

(1) An assignment entitles the assignee to share in the profits and losses, to receive the distribution or distributions, and to receive the allocation of income, gain, loss, deduction, or credit or similar item to which the assignor was entitled, to the extent assigned;

(2) A member ceases to be a member and to have the power to exercise any rights or powers of a member upon assignment of all of his limited liability company interest; and

(3) The pledge of, or granting of a security interest, lien or other encumbrance in or against, any or all of the limited liability company interest of a member shall not cause the member to cease to be a member or to have the power to exercise any rights or powers of a member.

c. An operating agreement may provide that a member's interest in a limited liability company may be evidenced by a certificate of limited liability company interest issued by the limited liability company.

d. Unless otherwise provided in an operating agreement and except to the extent assumed by agreement, until an assignee of a limited liability company interest becomes a member, the assignee shall have no liability as a member solely as a result of the assignment.

e. An assignee shall have no authority to seek or obtain a court order dissolving or liquidating a limited liability company.

18. Section 45 of P.L.1993, c.210 (C.42:2B-45) is amended to read as follows:

C.42:2B-45 Rights of judgment creditor of member.

45. On application to a court of competent jurisdiction by any judgment creditor of a member, the court may charge the limited liability company interest of the member with payment of the unsatisfied amount of the judgment with interest. To the extent so charged, the judgment creditor has only the rights of an assignee of the limited liability company interest. An action by a court pursuant to this section does not deprive any member of the benefit of any exemption laws applicable to his limited liability company interest. A court order charging the limited liability company interest of a member pursuant to this section shall be the sole remedy of a judgment creditor, who shall have no right under P.L.1993, c.210 (C.42:2B-1 et seq.) or any other State law to interfere with the management or force dissolution of a limited liability company or to seek an order of the court requiring a foreclosure sale of the limited liability company interest. Nothing in this section shall be construed to affect in any way the rights of a judgment creditor of a member under federal bankruptcy or reorganization laws.

19. Section 48 of P.L.1993, c.210 (C.42:2B-48) is amended to read as follows:

C.42:2B-48 Dissolution, wind up.

48. A limited liability company is dissolved and its affairs shall be wound up upon the first to occur of the following:

a. Unless the certificate of formation specifies that the limited liability company is perpetual, at the time specified in an operating

agreement, or 30 years from the date of the formation of the limited liability company if no specified time for dissolution and winding up, regardless of any dissolution contingencies, is set forth in the operating agreement;

b. Upon the happening of events specified in an operating agreement;

c. The written consent of all members, which includes written consent of the sole remaining member of a limited liability company;

d. Ninety days after the date on which the limited liability company has only one member, unless at least one additional member is admitted within 90 days after the date on which the limited liability company had only one member; or

e. The entry of a decree of judicial dissolution under section 49 of this act.

20. Section 50 of P.L.1993, c.210 (C.42:2B-50) is amended to read as follows:

C.42:2B-50 Wind-up of affairs; appointment of liquidating trustee; liability not affected, imposed.

50. a. Unless otherwise provided in an operating agreement, a manager who has not wrongfully dissolved a limited liability company or, if there is no manager, the members or a person approved by the members or, if there is more than one class or group of members, then by each class or group of members, in either case, by members who own more than 50 percent of the then current percentage or other interest in the profits of the limited liability company owned by all of the members or by the members in each class or group, as appropriate, may wind up the limited liability company's affairs; but the Chancery Division, General Equity Part of Superior Court, upon cause shown, may wind up the limited liability company's affairs upon application of any member or manager, his legal representative or assignee, and in connection therewith, may appoint a liquidating trustee.

b. Upon dissolution of a limited liability company and until the filing of a certificate of cancellation as provided in section 14 of this act, the persons winding up the limited liability company's affairs may, in the name of, and for and on behalf of, the limited liability company, prosecute and defend suits, whether civil, criminal or administrative, gradually settle and close the limited liability company's business, dispose of and convey the limited liability company's property, discharge or make reasonable provision for the limited liability company's liabilities, and distribute to the members any remaining assets of the limited liability company, all

without affecting the liability of members and managers and without imposing liability on a liquidating trustee.

21. Section 65 of P.L.1993, c.210 (C.42:2B-65) is amended to read as follows:

C.42:2B-65 Fees.

65. a. No document required to be filed under this act shall be effective until the applicable fee required by this section is paid. The following fees shall be paid to and collected by the Secretary of State for the use of the State:

(1) Upon the receipt for filing of a certificate of registration of alternate name or a certificate of renewal pursuant to section 4 of this act, a fee in the amount of $50.

(2) Upon the receipt for filing of an application for reservation of name, an application for renewal of reservation or a notice of transfer or cancellation of reservation pursuant to section 5 of this act, a fee in the amount of $50.

(3) Upon the receipt for filing of a certificate under subsection b. of section 6 of this act, a fee in the amount of $25, upon the receipt for filing of a certificate under subsection b. of section 7 of this act, a fee in the amount of $25 and a further fee of $10 for each limited liability company affected by such certificate.

(4) Upon the receipt for filing of a notice of resignation and affidavit pursuant to subsection c. of section 7 of this act, a fee in the amount of $25 and upon the receipt for filing of a certificate of change pursuant to subsection c. of section 7 of this act, a fee in the amount of $25.

(5) Upon the receipt for filing of a certificate of formation under section 11 of this act, a certificate of correction under section 12 of this act, a certificate of amendment under section 13 of this act, a certificate of cancellation under section 14 of this act, a certificate of merger or consolidation under section 20 of this act or a restated certificate of formation under section 19 of this act, a fee in the amount of $100.

(6) Upon filing of an annual report, a fee in the amount of $50.00.

(7) Upon requesting a reinstatement of a certificate of a limited liability company, a late filing fee of $200.00 and a reinstatement filing fee of $50.00.

(8) For certifying copies of any paper on file as provided for by this act, a fee in the amount of $25 for each copy certified.

(9) The Secretary of State may issue photocopies of instruments on file as well as other copies, and for all of those copies, whether certified

or not, a fee in the amount of $10 for the first page and $2 per page thereafter shall be paid.

(10) Upon the receipt for filing of an application for registration as a foreign limited liability company under section 53 of this act or a certificate of cancellation under section 56 of this act, a fee in the amount of $100.

(11) For preclearance of any document for filing, a fee in the amount of $50.

(12) For preparing and providing a written report of a record search, a fee in the amount of $50.

(13) For issuing any certificate of the Secretary of State, including but not limited to a certificate of good standing, other than a certification of a copy under paragraph (6) of this subsection, a fee in the amount of $50, except that for issuing any certificate of the Secretary of State that recites all of a limited liability company's filings with the Secretary of State, a fee of $100 shall be paid for each such certificate.

(14) For receiving and filing and/or indexing any certificate, affidavit, agreement or any other paper provided for by this act, for which no different fee is specifically prescribed, a fee in the amount of $50.

(15) The Secretary of State may in his discretion charge a fee of $50 for each check received for payment of any fee that is returned due to insufficient funds or the result of a stop payment order.

b. In addition to those fees charged under subsection a. of this section, there shall be collected by and paid to the Secretary of State the following:

(1) for all services described in subsection a. of this section that are requested to be completed within the same day as the day of the request, an additional sum of up to $50; and

(2) for all services described in subsection a. of this section that are requested to be completed within a 24-hour period from the time of the request, an additional sum of up to $25.

The Secretary of State shall establish (and may from time to time amend) a schedule of specific fees payable pursuant to this subsection.

c. The Secretary of State may in his discretion permit the extension of credit for the fees required by this section upon such terms as he shall deem to be appropriate.

C.42:2B-8.1 Annual report by limited liability company to Secretary of State.

22. a. Each domestic and foreign limited liability company shall file an annual report with the office of the Secretary of State, setting forth:

(1) the name and address of the limited liability company;

(2) the name and address of the registered agent of the limited liability company; and

(3) the name and addresses of the managing members or managers, as the case may be.

b. If no annual report is filed as required by this section for two consecutive years,

(1) the certificate of a domestic limited liability company shall be transferred to an inactive list maintained by the Secretary of State. A limited liability company on the inactive list shall remain a limited liability company and the limited liability of its members and managers shall not be affected by its transfer to this list. The name of a limited liability company on the inactive list shall, subject to any other rights that limited liability company may have to its name, be available for use by any other limited liability company, including a newly-formed limited liability company.

(2) the certificate of a foreign limited liability company may be revoked by the Secretary of State.

(3) if the certificate of a domestic limited liability company has been transferred to the inactive list or if the certificate of a foreign limited liability company has been revoked, the certificate shall be reinstated by proclamation of the Secretary of State upon payment of all fees due to the Secretary of State, consisting of a reinstatement filing fee, current annual report fee, all delinquent annual report fees, and a late filing fee. The reinstatement relates back to the date of transfer of the certificate of a domestic limited liability company to the inactive list or to the date of revocation of the certificate of a foreign limited liability company, as the case may be, and shall validate all actions taken in the interim. In the event that in the interim the name of the limited liability company has become unavailable, the Secretary of State shall reinstate the certificate upon, in the case of a domestic limited liability company, the filing of an amendment to its certificate of formation to change the name to an available name and in the case of a foreign limited liability company, the filing of an amended certificate of registration adopting an alternate name. The Secretary of State shall provide the forms necessary to effect annual report reinstatements.

23. Section 2 of P.L.1973, c.367 (C.54:50-13) is amended to read as follows:

C.54:50-13 Merger, consolidations; dissolutions; conditions.

2. Until all taxes owing by it have been paid, or provided for as set forth in section 4 of P.L.1973, c.367 (C.54:50-15):

a. no domestic or foreign corporation shall merge or consolidate into a foreign corporation not authorized to transact business in this State; and

b. no domestic corporation shall dissolve and no domestic or foreign corporation shall distribute any of its assets in dissolution or liquidation to any shareholder unless

(1) one or more domestic corporations or foreign corporations authorized to transact business in this State are owners in the aggregate of 50% or more of all classes of such corporation's capital stock and, prior to such dissolution or distribution, all such holders of the corporation's capital stock jointly and severally undertake in writing to pay all such taxes on or before the date such taxes are payable; or

(2) such corporate action is pursuant to a plan of reorganization under which a domestic corporation or a foreign corporation authorized to transact business in this State has purchased, or is about to purchase, all, or substantially all, of the assets of such corporation in exchange for shares of its capital stock and has undertaken in writing to pay all such taxes on or before the date such taxes are payable; and

c. no business entity shall merge or consolidate into any other business entity other than a domestic business entity or a foreign business entity authorized to transact business in this State.

24. Section 3 of P.L.1973, c.367 (C.54:50-14) is amended to read as follows:

C.54:50-14 Certificates, various; Secretary of State's duties.

3. The Secretary of State shall not:

a. accept for filing a certificate of dissolution of a domestic corporation;

b. issue a certificate of withdrawal of a foreign corporation, unless such withdrawal is effected by its merger or consolidation into a domestic corporation or a foreign corporation authorized to transact business in this State;

c. accept for filing a certificate of merger or consolidation of a domestic corporation into a foreign corporation not authorized to transact business in this State; or

d. accept for filing a certificate of merger or consolidation of any business entity into any other business entity other than a domestic business entity or a foreign business entity authorized to transact business in this State;

unless the business entity files with the Secretary of State a certificate issued by the Director of the Division of Taxation dated not earlier than

45 days prior to the effective date of the business entity action evidencing that the business entity's taxes have been paid or provided for.

25. This act shall take effect immediately.

Approved June 27, 1997.

CHAPTER 140

AN ACT concerning certain persons certified by the Department of Education and amending P.L.1966, c.282 and P.L.1991, c.134.

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

1. Section 6 of P.L.1966, c.282 (C.45:14B-6) is amended to read as follows:

C.45:14B-6 Activities of unlicensed practicing psychologist.

6. Any individual who is not a licensed practicing psychologist shall not be limited in his activities:

(a) As part of his duties as an employee of:

(1) an accredited academic institution, a federal, State, county or local governmental institution or agency, or a research facility while performing those duties for which he was employed by such an institution, agency or facility;

(2) a business organization, while performing those duties for which he was employed by such an organization, and providing the purposes of such an organization do not include the offer to practice, or the practice of, psychology as defined in section 2(b) of this act;

(3) an organization which is nonprofit and which is, in the opinion of the board, a bona fide community agency, while performing those duties for which he was employed by such an agency under the direct supervision of a licensed practicing psychologist. For the purposes of this subsection a "community agency" means a nonprofit organization supported wholly or in a major part by public funds.

(b) As required by his employer to the pupils, students or other normal clientele within the scope of his employment but not to the general public, provided he is employed by a private elementary or secondary school that requires its psychologists to be certified as school psychologists by the New Jersey State Department of Education.

(c) As a student of psychology, psychological intern or person preparing for the practice of psychology under qualified supervision in a training institution or facility recognized by the board provided he is designated by such titles as "psychological intern," "psychological trainee" or others, clearly indicating such training status.

(d) As a practicing psychologist for a period not to exceed 10 consecutive business days or 15 business days in any 90-day period, if he resides outside, and his major practice is outside, of the State of New Jersey and gives the board a summary of his qualifications and a minimum of 10 days' written notice of his intention to practice in the State of New Jersey under this section 6(d), provided he (1) is certified or licensed in another State under requirements the board considers to be the equivalent of requirements for licensing under this act or (2) resides in a State which does not certify or license psychologists and the board considers his professional qualifications to be the equivalent of requirements for licensing under this act; and is not adjudged and notified by the board that he is ineligible for licensing under this act.

(e) As a practicing psychologist for a period not exceeding one year, if he has a temporary permit therefor which the board may issue upon his filing of an application for licensing under this act.

(f) As a practicing psychologist for a period not exceeding three years under the supervision of a licensed practicing psychologist or a person designated by the board as an eligible supervisor, if he has a temporary permit therefor which the board may issue upon his completion of all the requirements for licensing under this act except the supervised experience requirement.

(g) As a practicing psychologist certified as a school psychologist by the State Department of Education and performing services on behalf of a local school district to students for whom the school district is responsible to provide services.

2. Section 5 of P.L.1991, c.134 (C.45:15BB-5) is amended to read as follows:

C.45:15BB-5 Nonapplicability of act.

5. The provisions of this act shall not apply to the following persons:

a. A person authorized by the laws of this State to practice medicine and surgery, psychology, marriage counseling, chiropractic, acupuncture, physical therapy, occupational therapy, speech pathology and audiology, nursing or any other profession licensed by the State, when acting within the scope of the person's profession or occupation and doing work of a nature consistent with the person's training, if the person does not hold

himself out to the public as possessing a license or certificate issued pursuant to this act;

b. A student enrolled in an educational program accredited, or in candidacy for accreditation, by the Council on Social Work Education, if the student is practicing as part of a supervised course of study and is clearly designated by the title "social work intern";

c. A person certified as a school social worker by the State Department of Education, but only when performing services on behalf of a local school district to students for whom the school district is responsible to provide services;

d. A rabbi, priest, minister, Christian Science practitioner or clergyman of any religious denomination or sect, when engaging in activities, which are within the scope of the performance of the person's regular or specialized ministerial duties and for which no separate charge is made, or when these activities are performed, with or without charge, for or under the auspices or sponsorship, individually or in conjunction with others, of an established and legally cognizable church, denomination, or sect, and when the person rendering services remains accountable to the established authority thereof;

e. A person engaged in the practice of alcohol or drug abuse intervention, prevention, or treatment if the person does not advertise or use any title, name, or description, the use of which is restricted by section 4 of this act;

f. An employee of the State or a political subdivision thereof which is subject to the provisions of Title 11A, Civil Service, of the New Jersey Statutes, but only in the course of this employment;

g. An employee of a nonprofit organization with a master's degree in a mental health discipline other than social work, who performs psychotherapeutic counseling under the supervision of a licensed clinical social worker or other State-licensed mental health professional; and

h. An employee or volunteer of a nonprofit organization who performs any social work service other than psychotherapeutic counseling, but only in the course of this employment or volunteer activity, and if the person does not advertise or use any title or name the use of which is restricted by section 4 of P.L.1991, c.134 (C.45:15BB-4).

3. This act shall take effect immediately.

Approved June 27, 1997.

CHAPTER 141

AN ACT authorizing the sale or lease of certain surplus real property owned by the State and the grant of easements across certain State real property.

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

1. The Department of Human Services is authorized to sell and convey as surplus real property all of the State's interest in:

a. 2.5± acres of vacant land located on Central Avenue, Morris Plains Township, Morris County, and designated as Block 41.02, part of Lot 39 on the Township of Morris Plains tax map;

b. 378.3± acres of vacant land located on Route 520 in Marlboro Township, Monmouth County, and designated as Block 213, Lot 27 and Block 214, Lots 40 and 43 on the tax maps of Marlboro Township;

c. 29± acres of vacant land located on Bear Tavern Road and Route I-95 in Ewing Township, Mercer County, and designated as Block 373, Lots 2 & 3 on the tax map of Ewing Township;

d. 25± acres of vacant land located on Stuyvesant Avenue in Ewing Township, Mercer County, and designated as Block 322, part of Lots 3 and 74 on the tax map of Ewing Township;

e. 3± acres of land improved with a 16 unit apartment building on the grounds of the Trenton Psychiatric Hospital, designated as Block 414, part of Lot 2 on the tax map of Ewing Township;

f. 1.61± acres of vacant land located on Stuyvesant and Esther Avenues in Ewing Township, Mercer County, and designated as Block 322, part of Lot 75 on the tax map of Ewing Township;

g. 7.82± acres of vacant land located on Sullivan Way in the City of Trenton, Mercer County, and designated as Block 426, Lot 2 on the tax map of the City of Trenton;

h. .32± acres of land improved with single family residence and located in the City of Trenton, Mercer County, and designated as Block 429, Lot 2 on the tax map of the City of Trenton;

i. 2.56± acres of land improved with single family residences and located in the City of Trenton, Mercer County, and designated as Block 409, Lot 177 on the tax map of the City of Trenton;

j. 28± acres of vacant land located on West Hanover Avenue and Ketch Road in Morris Township, Morris County, and designated as Block 1803, Lot 13 on the tax map of Morris Township;

k. 30± acres of vacant land located on West Hanover Avenue in Morris Township, Morris County, and designated as Block 901, Lot 1 on the tax map of Morris Township.

2. The Department of Corrections is authorized to sell and convey as surplus real property all of the State's interest in:

a. 1.52± acres of land improved with a single family residence and located at 238 Skillman Road, Montgomery Township, Somerset County, and designated as Block 16001, Lot 24 on the tax map of Montgomery Township;

b. .38± acres of land improved with a half-way house and located at 134 South 10th Street in the City of Newark, Essex County, and designated as Block 1827, Lots 12, 55, 70 on the tax maps of Newark.

3. The Department of the Treasury is authorized to sell and convey as surplus real property all of the State's interest in:

a. .37± acres of land improved with a single family residence and located at 210 Elizabeth Avenue, City of Cranford, Union County, and designated as Block 304, Lot 32 on the tax map of Cranford;

b. 1.9± acres of vacant land located on Perry Street, City of Trenton, Mercer County, and designated as Block 35, Lot 25 on the tax map of the City of Trenton.

4. The Department of Law and Public Safety is authorized to sell and convey as surplus real property all of the State's interest in 1.8± acres of land improved with one building currently used by the State Police and located in the Township of Little Falls, Passaic County, and designated as part of Block 217, Lot 17 on the tax map of Little Falls Township.

5. The Department of Military and Veterans' Affairs is authorized to:

a. lease as surplus property all of the State's interest in .57± acres of vacant land designated as Block 85, part of Lot 1, on the tax map of Sea Girt Boro;

b. lease as surplus property all of the State's interest in .38± acres of vacant land designated as Block 54, part of Lots 2 and 2.01, and Block 53, part of Lot 1, on the tax map of Manasquan Boro;

c. grant a permanent easement for .57± acres of vacant land and a temporary construction easement for 2.18± acres designated as Block 85, part of Lot 1, on the tax map of Sea Girt Boro.

6. The Department of Education is authorized to lease as surplus property all of the State's interest in Buildings 7, 24, 27 and 30, and all or

parts of other buildings as may be declared surplus by the Katzenbach School, and designated as Block 341, part of Lot 1, on the tax map of Ewing Township, for use as a charter school.

7. a. The sales and conveyances, leases, and grant of an easement authorized by this act shall be upon terms and conditions as approved by the State House Commission.

b. The proceeds from the sales and conveyances, leases, and grant of an easement authorized by this act shall be deposited in the General Fund of the State.

8. This act shall take effect immediately.

Approved June 27, 1997.

CHAPTER 142

AN ACT establishing the State Transportation Infrastructure Bank and supplementing P.L.1984, c.73 (C.27:1B-1 et seq.).

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

C.27:1B-21.10 Definitions relative to State Transportation Infrastructure Bank.

1. As used in this act:

"Federal infrastructure bank program" means the United States Department of Transportation State Infrastructure Bank Program provided for in section 350 of Pub.L.104-59 and Pub.L.102-240 as amended or superseded.

"Other assistance" means forms of financial assistance, in addition to loans, authorized by the federal infrastructure bank program, including, but not limited to, use of funds to: provide credit enhancements; serve as a capital reserve for bond or other debt instrument financing; subsidize interest rates; ensure the issuance of letters of credit and credit instruments; finance purchase and lease agreements with respect to transit projects; and provide bond or other debt financing instrument security.

C.27:1B-21.11 State Transportation Infrastructure Bank, established.

2. a. There is hereby established a special non-lapsing, revolving subaccount of the Special Transportation Fund to be known as the "State Transportation Infrastructure Bank" which shall be credited with: State and federal funds appropriated to the State Transportation Infrastructure

Bank, monetary donations made available to the State to support the State Transportation Infrastructure Bank program and any monies received as repayment of the monies loaned or otherwise provided pursuant to this act. The commissioner may establish subaccounts of the State Transportation Infrastructure Bank as may be required by the federal infrastructure bank program. The commissioner shall administer and maintain the State Transportation Infrastructure Bank in accordance with the provisions of the federal infrastructure bank program.

b. Monies in the State Transportation Infrastructure Bank shall be used to provide loans or other assistance to public or private entities or consortia thereof for the purpose of financing all or a portion of the costs incurred for the planning, acquisition, engineering, construction, reconstruction, repair and rehabilitation of a transportation project or for any other purpose permitted under the federal infrastructure bank program.

c. Loans or other assistance granted pursuant to this section shall be considered an investment or reinvestment by the State Transportation Infrastructure Bank consistent with the federal infrastructure bank program and not a loan within the meaning of section 12 of P.L.1995, c.108 (C.27:1B-21.5).

C.27:1B-21.12 Commissioner's powers; duties.

3. a. The commissioner is authorized to enter into agreements with public or private entities or consortia thereof for the use of monies from the State Transportation Infrastructure Bank to provide loans or other assistance for the purpose of financing all or a portion of the costs incurred for the planning, acquisition, engineering, construction, reconstruction, repair and rehabilitation of a transportation project or for any other purpose permitted under the federal infrastructure bank program. The terms of the agreements shall be consistent with the requirements of the federal infrastructure bank program.

b. The commissioner shall report periodically, and at least annually, on the status of the State Transportation Infrastructure Bank program to the Joint Budget Oversight Committee or its successor.

C.27:1B-21.13 Rules, regulations.

4. The commissioner shall adopt rules and regulations, pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), governing the State Transportation Infrastructure Bank Program.

5. This act shall take effect immediately.

Approved June 27, 1997.

CHAPTER 143

AN ACT concerning the State Highway System, amending P.L.1965, c.60, supplementing chapter 6 of Title 27 of the Revised Statutes, and repealing P.L.1955, c.255, P.L.1967, c.87, P.L.1967, c.142 and P.L.1971, c.287.

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

1. Section 1 of P.L.1965, c.60 (C.27:6-1) is amended to read as follows:

C.27:6-1 State highway routes set forth.

1. The Commissioner of Transportation is authorized, as soon as practical, to add to the State Highway system a new route, designated as Route 90 Freeway, beginning at a point in or near the proposed new bridge over the Delaware river in the township of Pennsauken in Camden county, and extending generally easterly to Route 73.

C.27:6-1.1 State House Commission approval of conveyance, required; parcels, certain.

2. Notwithstanding any other provision of law to the contrary, any sale or conveyance by the Department of Transportation of the State's interest in any of the following parcels of land affected by P.L.1997, c.143 (C.27:6-1.1 et al.) shall require the prior approval of the State House Commission, established pursuant to R.S.52:20-1 et seq. The parcels of land affected by P.L.1997, c.143 (C.27:6-1.1 et al.) are as follows:

a. Approximately 4 acres of land located in the City of Newark in the County of Essex, previously allocated for the Route 75 Freeway pursuant to P.L.1967, c.87;

b. Approximately 120 acres of land located in the townships of Lawrence, Ewing and Hopewell in the County of Mercer, previously allocated for the Route 69 or the Route 31 Freeway pursuant to P.L.1955, c.255;

c. Approximately 23 acres of land located in the municipalities of Hanover and Morris in the County of Morris, previously allocated for the Route 178 Freeway pursuant to P.L.1967, c.142 and P.L.1971, c.287; and

d. Approximately 76 acres of land located in Moorestown and Cinnaminson in the County of Burlington, previously allocated for the Route 90 Freeway pursuant to P.L.1965, c.60, which has had its end limit changed to eliminate an unbuilt portion pursuant to P.L.1997, c.143 (C.27:6-1.1 et al.).

In addition, the Department of Transportation shall notify in writing the governing body of each municipality in which these parcels of land are located of any proposed action by the department for the sale or conveyance of the State's interest and the requirement that the State House Commission render its approval prior to such action. The notice shall be sent sufficiently prior in time to any action taken by the State House Commission to permit a municipal review and formulation of a response, if any.

Repealer.

3. P.L.1955, c.255, P.L.1967, c.87, P.L.1967, c.142 and P.L.1971, c.287 are repealed.

4. This act shall take effect immediately.

Approved June 27, 1997.

CHAPTER 144

AN ACT concerning signs on Department of Transportation property and supplementing Chapters 5 and 7 of Title 27 of the Revised Statutes.

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

C.27:7-21.12 Motor service signs, tourist-oriented directional sign; lease, rental of right-of-way.

1. a. The Commissioner of Transportation may lease, license or contract the use, management or operation of any State right-of-way or any real property of the department for the purpose of placing motorist service signs and tourist-oriented directional signs in such manner as to produce revenue for the support of the State.

b. In entering into a lease, license or contract pursuant to this section, the commissioner shall either set a fee for the lease, license or contract which shall yield at least a fair rental value for the use of the right-of-way or real property, or award the lease, license or contract on the basis of competitive public bids or proposals to the responsible bidder or proposer whose bid or proposal is determined to be in the best interest of the State, price and other factors considered.

c. Any sign placed on departmental property pursuant to a lease, license or contract entered into pursuant to this section shall conform to the Manual on Uniform Traffic Control Devices issued by the Federal Highway Administration, United States Department of Transportation.

C.27:5-9.1 Billboard, outdoor advertising sign, subject to local regulation.

2. Any billboard or outdoor advertising sign licensed and permitted pursuant to the "Roadside Sign Control and Outdoor Advertising Act," P.L.1991, c.413 (C.27:5-5 et seq.), and proposed to be erected on or above any State right-of-way or any real property of the department shall be subject to local government zoning ordinances, applicable local government building permit requirements, and in the pinelands area, shall be subject to the provisions of the comprehensive management plan prepared and adopted by the Pinelands Commission pursuant to section 7 of P.L.1979, c.111 (C.13:18A-8).

3. This act shall take effect immediately.

Approved June 27, 1997.

CHAPTER 145

AN ACT concerning certain variances under the "Municipal Land Use Law," and amending P.L.1975, c.291.

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

1. Section 57 of P.L.1975, c.291 (C.40:55D-70) is amended to read as follows:

C.40:55D-70 Powers.

57. Powers. The board of adjustment shall have the power to:

a. Hear and decide appeals where it is alleged by the appellant that there is error in any order, requirement, decision or refusal made by an administrative officer based on or made in the enforcement of the zoning ordinance;

b. Hear and decide requests for interpretation of the zoning map or ordinance or for decisions upon other special questions upon which such board is authorized to pass by any zoning or official map ordinance, in accordance with this act;

c. (1) Where: (a) by reason of exceptional narrowness, shallowness or shape of a specific piece of property, or (b) by reason of exceptional topographic conditions or physical features uniquely affecting a specific piece of property, or (c) by reason of an extraordinary and exceptional situation uniquely affecting a specific piece of property or the structures

lawfully existing thereon, the strict application of any regulation pursuant to article 8 of this act would result in peculiar and exceptional practical difficulties to, or exceptional and undue hardship upon, the developer of such property, grant, upon an application or an appeal relating to such property, a variance from such strict application of such regulation so as to relieve such difficulties or hardship; (2) where in an application or appeal relating to a specific piece of property the purposes of this act would be advanced by a deviation from the zoning ordinance requirements and the benefits of the deviation would substantially outweigh any detriment, grant a variance to allow departure from regulations pursuant to article 8 of this act; provided, however, that the fact that a proposed use is an inherently beneficial use shall not be dispositive of a decision on a variance under this subsection and provided that no variance from those departures enumerated in subsection d. of this section shall be granted under this subsection; and provided further that the proposed development does not require approval by the planning board of a subdivision, site plan or conditional use, in conjunction with which the planning board has power to review a request for a variance pursuant to subsection a. of section 47 of this act; and

d. In particular cases for special reasons, grant a variance to allow departure from regulations pursuant to article 8 of this act to permit: (1) a use or principal structure in a district restricted against such use or principal structure, (2) an expansion of a nonconforming use, (3) deviation from a specification or standard pursuant to section 54 of P.L.1975, c.291 (C.40:55D-67) pertaining solely to a conditional use, (4) an increase in the permitted floor area ratio as defined in section 3.1. of P.L.1975, c.291 (C.40:55D-4), (5) an increase in the permitted density as defined in section 3.1 of P.L.1975, c.291 (C.40:55D-4), except as applied to the required lot area for a lot or lots for detached one or two dwelling unit buildings, which lot or lots either an isolated undersized lot or lots resulting from a minor subdivision or (6) a height of a principal structure which exceeds by 10 feet or 10% the maximum height permitted in the district for a principal structure. A variance under this subsection shall be granted only by affirmative vote of at least five members, in the case of a municipal board, or two-thirds of the full authorized membership, in the case of a regional board, pursuant to article 10 of this act.

If an application development requests one or more variances but not a variance for a purpose enumerated in subsection d. of this section, the decision on the requested variance or variances shall be rendered under subsection c. of this section.

No variance or other relief may be granted under the terms of this section, including a variance or other relief involving an inherently

beneficial use, without a showing that such variance or other relief can be granted without substantial detriment to the public good and will not substantially impair the intent and the purpose of the zone plan and zoning ordinance. In respect to any airport safety zones delineated under the "Air Safety and Zoning Act of 1983," P.L.1983, c.260 (C.6:1-80 et seq.), no variance or other relief may be granted under the terms of this section, permitting the creation or establishment of a nonconforming use which would be prohibited under standards promulgated pursuant to that act, except upon issuance of a permit by the Commissioner of Transportation. An application under this section may be referred to any appropriate person or agency for its report; provided that such reference shall not extend the period of time within which the zoning board of adjustment shall act.

2. This act shall take effect immediately.

Approved June 30, 1997.

CHAPTER 146

AN ACT concerning individual, small employer and large group health insurance and revising various parts of the statutory law.

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

1. Section 1 of P.L.1992, c.161 (C.17B:27A-2) is amended to read as follows:

C.17B:27A-2 Definitions.

1. As used in sections 1 through 15, inclusive, of this act:

"Board" means the board of directors of the program.

"Carrier" means any entity subject to the insurance laws and regulations of this State, or subject to the jurisdiction of the commissioner, that contracts or offers to contract to provide, deliver, arrange for, pay for, or reimburse any of the costs of health care services, including a sickness and accident insurance company, a health maintenance organization, a nonprofit hospital or health service corporation, or any other entity providing a plan of health insurance, health benefits or health services. For purposes of this act, carriers that are affiliated companies shall be treated as one carrier.

"Church plan" has the same meaning given that term under Title I, section 3 of Pub.L.93-406, the "Employee Retirement Income Security Act of 1974" (29 U.S.C.s.1002(33)).

"Commissioner" means the Commissioner of Banking and Insurance.

"Community rating" means a rating system in which the premium for all persons covered by a contract is the same, based on the experience of all persons covered by that contract, without regard to age, sex, health status, occupation and geographical location.

"Creditable coverage" means, with respect to an individual, coverage of the individual under any of the following: a group health plan; a group or individual health benefits plan; Part A or Part B of Title XVIII of the federal Social Security Act (42 U.S.C. s.1395 et seq.); Title XIX of the federal Social Security Act (42 U.S.C. s.1396 et seq.), other than coverage consisting solely of benefits under section 1928 of Title XIX of the federal Social Security Act (42 U.S.C.s.1396s); Chapter 55 of Title 10, United States Code (10 U.S.C. s.1071 et seq.); a medical care program of the Indian Health Service or of a tribal organization; a State health plan offered under chapter 89 of Title 5, United States Code (5 U.S.C. s.8901 et seq.); a public health plan as defined by federal regulation; and a health benefits plan under section 5(e) of the "Peace Corps Act" (22 U.S.C. s.2504(e)); or coverage under any other type of plan as set forth by the commissioner by regulation.

Creditable coverage shall not include coverage consisting solely 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; workers' compensation or similar insurance; automobile medical payment insurance; credit only insurance; coverage for on-site medical clinics; coverage, as specified in federal regulation, under which benefits for medical care are secondary or incidental to the insurance benefits; and other coverage expressly excluded from the definition of health benefits plan.

"Department" means the Department of Banking and Insurance.

"Dependent" means the spouse or child of an eligible person, subject to applicable terms of the individual health benefits plan.

"Eligible person" means a person who is a resident who is not eligible to be covered under a group health benefits plan, group health plan, governmental plan, church plan, or Part A or Part B of Title XVIII of the Social Security Act (42 U.S.C.s.1395 et seq.).

"Federally defined eligible individual" means an eligible person: (1) for whom, as of the date on which the individual seeks coverage under P.L.1992, c.161 (C.17B:27A-2 et seq.), the aggregate of the periods of

creditable coverage is 18 or more months; (2) whose most recent prior creditable coverage was under a group health plan, governmental plan, church plan, or health insurance coverage offered in connection with any such plan; (3) who is not eligible for coverage under a group health plan, Part A or Part B of Title XVIII of the Social Security Act (42 U.S.C. s.1395 et seq.), or a State plan under Title XIX of the Social Security Act (42 U.S.C. s.1396 et seq.) or any successor program, and who does not have another health benefits plan, or hospital or medical service plan; (4) with respect to whom the most recent coverage within the period of aggregate creditable coverage was not terminated based on a factor relating to nonpayment of premiums or fraud; (5) who, if offered the option of continuation coverage under the COBRA continuation provision or a similar State program, elected that coverage; and (6) who has elected continuation coverage described in (5) above and has exhausted that continuation coverage.

"Financially impaired" means a carrier which, after the effective date of this act, is not insolvent, but is deemed by the commissioner to be potentially unable to fulfill its contractual obligations, or a carrier which is placed under an order of rehabilitation or conservation by a court of competent jurisdiction.

"Governmental plan" has the meaning given that term under Title I, section 3 of Pub.L.93-406, the "Employee Retirement Income Security Act of 1974" (29 U.S.C. s.1002(32)) and any governmental plan established or maintained for its employees by the Government of the United States or by any agency or instrumentality of that government.

"Group health benefits plan" means a health benefits plan for groups of two or more persons.

"Group health plan" means an employee welfare benefit plan, as defined in Title I, section 3 of Pub.L.93-406, the "Employee Retirement Income Security Act of 1974" (29 U.S.C. s.1002(1)), to the extent that the plan provides medical care, and including items and services paid for as medical care to employees or their dependents directly or through insurance, reimbursement, or otherwise.

"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; and 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. Health benefits plan shall not include the following if it is offered as a separate policy, certificate or contract of insurance: Medicare supplemental health insurance as defined under section 1882(g)(1) of the federal Social Security Act (42 U.S.C. s.1395ss(g)(1)); and coverage supplemental to the coverage provided under chapter 55 of Title 10, United States Code (10 U.S.C. s.1071 et seq.); and similar supplemental coverage provided to coverage under a group health plan.

"Health status-related factor" means any of the following factors: health status; medical condition, including both physical and mental illness; claims experience; receipt of health care; medical history; genetic information; evidence of insurability, including conditions arising out of acts of domestic violence; and disability.

"Individual health benefits plan" means: a. a health benefits plan for eligible persons and their dependents; and b. a certificate issued to an eligible person which evidences coverage under a policy or contract issued to a trust or association, regardless of the situs of delivery of the policy or contract, if the eligible person pays the premium and is not being covered under the policy or contract pursuant to continuation of benefits provisions applicable under federal or State law.

Individual health benefits plan shall not include a certificate issued under a policy or contract issued to a trust, or to the trustees of a fund, which trust or fund is an employee welfare benefit plan, to the extent the "Employee Retirement Income Security Act of 1974" (29 U.S.C. s.1001

et seq.) preempts the application of P.L.1992, c.161 (C.17B:27A-2 et seq.) to that plan.

"Medicaid" means the Medicaid program established pursuant to P.L.1968, c.413 (C.30:4D-1 et seq.).

"Medical care" means amounts paid: (1) for the diagnosis, care, mitigation, treatment, or prevention of disease, or for the purpose of affecting any structure or function of the body; and (2) transportation primarily for and essential to medical care referred to in (1) above.

"Member" means a carrier that is a member of the program pursuant to this act.

"Modified community rating" means a rating system in which the premium for all persons covered by a contract is formulated based on the experience of all persons covered by that contract, without regard to age, sex, occupation and geographical location, but which may differ by health status. The term modified community rating shall apply to contracts and policies issued prior to the effective date of this act which are subject to the provisions of subsection e. of section 2 of this act.

"Net earned premium" means the premiums earned in this State on health benefits plans, less return premiums thereon and dividends paid or credited to policy or contract holders on the health benefits plan business. Net earned premium shall include the aggregate premiums earned on the carrier's insured group and individual business and health maintenance organization business, including premiums from any Medicare, or Medicaid contracts with the State or federal government, but shall not include premiums earned from contracts funded pursuant to the "Federal Employee Health Benefits Act of 1959," 5 U.S.C. ss.8901-8914, any excess risk or stop loss insurance coverage issued by a carrier in connection with any self insured health benefits plan, or Medicare supplement policies or contracts.

"Non-group person life year" means coverage of a person for 12 months by an individual health benefits plan or conversion policy or contract subject to P.L.1992, c.161 (C.17B:27A-2 et seq.), Medicare cost or risk contract or Medicaid contract.

"Open enrollment" means the offering of an individual health benefits plan to any eligible person on a guaranteed issue basis, pursuant to procedures established by the board.

"Plan of operation" means the plan of operation of the program adopted by the board pursuant to this act.

"Plan sponsor" shall have the meaning given that term under Title I, section 3 of Pub.L.93-406, the "Employee Retirement Income Security Act of 1974" (29 U.S.C. s.1002(16)(B)).

"Preexisting condition" means a condition that, during a specified period of not more than six months immediately preceding the effective date of coverage, had manifested itself in such a manner as would cause an ordinarily prudent person to seek medical advice, diagnosis, care or treatment, or for which medical advice, diagnosis, care or treatment was recommended or received as to that condition or as to a pregnancy existing on the effective date of coverage.

"Program" means the New Jersey Individual Health Coverage Program established pursuant to this act.

"Resident" means a person whose primary residence is in New Jersey and who is present in New Jersey for at least six months of the calendar year, or, in the case of a person who has moved to New Jersey less than six months before applying for individual health coverage, who intends to be present in New Jersey for at least six months of the calendar year.

"Two-year calculation period" means a two calendar year period, the first of which shall begin January 1, 1997 and end December 31, 1998.

2. Section 2 of P.L.1992, c.161 (C.17B:27A-3) is amended to read as follows:

C.17B:27A-3 Individual health benefits plans, applicability of act.

2. a. An individual health benefits plan issued on or after August 1, 1993 shall be subject to the provisions of this act.

b. (1) An individual health benefits plan issued on an open enrollment, modified community rated basis or community rated basis prior to August 1, 1993 shall not be subject to sections 3 through 8, inclusive, of this act, unless otherwise specified therein.

(2) An individual health benefits plan issued other than on an open enrollment basis prior to August 1, 1993 shall not be subject to the provisions of this act, except that the plan shall be liable for assessments made pursuant to section 11 of this act.

(3) A group conversion contract or policy issued prior to August 1, 1993 that is not issued on a modified community rated basis or community rated basis, shall not be subject to the provisions of this act, except that the contract or policy shall be liable for assessments made pursuant to section 11 of this act.

(4) Notwithstanding any other provision of law to the contrary, an individual health benefits plan issued by a hospital service corporation or medical service corporation prior to the effective date of P.L.1997, c.146 (C.17B:27-54 et al.) shall not be subject to the provisions of P.L.1992, c.161 (C.17B:27A-2 et seq.), except that the plan shall guarantee renewal pursuant to subsection b. of section 5 of P.L.1992, c.161 (C.17B:27A-6).

(5) Notwithstanding any other provision of law to the contrary, an individual health benefits plan issued by a hospital service corporation or medical service corporation to an eligible person or federally defined eligible individual after the effective date of P.L.1997, c.146 (C.17B:27-54 et al.) shall comply with the provisions of subsections c. and d. of section 2, subsection b. of section 3, section 5, subsection b. of section 6, and subsections c., d., and e. of section 8 of P.L.1992, c.161 (C.17B:27A-3, C.17B:27A-4, 17B:27A-6, 17B:27A-7, and 17B:27A-9), but shall not be subject to the remaining provisions of P.L.1992, c. 161.

c. After August 1, 1993, an individual who is eligible to participate in a group health benefits plan that provides coverage for hospital or medical expenses shall not be covered by an individual health benefits plan which provides benefits for hospital and medical expenses that are the same or similar to coverage provided in the group health benefits plan, except that an individual who is eligible to participate in a group health benefits plan but is currently covered by an individual health benefits plan may continue to be covered by that plan until the first anniversary date of the group health benefits plan occurring on or after January 1, 1994.

d. Except as otherwise provided in subsection c. of this section, after August 1, 1993, a person who is covered by an individual health benefits plan who is a participant in, or is eligible to participate in, a group health benefits plan that provides the same or similar coverages as the individual health benefits plan, and a person, including an employer or insurance producer, who causes another person to be covered by an individual health benefits plan which person is a participant in, or who is eligible to participate in a group health benefits plan that provides the same or similar coverages as the individual health benefits plan, shall be subject to a fine by the commissioner in an amount not less than twice the annual premium paid for the individual health benefits plan, together with any other penalties permitted by law.

e. (Deleted by amendment, P.L.1997, c.146).

3. Section 5 of P.L.1992, c.161 (C.17B:27A-6) is amended to read as follows:

C.17B:27A-6 Individual health benefits plans, requirements.

5. An individual health benefits plan issued pursuant to section 3 of this act is subject to the following provisions:

a. The health benefits plan shall guarantee coverage for an eligible person and his dependents on a community rated basis.

b. A health benefits plan shall be renewable with respect to an eligible person and his dependents at the option of the policy or contract

holder. A carrier may terminate a health benefits plan under the following circumstances:

(1) the policy or contract holder has failed to pay premiums in accordance with the terms of the policy or contract or the carrier has not received timely premium payments;

(2) the policy or contract holder has performed an act or practice that constitutes fraud or made an intentional misrepresentation of material fact under the terms of the coverage;

c. A carrier may not renew a health benefits plan only under the following circumstances:

(1) termination of eligibility of the policy or contract holder if the person is no longer a resident or becomes eligible for a group health benefits plan, group health plan, governmental plan or church plan;

(2) cancellation or amendment by the board of the specific individual health benefits plan;

(3) board approval of a request by the individual carrier to not renew a particular type of health benefits plan, in accordance with rules adopted by the board. After receiving board approval, a carrier may not renew a type of health benefits plan only if the carrier: (a) provides notice to each covered individual provided coverage of this type of the nonrenewal at least 90 days prior to the date of the nonrenewal of the coverage; (b) offers to each individual provided coverage of this type the option to purchase any other individual health benefits plan currently being offered by the carrier; and (c) in exercising the option to not renew coverage of this type and in offering coverage as required under (b) above, the carrier acts uniformly without regard to any health status-related factor of enrolled individuals or individuals who may become eligible for coverage;

(4) board approval of a request by the individual carrier to cease doing business in the individual health benefits market. A carrier may not renew all individual health benefits plans only if the carrier: (a) first receives approval from the board; and (b) provides notice to each individual of the nonrenewal at least 180 days prior to the date of the expiration of such coverage. A carrier ceasing to do business in the individual health benefits market may not provide for the issuance of any health benefits plan in the individual market during the five-year period beginning on the date of the termination of the last health benefits plan not so renewed; and

(5) In the case of a health benefits plan made available by a health maintenance organization carrier, the carrier shall not be required to renew coverage to an eligible individual who no longer resides, lives, or works in the service area, or in an area for which the carrier is authorized

to do business, but only if coverage is terminated under this paragraph uniformly without regard to any health status-related factor of covered individuals.

4. Section 6 of P.L.1992, c.161 (C.17B:27A-7) is amended to read as follows:

C.17B:27A-7 Establishment of policy and contract forms, benefit levels.

6. The board shall establish the policy and contract forms and benefit levels to be made available by all carriers for the health benefits plans required to be issued pursuant to section 3 of P.L.1992, c.161 (C.17B:27A-4). The board shall provide the commissioner with an informational filing of the policy and contract forms and benefit levels it establishes.

a. The individual health benefits plans established by the board may include cost containment measures such as, but not limited to: utilization review of health care services, including review of medical necessity of hospital and physician services; case management benefit alternatives; selective contracting with hospitals, physicians, and other health care providers; and reasonable benefit differentials applicable to participating and nonparticipating providers; and other managed care provisions.

b. An individual health benefits plan offered pursuant to section 3 of P.L.1992, c.161 (C.17B:27A-4) shall contain a limitation of no more than 12 months on coverage for preexisting conditions. An individual health benefits plan offered pursuant to section 3 of P.L.1992, c.161 (C.17B:27A-4) shall not contain a preexisting condition limitation of any period under the following circumstances:

(1) to an individual who has, under creditable coverage, with no intervening lapse in coverage of more than 31 days, been treated or diagnosed by a physician for a condition under that plan or satisfied a 12-month preexisting condition limitation; or

(2) to a federally defined eligible individual who applies for an individual health benefits plan within 63 days of termination of the prior coverage.

c. In addition to the five standard individual health benefits plans provided for in section 3 of P.L.1992, c.161 (C.17B:27A-4), the board may develop up to five rider packages. Premium rates for the rider packages shall be determined in accordance with section 8 of P.L.1992, c.161 (C.17B:27A-9).

d. After the board's establishment of the individual health benefits plans required pursuant to section 3 of P.L.1992, c.161 (C.17B:27A-4), and notwithstanding any law to the contrary, a carrier shall file the policy

or contract forms with the board and certify to the board that the health benefits plans to be used by the carrier are in substantial compliance with the provisions in the corresponding board approved plans. The certification shall be signed by the chief executive officer of the carrier. Upon receipt by the board of the certification, the certified plans may be used until the board, after notice and hearing, disapproves their continued use.

e. Effective immediately for an individual health benefits plan issued on or after the effective date of P.L.1995, c.316 (C.17:48E-35.10 et al.) and effective on the first 12-month anniversary date of an individual health benefits plan in effect on the effective date of P.L.1995, c.316 (C.17:48E-35.10 et al.), the individual health benefits plans required pursuant to section 3 of P.L.1992, c.161 (C.17B:27A-4), including any plan offered by a federally qualified health maintenance organization, shall contain benefits for expenses incurred in the following:

(1) Screening by blood lead measurement for lead poisoning for children, including confirmatory blood lead testing as specified by the Department of Health and Senior Services pursuant to section 7 of P.L.1995, c.316 (C.26:2-137.1); and medical evaluation and any necessary medical follow-up and treatment for lead poisoned children.

(2) All childhood immunizations as recommended by the Advisory Committee on Immunization Practices of the United States Public Health Service and the Department of Health and Senior Services pursuant to section 7 of P.L.1995, c.316 (C.26:2-137.1). A carrier shall notify its insureds, in writing, of any change in the health care services provided with respect to childhood immunizations and any related changes in premium. Such notification shall be in a form and manner to be determined by the Commissioner of Banking and Insurance.

The benefits shall be provided to the same extent as for any other medical condition under the health benefits plan, except that no deductible shall be applied for benefits provided pursuant to this section. This section shall apply to all individual health benefits plans in which the carrier has reserved the right to change the premium.

5. Section 7 of P.L.1992 c.161 (C.17B:27A-8) is amended to read as follows:

C.17B:27A-8 Offering of certain coverage not required.

7. a. A health maintenance organization shall not be required to offer coverage to or accept an applicant pursuant to this act if:

(1) the eligible individual does not live, reside, or work within the health maintenance organization's approved service area; and

(2) the carrier has demonstrated to the commissioner that the carrier will not have the capacity to deliver services adequately to additional eligible persons because of its obligations to existing group contract holders and enrollees and individual enrollees and it applies this paragraph uniformly to individuals without regard to any health status-related factor of such individuals and without regard to whether the individuals are eligible persons. Upon denying individual health benefits coverage pursuant to this paragraph, a carrier may not offer such coverage in the individual market for a period of 180 days after the date the coverage is denied. If the health maintenance organization does not have the capacity in its facilities for additional individual enrollees, it also shall not offer coverage to or accept any new group enrollees.

b. A carrier shall not be required to offer coverage or accept applications pursuant to this act if the commissioner determines that the carrier does not have the financial reserves necessary to underwrite additional coverage. Upon denying individual health benefits coverage pursuant to this subsection, a carrier may not offer such coverage in the individual market for a period of 180 days after the date the coverage is denied or until the carrier has demonstrated to the commissioner that the carrier has sufficient financial reserves to underwrite additional coverage, whichever is later.

6. Section 11 of P.L.1992, c.161 (C.17B:27A-12) is amended to read as follows:

C.17B:27A-12 Procedures for equitable sharing of program losses.

11. The board shall establish procedures for the equitable sharing of program losses among all members in accordance with their total market share as follows:

a. (1) By March 1, 1999, and following the close of each two-year calculation period thereafter, or on a different date established by the board:

(a) every carrier issuing health benefits plans in this State shall file with the board its net earned premium for the preceding two-year calculation period; and

(b) every carrier issuing individual health benefits plans in the State shall file with the board the net earned premium on health benefits plans issued pursuant to paragraph (1) of subsection b. of section 2 and section 3 of this act and the claims paid. If the claims paid for all health benefits plans during the two-year calculation period exceed 115% of the net earned premium and any investment income thereon for the two-year

calculation period, the amount of the excess shall be the net paid loss for the carrier that shall be reimbursable under this act.

(2) Every member shall be liable for an assessment to reimburse carriers issuing individual health benefits plans in this State which sustain net paid losses during the two-year calculation period, unless the member has received an exemption from the board pursuant to subsection d. of this section and has written a minimum number of non-group person life years as provided for in that subsection. The assessment of each member shall be in the proportion that the net earned premium of the member for the two-year calculation period preceding the assessment bears to the net earned premium of all members for the two-year calculation period preceding the assessment. Notwithstanding the provisions of this subsection to the contrary, a medical service corporation or a hospital service corporation shall not be liable for an assessment to reimburse carriers which sustain net paid losses.

(3) A member that is financially impaired may seek from the commissioner a deferment in whole or in part from any assessment issued by the board. The commissioner may defer, in whole or in part, the assessment of the member if, in the opinion of the commissioner, the payment of the assessment would endanger the ability of the member to fulfill its contractual obligations. If an assessment against a member is deferred in whole or in part, the amount by which the assessment is deferred may be assessed against the other members in a manner consistent with the basis for assessment set forth in this section. The member receiving the deferment shall remain liable to the program for the amount deferred.

b. The participation in the program as a member, the establishment of rates, forms or procedures, or any other joint or collective action required by this act shall not be the basis of any legal action, criminal or civil liability, or penalty against the program, a member of the board or a member of the program either jointly or separately except as otherwise provided in this act.

c. Payment of an assessment made under this section shall be a condition of issuing health benefits plans in the State for a carrier. Failure to pay the assessment shall be grounds for forfeiture of a carrier's authorization to issue health benefits plans of any kind in the State, as well as any other penalties permitted by law.

d. (1) Notwithstanding the provisions of this act to the contrary, a carrier may apply to the board, by a date established by the board, for an exemption from the assessment and reimbursement for losses provided for in this section. A carrier which applies for an exemption shall agree to cover a minimum number of non-group person life years on an open

enrollment community rated basis, under a managed care or indemnity plan, as specified in this subsection, provided that any indemnity plan so issued conforms with sections 2 through 7, inclusive, of P.L.1992, c.161 (C.17B:27A-3 through 17B:27A-8). For the purposes of this subsection, non-group persons include individually enrolled persons, conversion policies issued pursuant to this act, Medicare cost and risk lives and Medicaid recipients; except that in determining whether the carrier meets the minimum number of non-group person life years required to be covered pursuant to this subsection, the number of Medicaid recipients and Medicare cost and risk lives shall not exceed 50% of the total. Pursuant to regulations adopted by the board, the carrier shall determine the number of non-group person life years it has covered by adding the number of non-group persons covered on the last day of each calendar quarter of the two-year calculation period, taking into account the limitations on counting Medicaid recipients and Medicare cost and risk lives, and dividing the total by eight.

(2) Notwithstanding the provisions of paragraph (1) of this subsection to the contrary, a health maintenance organization qualified pursuant to the "Health Maintenance Organization Act of 1973," Pub.L 93-222 (42 U.S.C. s.300e et seq.) and tax exempt pursuant to paragraph (3) of subsection (c) of section 501 of the federal Internal Revenue Code of 1986, 26 U.S.C. s.501, may include up to one third Medicaid recipients and up to one third Medicare recipients in determining whether it meets its minimum number of non-group person life years.

(3) The minimum number of non-group person life years required to be covered, as determined by the board, shall equal the total number of non-group person life years of community rated, individually enrolled or insured persons, including Medicare cost and risk lives and enrolled Medicaid lives, of all carriers subject to this act for the two-year calculation period, multiplied by the proportion that that carrier's net earned premium bears to the net earned premium of all carriers for that two-year calculation period, including those carriers that are exempt from the assessment.

(4) On or before March 1 of the first year of each two-year calculation period, every carrier seeking an exemption pursuant to this subsection shall file with the board a statement of its net earned premium for the two-year calculation period. The board shall determine each carrier's minimum number of non-group person life years in accordance with this subsection.

(5) On or before March 1 of each year immediately following the close of a two-year calculation period, every carrier that was granted an exemption for the preceding two-year calculation period shall file with the

board the number of non-group person life years, by category, covered for the two-year calculation period.

To the extent that the carrier has failed to cover the minimum number of non-group person life years established by the board, the carrier shall be assessed by the board on a pro rata basis for any differential between the minimum number established by the board and the actual number covered by the carrier.

(6) A carrier that applies for the exemption shall be deemed to be in compliance with the requirements of this subsection if it has covered 100% of the minimum number of non-group person life years required.

(7) Any carrier that writes both managed care and indemnity business that is granted an exemption pursuant to this subsection may satisfy its obligation to cover a minimum number of non-group person life years by issuing either managed care or indemnity business, or both.

e. (Deleted by amendment, P.L.1997, c.146).

7. Section 1 of P.L.1992, c.162 (C.17B:27A-17) is amended to read as follows:

C.17B:27A-17 Definitions relative to small employer health benefits plans.

1. As used in this act:

"Actuarial certification" means a written statement by a member of the American Academy of Actuaries or other individual acceptable to the commissioner that a small employer carrier is in compliance with the provisions of section 9 of P.L.1992, c.162 (C.17B:27A-25), based upon examination, including a review of the appropriate records and actuarial assumptions and methods used by the small employer carrier in establishing premium rates for applicable health benefits plans.

"Anticipated loss ratio" means the ratio of the present value of the expected benefits, not including dividends, to the present value of the expected premiums, not reduced by dividends, over the entire period for which rates are computed to provide coverage. For purposes of this ratio, the present values must incorporate realistic rates of interest which are determined before federal taxes but after investment expenses.

"Board" means the board of directors of the program.

"Carrier" means any entity subject to the insurance laws and regulations of this State, or subject to the jurisdiction of the commissioner, that contracts or offers to contract to provide, deliver, arrange for, pay for, or reimburse any of the costs of health care services, including an insurance company authorized to issue health insurance, a health maintenance organization, a hospital service corporation, medical service corporation and health service corporation, or any other entity providing a plan of

health insurance, health benefits or health services. The term "carrier" shall not include a joint insurance fund established pursuant to State law. For purposes of this act, carriers that are affiliated companies shall be treated as one carrier, except that any insurance company, health service corporation, hospital service corporation, or medical service corporation that is an affiliate of a health maintenance organization located in New Jersey or any health maintenance organization located in New Jersey that is affiliated with an insurance company, health service corporation, hospital service corporation, or medical service corporation shall treat the health maintenance organization as a separate carrier.

"Church plan" has the same meaning given that term under Title I, section 3 of Pub.L.93-406, the "Employee Retirement Income Security Act of 1974" (29 U.S.C.s.1002(33)).

"Commissioner" means the Commissioner of Banking and Insurance.

"Community rating" or "community rated" means a rating methodology in which the premium charged by a carrier for all persons covered by a policy or contract form is the same based upon the experience of the entire pool of risks covered by that policy or contract form without regard to age, gender, health status, residence or occupation.

"Creditable coverage" means, with respect to an individual, coverage of the individual under any of the following: a group health plan; a group or individual health benefits plan; Part A or part B of Title XVIII of the federal Social Security Act (42 U.S.C. s.1395 et seq.); Title XIX of the federal Social Security Act (42 U.S.C. §1396 et seq.), other than coverage consisting solely of benefits under section 1928 of Title XIX of the federal Social Security Act (42 U.S.C.s.1396s); chapter 55 of Title 10, United States Code (10 U.S.C. s.1071 et seq.); a medical care program of the Indian Health Service or of a tribal organization; a state health plan offered under chapter 89 of Title 5, United States Code (5 U.S.C. s.8901 et seq.); a public health plan as defined by federal regulation; a health benefits plan under section 5(e) of the "Peace Corps Act" (22 U.S.C. s.2504(e)); or coverage under any other type of plan as set forth by the commissioner by regulation.

Creditable coverage shall not include coverage consisting solely 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; workers' compensation or similar insurance; automobile medical payment insurance; credit only insurance; coverage for on-site medical clinics; coverage, as specified in federal regulation, under which benefits for medical care are secondary or

incidental to the insurance benefits; and other coverage expressly excluded from the definition of health benefits plan.

"Department" means the Department of Banking and Insurance.

"Dependent" means the spouse or child of an eligible employee, subject to applicable terms of the health benefits plan covering the employee.

"Eligible employee" means a full-time employee who works a normal work week of 25 or more hours. The term includes a sole proprietor, a partner of a partnership, or an independent contractor, if the sole proprietor, partner, or independent contractor is included as an employee under a health benefits plan of a small employer, but does not include employees who work less than 25 hours a week, work on a temporary or substitute basis or are participating in an employee welfare arrangement established pursuant to a collective bargaining agreement.

"Enrollment date" means, with respect to a person covered under a health benefits plan, the date of enrollment of the person in the health benefits plan or, if earlier, the first day of the waiting period for such enrollment.

"Financially impaired" means a carrier which, after the effective date of this act, is not insolvent, but is deemed by the commissioner to be potentially unable to fulfill its contractual obligations or a carrier which is placed under an order of rehabilitation or conservation by a court of competent jurisdiction.

"Governmental plan" has the meaning given that term under Title I, section 3 of Pub.L.93-406, the "Employee Retirement Income Security Act of 1974" (29 U.S.C.s.1002(32)) and any governmental plan established or maintained for its employees by the Government of the United States or by any agency or instrumentality of that government.

"Group health plan" means an employee welfare benefit plan, as defined in Title I of section 3 of Pub.L.93-406, the "Employee Retirement Income Security Act of 1974" (29 U.S.C.s.1002(1)), to the extent that the plan provides medical care and including items and services paid for as medical care to employees or their dependents directly or through insurance, reimbursement or otherwise.

"Health benefits plan" means any hospital and medical expense insurance policy or certificate; health, hospital, or medical service corporation contract or certificate; or health maintenance organization subscriber contract or certificate delivered or issued for delivery in this State by any carrier to a small employer group pursuant to section 3 of P.L.1992, c.162 (C.17B:27A-19). 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; workers' compensation or similar insurance; automobile medical payment insurance; credit-only insurance; coverage for on-site medical clinics; and 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. Health benefits plan shall not include the following if it is offered as a separate policy, certificate or contract of insurance: Medicare supplemental health insurance as defined under section 1882(g)(1) of the federal Social Security Act (42 U.S.C.s.1395ss(g)(1)); and coverage supplemental to the coverage provided under chapter 55 of Title 10, United States Code (10 U.S.C. s.1071 et seq.); and similar supplemental coverage provided to coverage under a group health plan.

"Health status-related factor" means any of the following factors: health status; medical condition, including both physical and mental illness; claims experience; receipt of health care; medical history; genetic information; evidence of insurability, including conditions arising out of acts of domestic violence; and disability.

"Late enrollee" means an eligible employee or dependent who requests enrollment in a health benefits plan of a small employer following the initial minimum 30-day enrollment period provided under the terms of the health benefits plan. An eligible employee or dependent shall not be considered a late enrollee if the individual: a. was covered under another employer's health benefits plan at the time he was eligible to enroll and stated at the time of the initial enrollment that coverage under that other employer's health benefits plan was the reason for declining enrollment, but only if the plan sponsor or carrier required such

a statement at that time and provided the employee with notice of that requirement and the consequences of that requirement at that time; b. has lost coverage under that other employer's health benefits plan as a result of termination of employment or eligibility, reduction in the number of hours of employment, involuntary termination, the termination of the other plan's coverage, death of a spouse, or divorce or legal separation; and c. requests enrollment within 90 days after termination of coverage provided under another employer's health benefits plan. An eligible employee or dependent also shall not be considered a late enrollee if the individual is employed by an employer which offers multiple health benefits plans and the individual elects a different plan during an open enrollment period; the individual had coverage under a COBRA continuation provision and the coverage under that provision was exhausted and the employee requests enrollment not later than 30 days after the date of exhaustion of COBRA coverage; or if a court of competent jurisdiction has ordered coverage to be provided for a spouse or minor child under a covered employee's health benefits plan and request for enrollment is made within 30 days after issuance of that court order.

"Medical care" means amounts paid: (1) for the diagnosis, care, mitigation, treatment, or prevention of disease, or for the purpose of affecting any structure or function of the body; and (2) transportation primarily for and essential to medical care referred to in (1) above.

"Member" means all carriers issuing health benefits plans in this State on or after the effective date of this act.

"Multiple employer arrangement" means an arrangement established or maintained to provide health benefits to employees and their dependents of two or more employers, under an insured plan purchased from a carrier in which the carrier assumes all or a substantial portion of the risk, as determined by the commissioner, and shall include, but is not limited to, a multiple employer welfare arrangement, or MEWA, multiple employer trust or other form of benefit trust.

"Plan of operation" means the plan of operation of the program including articles, bylaws and operating rules approved pursuant to section 14 of P.L.1992, c.162 (C.17B:27A-30).

"Plan sponsor" has the meaning given that term under Title I of section 3 of Pub.L.93-406, the "Employee Retirement Income Security Act of 1974" (29 U.S.C.s.1002(16)(B)).

"Preexisting condition exclusion" means, with respect to coverage, a limitation or exclusion of benefits relating to a condition based on the fact that the condition was present before the date of enrollment for that coverage, whether or not any medical advice, diagnosis, care, or treatment

was recommended or received before that date. Genetic information shall not be treated as a preexisting condition in the absence of a diagnosis of the condition related to that information.

"Program" means the New Jersey Small Employer Health Benefits Program established pursuant to section 12 of P.L.1992, c.162 (C.17B:27A-28).

"Small employer" means, in connection with a group health plan with respect to a calendar year and a plan year, any person, firm, corporation, partnership, or political subdivision that is actively engaged in business that employed an average of at least two but not more than 50 eligible employees on business days during the preceding calendar year and who employs at least two employees on the first day of the plan year, and the majority of the employees are employed in New Jersey. All persons treated as a single employer under subsection (b), (c), (m) or (o) of section 414 of the Internal Revenue Code of 1986 (26 U.S.C. s.414) shall be treated as one employer. Subsequent to the issuance of a health benefits plan to a small employer and for the purpose of determining continued eligibility, the size of a small employer shall be determined annually. Except as otherwise specifically provided, provisions of P.L.1992, c.162 (C.17B:27A-17 et seq.) that apply to a small employer shall continue to apply at least until the plan anniversary following the date the small employer no longer meets the requirements of this definition. In the case of an employer that was not in existence during the preceding calendar year, the determination of whether the employer is a small or large employer shall be based on the average number of employees that it is reasonably expected that the employer will employ on business days in the current calendar year. Any reference in P.L.1992, c.162 (C.17B:27A-17 et seq.) to an employer shall include a reference to any predecessor of such employer.

"Small employer carrier" means any carrier that offers health benefits plans covering eligible employees of one or more small employers.

"Small employer health benefits plan" means a health benefits plan for small employers approved by the commissioner pursuant to section 17 of P.L.1992, c.162 (C.17B:27A-33).

"Stop loss" or "excess risk insurance" means an insurance policy designed to reimburse a self-funded arrangement of one or more small employers for catastrophic, excess or unexpected expenses, wherein neither the employees nor other individuals are third party beneficiaries under the insurance policy. In order to be considered stop loss or excess risk insurance for the purposes of P.L.1992, c.162 (C.17B:27A-17 et seq.), the policy shall establish a per person attachment point or retention

or aggregate attachment point or retention, or both, which meet the following requirements:

a. If the policy establishes a per person attachment point or retention, that specific attachment point or retention shall not be less than $20,000 per covered person per plan year; and

b. If the policy establishes an aggregate attachment point or retention, that aggregate attachment point or retention shall not be less than 125% of expected claims per plan year.

"Supplemental limited benefit insurance" means insurance that is provided in addition to a health benefits plan on an indemnity non-expense incurred basis.

8. Section 2 of P.L.1992, c.162 (C.17B:27A-18) is amended to read as follows:

C.17B:27A-18 Providers of health benefits, services subject to provisions of act.

2. Every health insurer, health service corporation, medical service corporation, hospital service corporation, and health maintenance organization licensed or authorized to provide health benefits or services in this State which offers health insurance policies or coverages to small employers shall be subject to the provisions of this act. Carriers shall offer coverage to all eligible employees of small employers and their dependents and shall not exclude any employee or eligible dependent on the basis of a health status-related factor.

9. Section 6 of P.L.1992, c.162 (C.17B:27A-22) is amended to read as follows:

C.17B:27A-22 Preexisting condition provisions.

6. a. No health benefits plan subject to this act shall include any provision excluding coverage for a preexisting condition regardless of the cause of the condition, provided that a preexisting condition provision may apply to a late enrollee or to any group of two to five persons if such provision excludes coverage for a period of no more than 180 days following the effective date of coverage of such enrollee, and relates only to conditions, whether physical or mental, manifesting themselves during the six months immediately preceding the enrollment date of such enrollee and for which medical advice, diagnosis, care, or treatment was recommended or received during the six months immediately preceding the effective date of coverage; provided that, if 10 or more late enrollees request enrollment during any 30-day enrollment period, then no preexisting condition provision shall apply to any such enrollee.

b. In determining whether a preexisting condition provision applies to an eligible employee or dependent, all health benefits plans shall credit the time that person was covered under creditable coverage if the creditable coverage was continuous to a date not more than 90 days prior to the effective date of the new coverage, exclusive of any applicable waiting period under such plan. A carrier shall provide credit pursuant to this provision in one of the following methods:

(1) A carrier shall count a period of creditable coverage without regard to the specific benefits covered during the period; or

(2) A carrier shall count a period of creditable coverage based on coverage of benefits within each of several classes or categories of benefits specified in federal regulation rather than the method provided in paragraph (1) of this subsection. This election shall be made on a uniform basis for all covered persons. Under this election, a carrier shall count a period of creditable coverage with respect to any class or category of benefits if any level of benefits is covered within that class or category. A carrier which elects to provide credit pursuant to this provision shall comply with all federal notice requirements.

c. A health benefits plan shall not impose a preexisting condition exclusion for the following:

(1) A newborn child who, as of the last date of the 30-day period beginning with the date of birth, is covered under creditable coverage;

(2) A child who is adopted or placed for adoption before attaining 18 years of age and who, as of the last day of the 30-day period beginning on the date of the adoption or placement for adoption, is covered under creditable coverage. This provision shall not apply to coverage before the date of the adoption or placement for adoption; or

(3) Pregnancy as a preexisting condition.

10. Section 7 of P.L.1992 c.162 (C.17B:27A-23) is amended to read as follows:

C.17B:27A-23 Policies, contracts renewable; exceptions.

7. Every policy or contract issued to small employers in this State pursuant to P.L.1992, c.162 (C.17B:27A-17 et seq.) shall be renewable with respect to all eligible employees or dependents at the option of the policy or contract holder, or small employer except that a carrier may discontinue or not renew a health benefits plan in accordance with the provisions of this section:

a. A carrier may discontinue such coverage only if:

(1) The policyholder, contract holder, or employer has failed to pay premiums or contributions in accordance with the terms of the health benefits plan or the carrier has not received timely premium payments; or

(2) The policyholder, contract holder, or employer has performed an act or practice that constitutes fraud or made an intentional misrepresentation of material fact under the terms of the coverage;

b. (Deleted by amendment, P.L.1997, c.146).

c. The number of employees covered under the health benefits plan is less than the number or percentage of employees required by participation requirements under the health benefits policy or contract;

d. Noncompliance with a carrier's employment contribution requirements;

e. Any carrier doing business pursuant to the provisions of this act ceases doing business in the small employer market, if the following conditions are satisfied:

(1) The carrier gives notice to cease doing business in the small employer market to the commissioner not later than eight months prior to the date of the planned withdrawal from the small group market, during which time the carrier shall continue to be governed by this act with respect to business written pursuant to this act. For the purposes of this subsection, "date of withdrawal" means the date upon which the first notice to small employers is sent by the carrier pursuant to paragraph (2) of this subsection;

(2) No later than two months following the date of the notification to the commissioner that the carrier intends to cease doing business in the small employer market, the carrier shall mail a notice to every small business employer insured by the carrier, and all covered persons, that the policy or contract of insurance will not be renewed. This notice shall be sent by certified mail to the small business employer not less than six months in advance of the effective date of the nonrenewal date of the policy or contract;

(3) Any carrier that ceases to do business pursuant to this act shall be prohibited from writing new business in the small employer market for a period of five years from the date of termination of the last health insurance coverage not so renewed;

f. In the case of policies or contracts issued in connection with membership in an association or trust of employers, an employer ceases to maintain its membership in the association or trust, but only if such coverage is terminated under this provision uniformly without regard to any health status-related factor relating to any covered individual.

g. (Deleted by amendment, P.L.1995, c.50).

h. A decision by the small employer carrier to cease offering and not renew a particular type of group health benefits plan in the small employer market, if the board discontinues a standard health benefits plan or as permitted or required pursuant to subsection j. of section 3 of P.L.1992, 162 (C.17B:27A-19), and pursuant to regulations adopted by the commissioner;

i. In the case of a health maintenance organization plan issued to a small employer:

(1) an eligible person who no longer resides, lives, or works in the carrier's approved service area, but only if coverage is terminated under this paragraph uniformly without regard to any health status-related factor of covered individuals; or

(2) a small employer that no longer has any enrollee in connection with such plan who lives, resides, or works in the service area of the carrier and the carrier would deny enrollment with respect to such plan pursuant to subsection a. of section 10 of P.L.1992, c.162 (C.17B:27A-26).

11. Section 9 of P.L.1992, c.162 (C.17B:27A-25) is amended to read as follows:

C.17B:27A-25 Premium rates; other plan requirements.

9. a. (1) (Deleted by amendment, P.L.1997, c.146).

(2) (Deleted by amendment, P.L.1997, c.146).

(3) For all policies or contracts providing health benefits plans for small employers issued pursuant to section 3 of P.L.1992, c.162 (C.17B:27A-19), the premium rate charged by a carrier to the highest rated small group purchasing a small employer health benefits plan issued pursuant to section 3 of P.L.1992, c.162 (C.17B:27A-19) shall not be greater than 200% of the premium rate charged for the lowest rated small group purchasing that same health benefits plan; provided, however, that the only factors upon which the rate differential may be based are age, gender and geography, and provided further, that such factors are applied in a manner consistent with regulations adopted by the board.

A health benefits plan issued pursuant to subsection j. of section 3 of P.L.1992, c.162 (C.17B:27A-19) shall be rated in accordance with the provisions of section 7 of P.L.1995, c.340 (C.17B:27A-19.3), for the purposes of meeting the requirements of this paragraph.

(4) (Deleted by amendment, P.L.1994, c.11).

(5) Any policy or contract issued after January 1, 1994 to a small employer who was not previously covered by a health benefits plan issued by the issuing small employer carrier, shall be subject to the same premium rate restrictions as provided in paragraphs (1), (2) and (3) of this

subsection, which rate restrictions shall be effective on the date the policy or contract is issued.

(6) The board shall establish, pursuant to section 17 of P.L.1993, c.162 (C.17B:27A-51):

(a) up to six geographic territories, none of which is smaller than a county; and

(b) age classifications which, at a minimum, shall be in five-year increments.

b. (Deleted by amendment, P.L.1993, c.162).

c. (Deleted by amendment, P.L.1995, c.298).

d. Notwithstanding any other provision of law to the contrary, this act shall apply to a carrier which provides a health benefits plan to one or more small employers through a policy issued to an association or trust of employers.

A carrier which provides a health benefits plan to one or more small employers through a policy issued to an association or trust of employers after the effective date of P.L.1992, c.162 (C.17B:27A-17 et seq.), shall be required to offer small employer health benefits plans to non-association or trust employers in the same manner as any other small employer carrier is required pursuant to P.L.1992, c.162 (C.17B:27A-17 et seq.).

e. Nothing contained herein shall prohibit the use of premium rate structures to establish different premium rates for individuals and family units.

f. No insurance contract or policy subject to this act may be entered into unless and until the carrier has made an informational filing with the commissioner of a schedule of premiums, not to exceed 12 months in duration, to be paid pursuant to such contract or policy, of the carrier's rating plan and classification system in connection with such contract or policy, and of the actuarial assumptions and methods used by the carrier in establishing premium rates for such contract or policy.

g. (1) Beginning January 1, 1995, a carrier desiring to increase or decrease premiums for any policy form or benefit rider offered pursuant to subsection i. of section 3 of P.L.1992, c.162 (C.17B:27A-19) subject to this act may implement such increase or decrease upon making an informational filing with the commissioner of such increase or decrease, along with the actuarial assumptions and methods used by the carrier in establishing such increase or decrease, provided that the anticipated minimum loss ratio for all policy forms shall not be less than 75% of the premium therefor as provided in paragraph (2) of this subsection. Until December 31, 1996, the informational filing shall also include the carrier's

rating plan and classification system in connection with such increase or decrease.

(2) Each calendar year, a carrier shall return, in the form of aggregate benefits for all of the five standard policy forms offered by the carrier pursuant to subsection a. of section 3 of P.L.1992, c.162 (C.17B:27A-19), at least 75% of the aggregate premiums collected for all of the standard policy forms and at least 75% of the aggregate premiums collected for all of the non-standard policy forms during that calendar year. Carriers shall annually report, no later than August 1st of each year, the loss ratio calculated pursuant to this section for all of the standard and non-standard policy forms for the previous calendar year. In each case where the loss ratio fails to substantially comply with the 75% loss ratio requirement, the carrier shall issue a dividend or credit against future premiums for all policyholders with the standard or nonstandard policy forms, as applicable, in an amount sufficient to assure that the aggregate benefits paid in the previous calendar year plus the amount of the dividends and credits shall equal 75% of the aggregate premiums collected for the respective policy forms in the previous calendar year. All dividends and credits must be distributed by December 31 of the year following the calendar year in which the loss ratio requirements were not satisfied. The annual report required by this paragraph shall include a carrier's calculation of the dividends and credits applicable to standard and non-standard policy forms, as well as an explanation of the carrier's plan to issue dividends or credits. The instructions and format for calculating and reporting loss ratios and issuing dividends or credits shall be specified by the commissioner by regulation. Such regulations shall include provisions for the distribution of a dividend or credit in the event of cancellation or termination by a policyholder.

(3) The loss ratio of a health benefits plan issued pursuant to subsection j. of section 3 of P.L.1992, c.162 (C.17B:27A-19) shall be calculated in accordance with the provisions of section 7 of P.L.1995, c.340 (C.17B:27A-19.3), for the purposes of meeting the requirements of this subsection.

h. (Deleted by amendment, P.L.1993, c.162).

i. The provisions of this act shall apply to health benefits plans which are delivered, issued for delivery, renewed or continued on or after January 1, 1994.

j. (Deleted by amendment, P.L.1995, c.340).

12. Section 10 of P.L.1992, c.162 (C.17B:27A-26) is amended to read as follows:

C.17B:27A-26 Health maintenance organization coverage; exceptions.

10. a. No health maintenance organization shall be required to offer coverage or accept applications pursuant to section 3 of this act to a small employer if the small employer does not have eligible individuals who live, work, or reside in the service area for such plan, or if the health maintenance organization reasonably anticipates and demonstrates to the satisfaction of the commissioner that it will not have the capacity in its network of providers within the service area to deliver service adequately to the members of such groups because of its obligations to existing group contract holders and enrollees. Upon denying health insurance coverage in any service area as a result of insufficient network capacity in accordance with this subsection, the health maintenance organization shall not offer coverage in the small employer market within such service area for a period of at least 180 days after the date the coverage is denied.

b. No small employer carrier shall be required to offer coverage or accept applications pursuant to this act for any period of time in which the commissioner determines that the requiring of the issuing of policies or contracts pursuant to this act would place the carrier in a financially impaired position.

c. A health maintenance organization which complies with the basic health benefits, underwriting and rating standards established by the federal government pursuant to subchapter XI of Pub.L.93-222 (42.U.S.C. s.300e et seq.), and which also provides the comprehensive health benefit plans coverage required by subsection f. of section 3 of P.L.1992, c.162 (C.17B:27A-19), shall be deemed in compliance with this act.

13. Section 17 of P.L.1992, c.162 (C.17B:27A-33) is amended to read as follows:

C.17B:27A-33 Formulation of five health benefits plans.

17. Subject to the approval of the commissioner, the board shall formulate the five health benefits plans to be made available by small employer carriers in accordance with the provisions of this act, and shall promulgate five standard forms pursuant thereto. The board may establish benefit levels, deductibles and co-payments, exclusions, and limitations for such health benefits plans in accordance with the law. The board shall ensure that the means exist for a carrier to offer high deductible health benefits plan options that are consistent with section 301 of Title III of the "Health Insurance Portability and Accountability Act of 1996," Pub.L. 104-191, regarding tax-deductible medical savings accounts.

The board shall submit the forms so established to the commissioner for approval. The commissioner shall approve the forms if the commis-

sioner finds them to be consistent with the provisions of section 3 of P.L.1992, c. 162 (C.17B:27A-19). Any form submitted to the commissioner by the board shall be deemed approved if not expressly disapproved in writing within 60 days of its receipt by the commissioner. Such forms may contain, but shall not be limited to, the following provisions:

a. Utilization review of health care services, including review of medical necessity of hospital and physician services;

b. Managed care systems, including large case management;

c. Provisions for selective contracting with hospitals, physicians, and other participating and nonparticipating providers;

d. Reasonable benefits differentials which are applicable to participating and nonparticipating providers;

e. Notwithstanding the provisions of section 4 of P.L.1992, c.162 (C.17B:27A-20) to the contrary, the board may, from time to time, adjust coinsurance and deductibles;

f. Such other provisions which may be quantifiably established to be cost containment devices;

g. The department shall publish annually a list of the premiums charged for each of the five small employer health benefits plans and for any rider package by all carriers writing such plans. The department shall also publish the toll free telephone number of each such carrier.

C.17B:27-54 Application of provisions; definitions.

14. The provisions of sections 14 through 27 of P.L.1997, c.146 (C.17B:27-54 through C.17B:27-67) shall apply to group health insurance coverage that is not subject to the provisions of P.L.1992, c.161 and c.162 (C.17B:27A-2 et seq. and 17B:27A-17 et seq.). To the extent that any provision of sections 14 through 27 of P.L.1997, c.146 (C.17B:27-54 through C.17B:27-67) is inconsistent with the provisions of chapter 27 of Title 17B of the New Jersey Statutes and P.L.1973, c.337 (C.26:2J-1 et seq.), the provisions of sections 14 through 27 shall supersede those laws.

As used in sections 14 through 27 of P.L.1997, c.146 (C.17B:27-54 through C.17B:27-67):

"Affiliation period" means a period which, under the terms of the group health plan offered by a health maintenance organization, begins on the enrollment date and which must expire before the health insurance becomes effective. The health maintenance organization shall not be required to provide health care services or benefits during such period and no premium shall be charged.

"Creditable coverage" means, with respect to an individual, coverage of the individual, other than coverage of excepted benefits, under any of the following: a group health plan; health insurance coverage; Part A or

Part B of Title XVIII of the federal Social Security Act (42 U.S.C.s.1395 et seq.); Title XIX of the federal Social Security Act (42 U.S.C.s.1396 et seq.); other than coverage consisting solely of benefits under section 1928 of Title XIX of the federal Social Security Act (42 U.S.C.s.1396s); chapter 55 of Title 10, United States Code (10 U.S.C. s.1071 et seq.); a medical care program of the Indian Health Service of a tribal organization; a State health benefits risk pool; a State health plan offered under chapter 89 of Title 5, United States Code (5 U.S.C. s.8901 et seq.); a public health plan; and a health benefits plan under section 5(e) of the "Peace Corps Act" (22 U.S.C.s.2504(e)).

"Enrollment date" means, with respect to an individual covered under a group health plan or health insurance coverage, the date of enrollment of the individual in the plan or coverage or, if earlier, the first day of the waiting period for enrollment.

"Excepted benefits" means:

a. 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; workers' compensation or similar insurance; automobile medical payment insurance; credit-only insurance; coverage for on-site medical clinics; and other similar insurance coverage, as specified by federal regulation, under which benefits for medical care are secondary or incidental to other insurance benefits;

b. when provided under a separate policy, certificate or contract of insurance or otherwise not an integral part of the group health 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 by federal regulation;

c. when offered as independent, noncoordinated benefits: hospital indemnity or other fixed indemnity insurance;

d. when offered as a separate insurance policy, certificate or contract of insurance: Medicare supplemental insurance as defined under section 1882(g)(1) of the federal Social Security Act (42 U.S.C. s.1395ss(g)(1))and coverage supplemental to the coverage provided under chapter 55 of Title 10, United States Code (10 U.S.C.s.1071 et seq.) and similar supplemental coverage provided in addition to coverage under a group health plan.

"Group health plan" means an employee welfare benefit plan, as defined in Title 1 of section 3 of Pub.L.93-406, the "Employee Retirement Income Security Act of 1974," (29 U.S.C. s.1002(1)), to the extent that the plan provides medical care and including items and services paid

for as medical care to employees or their dependents, as defined under the terms of the plan, directly or through insurance, reimbursement or otherwise.

"Health insurance coverage" means benefits consisting of medical care, provided directly, through insurance or reimbursement, or otherwise, and including items and services paid for as medical care, under any hospital or medical expense policy or certificate or health maintenance organization contract offered by a health insurer.

"Health insurer" means an insurer licensed to sell health insurance pursuant to Title 17B of the New Jersey Statutes, a health, hospital or medical service corporation, fraternal benefit association or a health maintenance organization.

"Health status-related factor" means: health status; medical condition, including both physical and mental illness; claims experience; receipt of health care; medical history; genetic information; evidence of insurability, including conditions arising out of acts of domestic violence; and disability.

"Health maintenance organization" means a federally qualified health maintenance organization as defined in the "Health Maintenance Organization Act of 1973," Pub.L.93-222 (42 U.S.C. s.300e et seq.), an organization authorized under P.L.1973, c.337 (C.26:2J-1 et seq.), or a similar organization regulated under State law for solvency in the same manner and to the same extent as a health maintenance organization authorized to do business in this State.

"Late enrollee" means a participant or beneficiary who enrolls in a group health plan other than during: the first period during which the individual is eligible to enroll in the plan; or a special enrollment period.

"Medical care" means amounts paid: (1) for the diagnosis, care, mitigation, treatment, or prevention of disease, or for the purpose of affecting any structure or function of the body; and (2) transportation primarily for and essential to medical care referred to in (1) above.

"Network plan" means a group health plan offered by a health insurer under which the financing and delivery of medical care, including items and services paid for as medical care, are provided, in whole or in part, through a defined set of providers under contract with the insurer. Network plan includes a health maintenance organization or health insurance company with selective contracting arrangements.

"Preexisting condition" means with respect to coverage, a limitation or exclusion of benefits relating to a condition based on the fact that the condition was present before the date of enrollment for that coverage, whether or not any medical advice, diagnosis, care or treatment was recommended or received before that date.

"Waiting period" means with respect to a group health plan and an individual who is a potential participant or beneficiary in the plan, the period that must pass with respect to the individual before the individual is eligible to be covered for benefits under the terms of the plan.

C.17B:27-55 Imposition of preexisting condition exclusion.

15. A health insurer may impose a preexisting condition exclusion in its group health plan only if:

a. the exclusion relates to a physical or mental condition for which medical advice, diagnosis, care or treatment was recommended or received within the six-month period ending on the enrollment date of the participant or beneficiary;

b. the exclusion extends for a period of not more than 12 months, or 18 months for a late enrollee, after the enrollment date of the participant or beneficiary; and

c. the period of any preexisting condition exclusion is reduced by the aggregate of the periods of creditable coverage applicable to the participant or beneficiary as of the enrollment date.

C.17B:27-56 Incidents, certain, no imposition of preexisting condition exclusion.

16. A health insurer which offers a group health plan shall not impose a preexisting condition exclusion for the following: a. on a newborn child who, as of the last day of the 30-day period beginning with the date of birth, is covered under creditable coverage; b. on a child who is adopted or placed for adoption before attaining 18 years of age and who, as of the last day of the 30-day period beginning on the date of adoption or placement for adoption, is covered under creditable coverage. These provisions shall not apply to a newborn child or child who is adopted or placed for adoption after the end of the first 63-day period, during all of which the newborn child or child who is adopted or placed for adoption was not covered under any creditable coverage; or c. pregnancy as a preexisting condition.

C.17B:27-57 Genetic information, not preexisting condition.

17. Genetic information shall not be treated as a preexisting condition in the absence of a diagnosis of the condition related to such information.

C.17B:27-58 Counting of period of creditable coverage.

18. A period of creditable coverage shall not be counted, with respect to enrollment of an individual under a group health plan, if, after such period and before the enrollment date, there was a 63-day period during all of which the individual was not covered under any creditable coverage. Any period that an individual is in a waiting period for any coverage under a group health plan, or for group health insurance, or is in an

affiliation period shall not be taken into account in determining whether the 63-day period is present.

C.17B:27-59 Application of creditable coverage.

19. Except as provided in this section, a health insurer which offers a group health plan shall count a period of creditable coverage without regard to the specific benefits covered during the period. A health insurer offering a group health plan may elect to apply creditable coverage based on coverage of each of several classes or categories of benefits as specified by federal regulation where such election is made or a uniform basis for all participants and beneficiaries and where under such election a health insurer shall count a period of creditable coverage with respect to any class or category of benefits if any level of benefits is covered within the class or category. A health insurer who makes the election with respect to group health plans offered in this State shall prominently state in any disclosure statement concerning the coverage and to each employer at the time of the offer or sale of the coverage, that the health insurer has made that election and shall include in the disclosure statements a description of the effect of the election.

A health insurer shall promptly disclose to a requesting plan or insurer and may charge a reasonable fee for information on, coverage of classes and categories of health benefits available under its coverage.

C.17B:27-60 Written certification of creditable coverage under COBRA.

20. a. A health insurer which offers a group health plan shall provide a written certification of creditable coverage at the time an individual ceases coverage or otherwise becomes covered under a COBRA continuation provision; at the time an individual ceases to be covered under a COBRA continuation provision; and upon request, on behalf of an individual not later than 24 months after the cessation of coverage under the plan or a COBRA continuation provision.

b. The written certification of creditable coverage shall include the period of creditable coverage of the individual under the group health plan and the coverage under any COBRA continuation provision and any waiting or affiliation period imposed with respect to the individual for coverage under the plan.

C.17B:27-61 Affiliation period imposed by HMO.

21. A health maintenance organization which offers a group health plan and which does not impose a preexisting condition exclusion, may impose an affiliation period if the period is applied uniformly without regard to any health status-related factors and the period does not exceed two months, or three months in the case of a late enrollee.

C.17B:27-62 Permission to enroll for group coverage.

22. A health insurer which offers a group health plan shall permit an employee or dependent who is eligible, but not enrolled, for coverage under the terms of the plan, to enroll for coverage if:

a. the employee or dependent was covered under a group health plan or had health insurance coverage at the time coverage was previously offered to the employee or dependent, and the employee stated in writing at such time that coverage under a group health plan or health insurance coverage was the reason for declining enrollment, if the health insurer required such a statement at that time and notified the employee of the insurer's requirements;

b. the employee's or dependent's other coverage described in subsection a. of this section was under a COBRA continuation provision and coverage under that provision was exhausted or the coverage was terminated due to loss of eligibility for coverage, including legal separation, divorce, death, termination of employment and reduction in hours of employment, or to the termination of employer contributions toward that coverage; and

c. the employee requests enrollment not later than 30 days after exhaustion of coverage under a COBRA continuation provision or termination of coverage pursuant to subsection b. of this section.

C.17B:27-63 Dependent special enrollment period.

23. If a group health plan makes coverage available with respect to a dependent of an individual who is a participant under the plan or has satisfied any waiting period and is eligible to be enrolled, and the dependent becomes a dependent of the individual through marriage, birth, adoption or placement for adoption, the group health plan shall provide for a dependent special enrollment period during which the dependent and individual, if necessary, may be enrolled.

The dependent special enrollment period shall be for a period of not less than 30 days and shall begin on the later of the date dependent coverage is made available or the date of marriage, birth, adoption or placement for adoption. If an individual enrolls a dependent during the first 30 days of the dependent special enrollment period, the coverage of the dependent shall become effective: in the case of a marriage, no later than the first day of the first month after the date the completed request for enrollment is received; in the case of a dependent's birth, as of the date of birth; and in the case of a dependent's adoption or placement for adoption, the date of the adoption or placement for adoption.

C.17B:27-64 Rules for eligibility, health status-related factors prohibited.

24. A health insurer which offers a group health plan may not establish rules for eligibility, including continued eligibility, of any individual to enroll under the terms of the plan based on health status-related factors in relation to the individual or a dependent of the individual.

The provisions of this section shall not be construed to require a group health plan to provide particular benefits other than those provided under the terms of its coverage or to prevent the coverage from establishing limitations or restrictions on the amount, level, extent or nature of the benefits or coverage for similarly situated individuals enrolled in the coverage.

C.17B:27-65 Premiums, contributions regulated.

25. A health insurer which offers a group health plan may not require an individual, as a condition of enrollment or continued enrollment under the plan, to pay a premium or contribution which is greater than the premium or contribution for a similarly situated enrollee in the plan on the basis of any health status-related factor in relation to the individual or to an enrollee or a dependent of the individual or enrollee. This provision shall not be construed to restrict the amount that an employer may be charged for coverage under a group health plan or to prevent a health insurer offering group health insurance coverage from establishing premium discounts or modifying otherwise applicable copayments or deductibles in return for adherence to programs of health promotion and disease prevention.

C.17B:27-66 Renewal of coverage; exceptions.

26. A health insurer which offers health insurance coverage in connection with a group health plan shall renew the coverage under the plan at the option of the policy holder, except that:

a. A health insurer may discontinue the coverage only if:

(1) the policy holder has failed to pay premiums or contributions in accordance with the terms of the health insurance coverage or the insurer has not received timely premium payments;

(2) the policy holder has performed an act or practice that constitutes fraud or made an intentional misrepresentation of material fact under the terms of the health insurance coverage; and

(3) in the case of a health insurer which offers a group health plan through a network plan, there is no longer any enrollee in the plan who lives, resides or works in the service area of the insurer or in the area for which the insurer is authorized to do business; or

b. A health insurer may not renew the health insurance coverage only if:

(1) the policy holder has failed to comply with a material plan provision relating to employer contribution or group participation rules; or

(2) the insurer is ceasing to offer coverage in the market in accordance with State and federal law.

c. A health insurer may cease offering and not renew a particular type of health insurance coverage only if:

(1) the insurer provides notice to each certificate or policy holder who is provided coverage of this type, and to participants and beneficiaries covered under the coverage of the nonrenewal at least 90 days prior to the date of the nonrenewal of the coverage;

(2) the insurer offers the option to purchase all or any other health insurance coverage that the insurer offers; and

(3) in exercising the option to not renew coverage of a particular type and in offering the option to purchase all or any other health insurance coverage that the insurer offers, the insurer acts uniformly without regard to the claims experience of the certificate or policy holder or any health status-related factor relating to any participants or beneficiaries covered or new participants or beneficiaries who may become eligible for the coverage.

d. A health insurer may cease offering and not renew all health insurance coverage only if:

(1) the insurer provides notice to the Department of Banking and Insurance and each employer and participants and beneficiaries covered under the health insurance coverage, of the nonrenewal at least 180 days prior to the date of the nonrenewal;

(2) the insurer ceases offering all health insurance coverage issued or delivered for issuance in the State for groups under the provisions of sections 14 through 27 of P.L.1997, c.146 (C.17B:27-54 through C.17B:27-67) and coverage under the health insurance coverage is not renewed; and

(3) the insurer may not provide for the issuance of any health insurance coverage for groups in this State under the provisions of sections 14 through 27 of P.L.1997, c.146 (C.17B:27-54 through C.17B:27-67), during a five-year period beginning on the termination date of the last health insurance coverage that was not renewed.

C.17B:27-67 Modification of coverage.

27. At the time of coverage renewal, a health insurer may modify the health insurance coverage for a product offered to a group health plan.

Repealer.

28. Section 6 of P.L.1995, c.340 (C.17B:27A-23.1) is repealed.

29. This act shall take effect July 1, 1997.

Approved June 30, 1997.

CHAPTER 147

A SUPPLEMENT to "An act making appropriations for the support of the State Government and the several public purposes for the fiscal year ending June 30, 1997 and regulating the disbursement thereof," approved June 28, 1996 (P.L.1996, c.42).

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

1. In addition to the amounts appropriated under P.L.1996, c.42, there is appropriated out of the General Fund the following sum for the purpose specified:

GRANTS-IN-AID
67 DEPARTMENT OF MILITARY AND VETERANS' AFFAIRS
80 Special Government Services
83 Services to Veterans
3610 Veterans' Program Support

50-3610 Veterans' Outreach and Assistance..... $34,000
Grants:
Women in Military Service
for America Memorial
Foundation, Inc. .....($34,000)

2. This act shall take effect immediately.

Approved June 30, 1997.

CHAPTER 148

AN ACT concerning the investment powers of boards of education and local units and amending P.L.1977, c.177 and P.L.1977, c.396.

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

1. Section 1 of P.L.1977, c.177 (C.18A:20-37) is amended to read as follows:

C.18A:20-37 Purchase of certain types of securities; definitions.

1. a. When authorized by resolution adopted by a majority vote of all its members the board of education of any school district may use moneys, which may be in hand, for the purchase of the following types of securities which, if suitable for registry, may be registered in the name of the school district:

(1) Bonds or other obligations of the United States of America or obligations guaranteed by the United States of America;

(2) Government money market mutual funds;

(3) Any obligation that a federal agency or a federal instrumentality has issued in accordance with an act of Congress, which security has a maturity date not greater than 397 days from the date of purchase, provided that such obligations bear a fixed rate of interest not dependent on any index or other external factor;

(4) Bonds or other obligations of the school district or bonds or other obligations of the local unit or units within which the school district is located;

(5) Bonds or other obligations, having a maturity date of not more than 397 days from the date of purchase, approved by the Division of Investment in the Department of the Treasury for investment by school districts;

(6) Local government investment pools;

(7) Deposits with the State of New Jersey Cash Management Fund established pursuant to section 1 of P.L.1977, c.281 (C.52:18A-90.4); or

(8) Agreements for the repurchase of fully collateralized securities, if:

(a) the underlying securities are permitted investments pursuant to paragraphs (1) and (3) of this subsection a.;

(b) the custody of collateral is transferred to a third party;

(c) the maturity of the agreement is not more than 30 days;

(d) the underlying securities are purchased through a public depository as defined in section 1 of P.L.1970, c.236 (C.17:9-41) and for which a master repurchase agreement providing for the custody and security of collateral is executed.

b. Any investment instruments in which the security is not physically held by the school district shall be covered by a third party custodial agreement which shall provide for the designation of such investments in the name of the school board and prevent unauthorized use of such investments.

c. Purchase of investment securities shall be executed by the "delivery versus payment" method to ensure that securities are either received by the school district or a third party custodian prior to or upon the release of the school district's funds.

d. Any investments not purchased and redeemed directly from the issuer, government money market mutual fund, local government investment pool, or the State of New Jersey Cash Management Fund, shall be purchased and redeemed through the use of a national or State bank located within this State or through a broker-dealer which, at the time of purchase or redemption, has been registered continuously for a period of at least two years pursuant to section 9 of P.L.1967, c.93 (C.49:3-56) and has at least $25 million in capital stock (or equivalent capitalization if not a corporation), surplus reserves for contingencies and undivided profits , or through a securities dealer who makes primary markets in U.S. Government securities and reports daily to the Federal Reserve Bank of New York its position in and borrowing on such U.S. Government securities.

e. For the purposes of this section:

(1) a "government money market mutual fund" means an investment company or investment trust:

(a) which is registered with the Securities and Exchange Commission under the "Investment Company Act of 1940," 15 U.S.C. s.80a-1 et seq., and operated in accordance with 17 C.F.R. s.270.2a-7;

(b) the portfolio of which is limited to U.S. Government securities that meet the definition of an eligible security pursuant to 17 C.F.R. s.270.2a-7 and repurchase agreements that are collateralized by such U.S. Government securities in which direct investment may be made pursuant to paragraphs (1) and (3) of subsection a. of this section ; and

(c) which is rated by a nationally recognized statistical rating organization.

(2) a "local government investment pool" means an investment pool:

(a) which is managed in accordance with 17 C.F.R. s.270.2a-7;

(b) which is rated in the highest category by a nationally recognized statistical rating organization;

(c) the portfolio of which is limited to U.S. Government securities that meet the definition of an eligible security pursuant to 17 C.F.R. s.270.2a-7 and repurchase agreements that are collateralized by such U.S. Government

securities in which direct investment may be made pursuant to paragraphs (1) and (3) of subsection a. of this section;

(d) which is in compliance with rules adopted pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.) by the Local Finance Board of the Division of Local Government Services in the Department of Community Affairs, which rules shall provide for disclosure and reporting requirements, and other provisions deemed necessary by the board to provide for the safety, liquidity and yield of the investments;

(e) which does not permit investments in instruments that: are subject to high price volatility with changing market conditions; cannot reasonably be expected, at the time of interest rate adjustment, to have a market value that approximates their par value; or utilize an index that does not support a stable net asset value ; and

(f) which purchases and redeems investments directly from the issuer, a government money market mutual fund, or the State of New Jersey Cash Management Fund, or through the use of a national or State bank located within this State, or through a broker-dealer which, at the time of purchase or redemption, has been registered continuously for a period of at least two years pursuant to section 9 of P.L.1967, c.93 (C.49:3-56) and has at least $25 million in capital stock (or equivalent capitalization if not a corporation), surplus reserves for contingencies and undivided profits, or through a securities dealer who makes primary markets in U.S. Government securities and reports daily to the Federal Reserve Bank of New York its position in and borrowing on such U.S. Government securities .

f. Investments in, or deposits or purchases of financial instruments made pursuant to this section shall not be subject to the requirements of the "Public School Contracts Law," N.J.S.18A:18A-1 et seq.

2. 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);

(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).

3. Section 8 of P.L.1977, c.396 (C.40A:5-15.1) is amended to read as follows:

C.40A:5-15.1 Securities which may be purchased by local units.

8. Securities which may be purchased by local units.

a. When authorized by a cash management plan approved pursuant to N.J.S.40A:5-14, any local unit may use moneys which may be in hand for the purchase of the following types of securities which, if suitable for registry, may be registered in the name of the local unit:

(1) Bonds or other obligations of the United States of America or obligations guaranteed by the United States of America;

(2) Government money market mutual funds;

(3) Any obligation that a federal agency or a federal instrumentality has issued in accordance with an act of Congress, which security has a maturity date not greater than 397 days from the date of purchase, provided that such obligation bears a fixed rate of interest not dependent on any index or other external factor;

(4) Bonds or other obligations of the local unit or bonds or other obligations of school districts of which the local unit is a part or within which the school district is located;

(5) Bonds or other obligations, having a maturity date not more than 397 days from the date of purchase, approved by the Division of Investment of the Department of the Treasury for investment by local units;

(6) Local government investment pools;

(7) Deposits with the State of New Jersey Cash Management Fund established pursuant to section 1 of P.L.1977, c.281 (C.52:18A-90.4); or

(8) Agreements for the repurchase of fully collateralized securities, if:

(a) the underlying securities are permitted investments pursuant to paragraphs (1) and (3) of this subsection a.;

(b) the custody of collateral is transferred to a third party;

(c) the maturity of the agreement is not more than 30 days;

(d) the underlying securities are purchased through a public depository as defined in section 1 of P.L.1970, c.236 (C.17:9-41); and

(e) a master repurchase agreement providing for the custody and security of collateral is executed.

b. Any investment instruments in which the security is not physically held by the local unit shall be covered by a third party custodial agreement which shall provide for the designation of such investments in the name of the local unit and prevent unauthorized use of such investments.

c. Purchase of investment securities shall be executed by the "delivery versus payment" method to ensure that securities are either received by the local unit or a third party custodian prior to or upon the release of the local unit's funds.

d. Any investments not purchased and redeemed directly from the issuer, government money market mutual fund, local government investment pool, or the State of New Jersey Cash Management Fund, shall be purchased and redeemed through the use of a national or State bank located within this State or through a broker-dealer which, at the time of purchase or redemption, has been registered continuously for a period of at least two years pursuant to section 9 of P.L.1967, c.93 (C.49:3-56) and has at least $25 million in capital stock (or equivalent capitalization if not a corporation), surplus reserves for contingencies and undivided profits, or through a securities dealer who makes primary markets in U.S. Government securities and reports daily to the Federal Reserve Bank of New York its position in and borrowing on such U.S. Government securities .

e. For the purposes of this section:

(1) a "government money market mutual fund" means an investment company or investment trust:

(a) which is registered with the Securities and Exchange Commission under the "Investment Company Act of 1940," 15 U.S.C. s.80a-1 et seq., and operated in accordance with 17 C.F.R. s.270.2a-7;

(b) the portfolio of which is limited to U.S. Government securities that meet the definition of an eligible security pursuant to 17 C.F.R. s.270.2a-7 and repurchase agreements that are collateralized by such U.S. Government securities in which direct investment may be made pursuant to paragraphs (1) and (3) of subsection a. of this section; and

(c) which is rated by a nationally recognized statistical rating organization.

(2) a "local government investment pool" means an investment pool:

(a) which is managed in accordance with 17 C.F.R. s.270.2a-7;

(b) which is rated in the highest category by a nationally recognized statistical rating organization;

(c) which is limited to U.S. Government securities that meet the definition of an eligible security pursuant to 17 C.F.R. s.270.2a-7 and repurchase agreements that are collateralized by such U.S. Government securities in which direct investment may be made pursuant to paragraphs (1) and (3) of subsection a. of this section;

(d) which is in compliance with rules adopted pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.) by the Local Finance Board of the Division of Local Government Services in the Department of Community Affairs, which rules shall provide for disclosure and reporting requirements, and other provisions deemed necessary by the board to provide for the safety, liquidity and yield of the investments;

(e) which does not permit investments in instruments that: are subject to high price volatility with changing market conditions; cannot reasonably be expected, at the time of interest rate adjustment, to have a market value that approximates their par value; or utilize an index that does not support a stable net asset value ; and

(f) which purchases and redeems investments directly from the issuer, government money market mutual fund, or the State of New Jersey Cash Management Fund, or through the use of a national or State bank located within this State, or through a broker-dealer which, at the time of purchase or redemption, has been registered continuously for a period of at least two years pursuant to section 9 of P.L.1967, c.93 (C.49:3-56) and has at least $25 million in capital stock (or equivalent capitalization if not a corporation), surplus reserves for contingencies and undivided profits, or through a securities dealer who makes primary markets in U.S. Government securities and reports daily to the Federal Reserve Bank of New York its position in and borrowing on such U.S. Government securities .

f. Investments in, or deposits or purchases of financial instruments made pursuant to this section shall not be subject to the requirements of the "Local Public Contracts Law," P.L.1971, c.198 (C.40A:11-1 et seq.).

4. This act shall take effect immediately.

Approved June 30, 1997.

CHAPTER 149

AN ACT concerning coverage for inpatient care following a mastectomy and supplementing P.L.1938, c.366 (C.17:48-1 et seq.), P.L.1940, c.74 (C.17:48A-1 et seq.), P.L.1985, c.236 (C.17:48E-1 et seq.), Chapters 26 and 27 of Title 17B of the New Jersey Statutes, P.L.1992, c.161

(C.17B:27A-2 et seq.), P.L.1992, c.162 (C.17B:27A-17 et seq.), P.L.1973, c.337 (C.26:2J-1 et seq.) and Titles 34 and 45 of the Revised Statutes.

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

C.17:48-6q Coverage for minimum inpatient care following mastectomy by individual, group hospital service corporation.

1. a. Every individual or group 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 coverage for a minimum of 72 hours of inpatient care following a modified radical mastectomy and a minimum of 48 hours of inpatient care following a simple mastectomy. The contract shall not require a health care provider to obtain authorization from the hospital service corporation for prescribing 72 or 48 hours, as appropriate, of inpatient care as provided for in this section.

The provisions of this section shall not be construed to: require a patient to receive inpatient care for 72 or 48 hours, as appropriate, if the patient in consultation with the patient's physician determines that a shorter length of stay is medically appropriate; or relieve a patient or a patient's physician, if appropriate, of any notification requirements to the hospital service corporation under the contract.

The benefits shall be provided to the same extent as for any other sickness under the contract.

The provisions of this section shall apply to all contracts in which the hospital service corporation has reserved the right to change the premium.

b. The Commissioner of Banking and Insurance shall adopt regulations pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.) to implement the provisions of this section.

C.17:48A-7o Coverage for minimum inpatient care following mastectomy by individual, group medical service corporation.

2. a. Every individual or group 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 coverage for a minimum of 72 hours of inpatient care following a modified radical mastectomy and a minimum of 48 hours of

inpatient care following a simple mastectomy. The contract shall not require a health care provider to obtain authorization from the medical service corporation for prescribing 72 or 48 hours, as appropriate, of inpatient care as provided for in this section.

The provisions of this section shall not be construed to: require a patient to receive inpatient care for 72 or 48 hours, as appropriate, if the patient in consultation with the patient's physician determines that a shorter length of stay is medically appropriate; or relieve a patient or a patient's physician, if appropriate, of any notification requirements to the medical service corporation under the contract.

The benefits shall be provided to the same extent as for any other sickness under the contract.

The provisions of this section shall apply to all contracts in which the medical service corporation has reserved the right to change the premium.

b. The Commissioner of Banking and Insurance shall adopt regulations pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.) to implement the provisions of this section.

C.17:48E-35.14 Coverage for minimum inpatient care following mastectomy by individual, group health service corporation.

3. a. Every individual or group 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 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 coverage for a minimum of 72 hours of inpatient care following a modified radical mastectomy and a minimum of 48 hours of inpatient care following a simple mastectomy. The contract shall not require a health care provider to obtain authorization from the health service corporation for prescribing 72 or 48 hours, as appropriate, of inpatient care as provided for in this section.

The provisions of this section shall not be construed to: require a patient to receive inpatient care for 72 or 48 hours, as appropriate, if the patient in consultation with the patient's physician determines that a shorter length of stay is medically appropriate; or relieve a patient or a patient's physician, if appropriate, of any notification requirements to the health service corporation under the contract.

The benefits shall be provided to the same extent as for any other sickness under the contract.

The provisions of this section shall apply to all contracts in which the health service corporation has reserved the right to change the premium.

b. The Commissioner of Banking and Insurance shall adopt regulations pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.) to implement the provisions of this section.

C.17B:26-2.1m Coverage for minimum inpatient care following mastectomy by individual hospital, medical expense benefits policy.

4. a. Every individual 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 coverage for a minimum of 72 hours of inpatient care following a modified radical mastectomy and a minimum of 48 hours of inpatient care following a simple mastectomy. The policy shall not require a health care provider to obtain authorization from the insurer for prescribing 72 or 48 hours, as appropriate, of inpatient care as provided for in this section.

The provisions of this section shall not be construed to: require a patient to receive inpatient care for 72 or 48 hours, as appropriate, if the patient in consultation with the patient's physician determines that a shorter length of stay is medically appropriate; or relieve a patient or a patient's physician, if appropriate, of any notification requirements to the insurer under the policy.

The benefits shall be provided to the same extent as for any other sickness under the policy.

The provisions of this section shall apply to all policies in which the insurer has reserved the right to change the premium.

b. The Commissioner of Banking and Insurance shall adopt regulations pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.) to implement the provisions of this section.

C.17B:27-46.1p Coverage for minimum inpatient care following mastectomy by group policy.

5. a. Every group 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 for a minimum of 72 hours of inpatient care following a modified radical mastectomy and a minimum of 48 hours of inpatient care following a simple mastectomy. The policy shall not require a health care provider to obtain authorization from the insurer for prescribing 72 or 48 hours, as appropriate, of inpatient care as provided for in this section.

The provisions of this section shall not be construed to: require a patient to receive inpatient care for 72 or 48 hours, as appropriate, if the patient in consultation with the patient's physician determines that a shorter length of

stay is medically appropriate; or relieve a patient or a patient's physician, if appropriate, of any notification requirements to the insurer under the policy.

The benefits shall be provided to the same extent as for any other sickness under the policy.

The provisions of this section shall apply to all policies in which the insurer has reserved the right to change the premium.

b. The Commissioner of Banking and Insurance shall adopt regulations pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.) to implement the provisions of this section.

C.17B:27A-7.2 Coverage for minimum inpatient care following mastectomy by individual health benefits plan.

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 seq.) or approved for issuance or renewal in this State on or after the effective date of this act shall provide benefits for a minimum of 72 hours of inpatient care following a modified radical mastectomy and a minimum of 48 hours of inpatient care following a simple mastectomy. The health benefits plan shall not require a health care provider to obtain authorization from the carrier for prescribing 72 or 48 hours as appropriate, of inpatient care as provided for in this section.

The provisions of this section shall not be construed to: require a patient to receive inpatient care for 72 or 48 hours, as appropriate, if the patient in consultation with the patient's physician determines that a shorter length of stay is medically appropriate; or relieve a patient or a patient's physician, if appropriate, of any notification requirements to the carrier under the health benefits plan.

The benefits shall be provided to the same extent as for any other sickness under the health benefits plan.

The provisions of this section shall apply to all health benefit plans in which the carrier has reserved the right to change the premium.

b. The New Jersey Individual Health Coverage Program Board shall adopt regulations pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.) to implement the provisions of this section.

C.17B:27A-19.4 Coverage for minimum inpatient care following mastectomy by small employer health benefits plan.

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 on or after the effective date of this act

shall provide benefits for a minimum of 72 hours of inpatient care following a modified radical mastectomy and a minimum of 48 hours of inpatient care following a simple mastectomy. The health benefits plan shall not require a health care provider to obtain authorization from the carrier for prescribing 72 or 48 hours, as appropriate, of inpatient care as provided for in this section.

The provisions of this section shall not be construed to: require a patient to receive inpatient care for 72 or 48 hours, as appropriate, if the patient in consultation with the patient's physician determines that a shorter length of stay is medically appropriate: or relieve a patient or a patient's physician, if appropriate, of any notification requirements to the carrier under the health benefits plan.

The benefits shall be provided to the same extent as for any other sickness under the health benefits plan.

The provisions of this section shall apply to all health benefit plans in which the carrier has reserved the right to change the premium.

b. The New Jersey Small Employer Health Benefits Program Board shall adopt regulations pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.) to implement the provisions of this section.

C.26:2J-4.15 Coverage for minimum inpatient care following mastectomy by HMO.

8. a. Every enrollee agreement that provides hospital or medical expense benefits and is delivered, issued, executed or renewed in this State pursuant to P.L.1973, c.337 (C.26:2J-1 et seq.) or approved for issuance or renewal in this State by the Commissioner of Health and Senior Services on or after the effective date of this act shall provide health care services for a minimum of 72 hours of inpatient care following a modified radical mastectomy and a minimum of 48 hours of inpatient care following a simple mastectomy. The enrollee agreement shall not require a health care provider to obtain authorization from the health maintenance organization for prescribing 72 or 48 hours, as appropriate, of inpatient care as provided for in this section.

The provisions of this section shall not be construed to: require a patient to receive inpatient care for 72 or 48 hours, as appropriate, if the patient in consultation with the patient's physician determines that a shorter length of stay is medically appropriate; or relieve a patient or a patient's physician, if appropriate, of any notification requirements to the health maintenance organization under the enrollee agreement.

The health care services shall be provided to the same extent as for any other sickness under the enrollee agreement.

The provisions of this section shall apply to enrollee agreements in which the health maintenance organization has reserved the right to change the schedule of charges.

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

C.34:11A-13 Notification to employees on coverage for treatment of breast cancer.

9. An employer in this State who provides coverage to his employees or their dependents for treatment of breast cancer shall annually and upon request of an employee at other times during the year, notify his employees whether the employees' coverage for treatment of breast cancer is subject to the requirements of P.L.1997, c.149 (C.17:48-6q et al.) concerning the minimum time a patient shall be permitted to remain at an inpatient care facility following a mastectomy.

10. This act shall take effect immediately.

Approved June 30, 1997.

CHAPTER 150

AN ACT concerning the unification of the ports of the Delaware river, supplementing and revising various parts of the statutory law.

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

C.34:1B-144 Short title.

1. Sections 2 through 19 of this act shall be known and may be cited as the "Port Unification and Financing Act."

C.34:1B-145 Findings, declarations relative to unification of ports.

2. The Legislature finds and declares:

a. The Legislature of the State of New Jersey approved legislation in 1992, concurred in by the Commonwealth of Pennsylvania and approved by the Congress of the United States, amending the Compact creating the Delaware River Port Authority to facilitate the unification of the ports of the Delaware river by authorizing the creation of a subsidiary corporation or corporations and the taking of other measures to effectuate the unification.

b. Pursuant to the provisions of the Compact amendments, the merger or unification of port facilities in the State of New Jersey must be done in accordance with State law.

c. It is therefore in the public interest, pursuant to existing law, for this Legislature to consent to legislation that will direct that, upon the refunding, refinancing or defeasance of the outstanding bonds of the South Jersey Port Corporation, the port facilities of that corporation, along with its assets, liabilities and obligations, will be transferred to the New Jersey Economic Development Authority for operation and maintenance of all or a portion of the facilities by a subsidiary corporation of the Delaware River Port Authority, with the employees of the South Jersey Port Corporation to be employed by the subsidiary corporation. The subsidiary corporation shall operate pursuant to the same principles set forth in R.S.32:3-1 et seq. for the operation of the Delaware River Port Authority.

C.34:1B-146 Definitions relative to unification of ports.

3. As used in this act:

"Authority" or "New Jersey Economic Development Authority" means the New Jersey Economic Development Authority created pursuant to section 4 of P.L.1974, c.80 (C.34:1B-4) or a subsidiary corporation of the authority created pursuant to section 16 of this act.

"Compact creating the Delaware River Port Authority" or "Compact" means the compact or agreement between the State of New Jersey and the Commonwealth of Pennsylvania entitled "Agreement between the Commonwealth of Pennsylvania and the State of New Jersey creating the Delaware River Joint Commission as a body corporate and politic and defining its powers and duties," as amended and supplemented (R.S.32:3-1 et seq.).

"Marine facilities" means port facilities to be used for piers, wharves, docks, bulkheads, slips, basins, vehicular roadways, railroad connections, side tracks, sidings, warehousing, storage or other buildings and structures, facilities or improvements, or other real property, necessary, convenient or accessory to the support, operation, maintenance or accommodation of steamships or other vessels and their cargoes or passengers, as shall be determined by the authority on or before the entering into of the initial agreement provided for in subsection b. of section 4 of this act with respect to the lease, management, or other operation of all or a portion of the port facilities, and upon subsequent changes in use or control of the marine facilities.

"Port facility" means a marine terminal or part thereof or any port property or facility. In the case of the port facilities of the South Jersey Port Corporation, the term "port facility" shall include the foregoing and any other real or personal property under the jurisdiction, ownership or control of that corporation and transferred to or acquired by the authority pursuant to this act.

"Port Facility Revenue Fund" means the fund created by section 6 of this act.

"Redevelopment facilities" means port facilities excluding the marine facilities and any personal property.

"Salem facility rights" means (1) property owned by the South Jersey Port Corporation and leased to Salem Terminals, Limited Liability Company, an Ohio limited liability company; (2) property owned by the South Jersey Port Corporation and leased to the Mid-Atlantic Shipping and Stevedoring, Inc.; and (3) all rights under the foreign trade zone approved by the United States Department of Commerce-Foreign Trade Zone Board by Order Number 358 establishing Foreign Trade Zone 142; provided, however, that the property described in paragraphs (1) and (2) of this definition shall not be deemed to be Salem facility rights at the time such property is no longer subject to the leases described in this definition.

"South Jersey Port Corporation" means the South Jersey Port Corporation created pursuant to P.L.1968, c.60 (C.12:11A-1 et seq.).

"State contract" means the contract or agreement entered into by the State Treasurer and the authority concerning the payment of the bonds issued pursuant to this act.

"Subsidiary" means a subsidiary corporation of the New Jersey Economic Development Authority created pursuant to section 16 of this act.

"Subsidiary corporation" means a subsidiary corporation which has been established by the Delaware River Port Authority pursuant to subdivision (m) of Article I of the compact creating the Delaware River Port Authority (R.S.32:3-2).

"Transfer date" means the date on which all bonds issued by the South Jersey Port Corporation cease to be outstanding within the meaning of the resolutions pursuant to which those bonds were issued, as certified by the trustee or trustees thereunder.

C.34:1B-147 Powers of authority.

4. a. For the purpose of providing funds for the financing of the establishment, acquisition, construction, rehabilitation, improvement and ownership of port facilities, the authority shall have the power to issue bonds or notes, incur indebtedness, borrow money or incur other obligations secured in whole or in part by the moneys in the Port Facility Revenue Fund or by any state contract or both and also to issue such bonds, notes or other indebtedness for the purpose of defeasing, refinancing or refunding the existing bonded and other indebtedness of an authority or corporation having jurisdiction, ownership or control of port facilities. However, the authority shall not issue bonds, notes or other obligations for defeasing, refinancing or refunding the bonds or notes of the South Jersey Port

Corporation until a subsidiary corporation has been formally established by the Delaware River Port Authority and the State Treasurer and the authority have approved an agreement pursuant to subsection b. of this section providing for the lease, management or other operation of all or a portion of the port facilities of the South Jersey Port Corporation. The bonds or notes shall be authorized by resolution, which shall stipulate the manner of execution and form of the bonds or notes, whether the bonds or notes are in one or more series, the date of issue, time or times of maturity, which (in the case of bonds) shall not exceed 30 years, the rate or rates of interest payable on the bonds or notes, the denomination or denominations in which the bonds or notes are issued, conversion or registration privileges, the sources and medium of payment and place or places of payment and terms of redemption. The bonds or notes may be sold at a public or private sale at a price or prices determined by the authority.

b. The authority is hereby authorized to enter into any agreement with a subsidiary corporation with respect to the lease, management or other operation of all or a portion of the port facilities on such terms as the authority shall deem appropriate, such agreement to be subject to the approval of the State Treasurer.

The authority shall, however, be authorized to enter into an agreement with a subsidiary corporation under this section where the directors of such subsidiary corporation are required to be residents of the State of New Jersey and one or more other states only on the following conditions: The bylaws of the subsidiary corporation shall provide, and continue to provide, for the exercise of a veto by the Governor of the State of New Jersey with respect to an action of a director of the subsidiary corporation appointed from the State of New Jersey, which exercise is hereby authorized in the same form and manner as provided in P.L.1991, c.516 (C.32:3-4a et seq.) for the veto of an action of a commissioner of the Delaware River Port Authority appointed from the State of New Jersey; the exercise of the veto by the Governor of the State of New Jersey pursuant to this section shall not serve to dissolve the subsidiary corporation; the number of directors of the corporation from the State of New Jersey shall be the same as the number of directors of the corporation from each of the other states; and no action of the corporation shall be binding unless at least a simple majority of the directors from each state and at least a simple majority of the directors from New Jersey shall vote in favor thereof. The provisions of this section shall also be binding on any entity which is a successor to the authority.

The authority is hereby authorized also to enter into any agreement with the South Jersey Port Corporation with respect to the defense of litigation against the South Jersey Port Corporation.

c. The authority is hereby authorized to convey or reconvey the port facilities to any other entity, including but not limited to the South Jersey Port Corporation, subject to the approval of the State Treasurer and the Legislature. The authority shall submit for approval to the Legislature, on a day when both the General Assembly and the Senate are in session, a plan for conveying or reconveying the port facilities to an entity other than the subsidiary corporation. The date of the submission shall be entered into the Senate Journal and the Minutes of the General Assembly. The Legislature shall be deemed to have approved the plan unless within 45 days of the submission of the plan by the authority to the Legislature, the Legislature adopts by affirmative vote of a majority of the authorized membership of both of the houses a concurrent resolution disapproving the plan. The time period shall commence on the day of submission and expire on the 45th day after submission or for a house not meeting on the 45th day, on the next meeting of that house.

d. In addition to any other provisions of an agreement, an agreement between the authority and a subsidiary corporation for the lease, management or other operation of port facilities acquired from the South Jersey Port Corporation, except as provided in section 15 of this act, shall require an annual payment to the authority for the rental of the port facilities in New Jersey. The annual payment shall be deposited into the Port Facility Revenue Fund created by section 6 of this act.

C.34:1B-148 Payment of, redemption of bonds, notes.

5. The authority may, in any resolution authorizing the issuance of bonds or notes pursuant to this act, pledge the Port Facility Revenue Fund or a portion thereof for payment of the redemption of the bonds or notes, or the principal and interest thereon, and covenant as to the use and disposition of moneys in the Port Facility Revenue Fund. All costs associated with the issuance of the bonds or notes by the authority for the purposes set forth in this act may be paid by the authority from the proceeds of bonds or notes or from the Port Facility Revenue Fund, as the authority shall determine, which costs may include, but shall not be limited to, any costs related to the issuance of bonds or notes, operating expenses of the authority attributable to the payment of current and anticipated liabilities and expenses, and costs of, and any payment due under, any agreement, including any agreement entered into pursuant to the provisions of subsection b. of section 7 of this act. Moneys in the Port Facility Revenue Fund shall not be used for any other purposes of the authority than those provided in this act.

C.34:1B-149 "Port Facility Revenue Fund."

6. There is created within the authority a special nonlapsing fund, to be known as the "Port Facility Revenue Fund." This fund shall consist of:

a. Such moneys as may be transferred to the fund by the State Treasurer, upon appropriation by the Legislature;

b. Such moneys as may have been or may be authorized by, or appropriated to, the South Jersey Port Corporation for the payment of debt service with respect to the port facilities of the corporation and which may be transferred to the authority by the corporation on or after the acquisition of the port facilities of the corporation by the authority or which may be transferred to the authority pursuant to section 14 of this act;

c. Interest or other income derived from the investment of moneys in the fund; and

d. Payments received by the authority under subsection d. of section 4 of this act.

Moneys in the fund shall be managed and invested by the Division of Investment in the Department of the Treasury.

C.34:1B-150 Use of moneys in Port Facility Revenue Fund.

7. a. The authority may use moneys in the Port Facility Revenue Fund to pay the principal and interest and premium, if any, on the bonds or notes issued by it pursuant to this act and in connection with the lease, management, or other operation of the port facilities transferred pursuant to this act and as provided in subsection b. of section 4 of this act. The authority may create any other fund or funds by resolution of the authority which it deems necessary to further secure the bonds or notes or otherwise effectuate the purposes of this act, including funds for the deposit of the proceeds from bonds or notes issued pursuant to this act.

b. The authority may, in connection with its duties and responsibilities under this act or in connection with any duties and responsibilities provided for in P.L.1974, c.80 (C.34:1B-1 et seq.), enter into any revolving credit agreement, agreement establishing a line of credit or letter of credit, reimbursement agreement, interest rate exchange or other like agreement, forward purchase agreement, insurance contract, surety bond, commitment to purchase bonds or notes, purchase or sale agreement or commitments or other contracts or agreements in connection with the authorization, issuance, sale or payment of bonds or notes.

c. All bonds or notes issued by the authority are deemed to be issued by a body corporate and politic of the State for an essential governmental purpose, and the interest thereon or to be received by the authority and pledged and available to pay or secure the payment on bonds or notes or pledged or available to pay or secure payment on such bonds or notes or interest thereon shall be exempt from all taxes levied pursuant to the provisions of Title 54 of the Revised Statutes or Title 54A of the New

Jersey Statutes, except for transfer, inheritance and estate taxes pursuant to Subtitle 5 of Title 54 of the Revised Statutes.

C.34:1B-151 Bonds, notes considered special, limited obligations.

8. Bonds and notes issued by the authority pursuant to the provisions of this act shall be special and limited obligations which are payable only from the sources enumerated in this act. Neither the members of the authority nor any other person executing the bonds or notes issued pursuant to this act shall be liable personally with respect to payment of interest and principal on these bonds, notes, or any other obligations issued pursuant to this act. The bonds, notes, or any other obligations issued pursuant to the provisions of this act shall not be a debt or liability of the State or any agency or instrumentality thereof, either legal, moral or otherwise, and nothing contained in this act shall be construed to authorize the authority to incur any indebtedness on behalf of or in any way to obligate the State or any political subdivision and all debt instruments issued by the authority shall contain a statement to that effect on their face.

C.34:1B-152 Pledges, covenants with holders of bonds, notes, obligations.

9. The State hereby pledges and covenants with holders of any bonds, notes or other obligations issued pursuant to this act that it will not limit or alter the rights or powers vested in the authority by this act, nor limit or alter the rights or powers of the State Treasurer in any manner which would jeopardize the interest of the holders or any trustee of such holders, or inhibit or prevent performance or fulfillment by the authority or the State Treasurer with respect to the terms of any agreement made with the holders of these bonds, notes or other obligations. The State also pledges and covenants with the holders of any such bonds, notes or obligations, that it will not act to prevent the authority from obtaining any of the revenues provided for in this act, which shall be sufficient to meet all costs and expenses in connection with the issuance of such obligations, until the bonds, notes or other obligations, together with interest thereon, are fully met and discharged or payment thereof is fully provided for, except that the failure of the State to appropriate moneys for any purposes of this act shall not be deemed a violation of this section.

C.34:1B-153 Immunity for authority, members, employees.

10. Notwithstanding the provisions of any other law to the contrary, the State shall indemnify and save harmless the authority, its members or employees from any actions, claims, judgments or awards of any type, arising from or as the result of any act or omission by or on behalf of the South Jersey Port Corporation or the subsidiary corporation or in relation to the port facilities transferred to the authority pursuant to this act or arising

from or as the result of the condition of those facilities. The State may, in addition, enter into an agreement with the authority to provide for the payment of liability insurance premiums for the provision of liability insurance coverage for the authority, its members or employees with respect to any such action or claim instituted or asserted after the transfer of the port facilities. The amount and terms of such liability coverage shall be subject to the approval of the State Treasurer. The State shall, in addition, provide for the payment of annual administrative expenses of the authority associated with the ownership and operation of port facilities, in an amount authorized by the State Treasurer.

C.34:1B-154 Immunity for South Jersey Port Corporation, members, employees.

11. Notwithstanding the provisions of any other law to the contrary, the State Treasurer is authorized to enter into an agreement with the South Jersey Port Corporation on or after the transfer of the port facilities of the corporation to the authority, which shall provide that the State shall indemnify and save harmless the South Jersey Port Corporation, its members, or employees from any actions, claims, judgments or awards of any type, arising from or as the result of any act or omission by or on behalf of the South Jersey Port Corporation. Such agreement may, in addition, provide for the payment of liability insurance premiums for the provision of liability insurance coverage for the South Jersey Port Corporation, its members, or employees with respect to any such action or claim instituted or asserted after the transfer of the port facilities to the authority. The amount and terms of any such liability insurance coverage shall be subject to the approval of the State Treasurer.

C.34:1B-155 Limited immunity for Delaware River Port Authority.

12. Notwithstanding any other provision of law to the contrary, the State Treasurer is authorized to enter into an agreement with the Delaware River Port Authority or the subsidiary corporation, or both, which would provide that the State shall indemnify and save harmless the Delaware River Port Authority or the subsidiary corporation, or both, from any and all claims or causes of action which are based on the condition of the port facilities transferred pursuant to this act. The State Treasurer is not authorized to enter into an agreement which obligates the State to indemnify or save harmless the Delaware River Port Authority or the subsidiary corporation from any damages which directly result from any act or omission by the Delaware River Port Authority or the subsidiary corporation, or both, or any of their agents, servants or employees.

C.34:1B-156 Agreements authorized.

13. The State Treasurer and the authority may enter into any agreements as may be necessary to effectuate the provisions of this act, which may include, but not be limited to, procedures for the transfer of moneys to the Port Facility Revenue Fund as provided for in section 6 of this act, with respect to the terms and conditions relative to the securing of bonds, notes and other obligations of the authority, the pledge and assignment of any agreement or agreements authorized by this act, or any payments to the trustees of the holders of these bonds. Notwithstanding any provision of P.L.1974, c.80 (C.34:1B-1 et seq.), this act or any regulation of the authority to the contrary, the authority shall be paid only such fees as shall be determined by an agreement entered into pursuant to this section. Any such agreements entered into pursuant to this section shall require that the subsidiary corporation shall indemnify and save harmless the authority, its members or employees from any actions, claims, judgments or awards of any type regarding the lease, operation and management of the port facilities by the subsidiary corporation.

C.34:1B-157 Cooperation of South Jersey Port Corporation with authority to effect transfer.

14. a. The South Jersey Port Corporation shall cooperate with the authority in the defeasing, refunding or refinancing of the outstanding obligations of the corporation by the authority as authorized by this act and the corporation shall take such steps as are necessary in order to implement such defeasing, refunding or refinancing.

b. On the transfer date:

(1) All right, title and interest of the South Jersey Port Corporation in its port facilities, except as provided in section 15 of this act, and in any of its records and papers, as well as its assets, funds, obligations and liabilities, are hereby transferred to the authority to be held, used and applied for the purposes of this act.

(2) All powers and duties which hitherto were exercised by the corporation with respect to its port facilities transferred pursuant to this section may henceforth be exercised by the authority. The authority may permit the exercise of these powers and duties by the subsidiary corporation as may be necessary or convenient to operate and maintain the port facilities which are the subject of the lease, management or operational agreement between the authority and the subsidiary corporation authorized pursuant to subsection b. of section 4 of this act.

(3) All moneys transferred pursuant to this act shall be deposited in the "Port Facility Revenue Fund" established by section 6 of this act.

(4) All creditors of the corporation and persons having claims against or contracts with the corporation of any kind or character may enforce such debts, claims and contracts against the authority in the same manner as they

might have had against the corporation, and the rights and remedies of such creditors and persons having claims or contracts shall not be limited or restricted in any manner by this act, except as provided in this section. All debts, liabilities, obligations, agreements and covenants of the corporation, except to the extent otherwise specifically provided or established to the contrary in this act, are hereby imposed upon the authority. In continuing the functions and carrying out the contracts, obligations, powers and duties of the corporation, the authority, or the subsidiary corporation, as the case may be, are authorized to act in their own name or in the name of the corporation as may be convenient or advisable under the circumstances from time to time.

(5) The lease, management or operational agreement referred to in paragraph (2) of this subsection shall provide that all officers and employees of the corporation shall be employed by the subsidiary corporation until determined otherwise by that corporation. The employees shall retain all of their rights and benefits under existing collective bargaining agreements or contracts until such time as new or revised agreements or contracts are agreed to or these agreements or contracts shall expire. All existing bargaining agents shall be retained to act on behalf of those employees until such time as the employees shall, pursuant to law, elect to change those agents. The provisions of this paragraph shall not apply to any officer or employee appointed or employed, or any collective bargaining agreement entered into, on or after the effective date of this act.

c. As soon as may be practicable after the transfer date, the authority shall notify the Governor, the presiding officers of each house of the Legislature, and the President of the Delaware River Port Authority that the transfer has occurred, the date of the transfer, and any other information concerning the transfer the authority deems appropriate.

d. (1) After the transfer date, the subsidiary corporation which has entered into the lease, management or operational agreement shall annually submit to the authority a written report on the carrying out of its responsibilities under the agreement in addition to any other reports as may be required by the agreement. The annual report shall include a financial summary of revenues and expenditures relating to the ports. The report shall also be submitted to the Legislature.

(2) In addition to any other reports required to be submitted to the Legislature, the Delaware River Port Authority shall submit to the Legislature, at least 60 days prior to action taken to authorize or adopt, any plan developed by the Delaware River Port Authority to finance any capital project for the construction, reconstruction, development or improvement of the port facilities located in New Jersey that are operated and maintained by the subsidiary corporation pursuant to the provisions of P.L.1997, c.150

(C.34:1B-144 et al.). Upon the initial submission of such a plan, the authority shall annually thereafter submit written progress reports on the implementation of the plan with the final progress report submitted upon the completion of projects set forth in the initial plan.

C.34:1B-158 Authority not to acquire certain port facilities.

15. Notwithstanding the provisions of this act to the contrary, the authority shall not acquire from the South Jersey Port Corporation the former port facilities of the Salem Municipal Port Authority as acquired previously from the Salem Municipal Port Authority by the South Jersey Port Corporation. The South Jersey Port Corporation shall, not later than six months after the effective date of this act, enter into a lease or other agreement with a person other than a public entity to operate and maintain the former port facilities of the Salem Municipal Port Authority previously acquired by the South Jersey Port Corporation, including other real property previously acquired by that corporation from the county of Salem or the City of Salem and located in the City of Salem.

If the South Jersey Port Corporation fails to enter into such a lease or other agreement within that six-month period, the South Jersey Port Corporation shall, at the expiration of that period, transfer all right, title and interest to those facilities to the New Jersey Economic Development Authority. If the South Jersey Port Corporation has entered into such lease or other agreement within the six-month period, the South Jersey Port Corporation shall, at the expiration or termination of such lease or other agreement, transfer all right, title and interest to those facilities to the New Jersey Economic Development Authority unless the lessee or operator of those facilities shall have exercised an option to purchase or acquire the facilities pursuant to the lease or agreement. The New Jersey Economic Development Authority shall be authorized to acquire all right, title, and interest to those facilities if transferred pursuant to this section.

Any agreement entered into pursuant to this section shall be subject to the approval of the State Treasurer and if such an agreement shall result in any payments to the South Jersey Port Corporation such payments shall be remitted to the State Treasurer for deposit in the General Fund less those amounts that the South Jersey Port Corporation is required to pay to other public entities under the terms of leases referred to in paragraphs (1) and (2) of "Salem facility rights" as defined in section 3 of this act.

C.34:1B-159 Additional powers of authority to form subsidiary.

16. a. To effectuate any of its authorized purposes either directly or indirectly, the authority, in addition to any powers granted to it elsewhere in P.L.1997, c.150 (C.34:1B-144 et al.), shall have the authority to form,

purchase or assume control of one or more subsidiaries, in the manner and for the purposes set forth in this section.

b. The authority may form a subsidiary by filing with the Secretary of State a certificate of incorporation, which may be amended from time to time and which shall set forth the name of the subsidiary, its duration, the location of its principal office, the joint owners thereof if any such joint owners shall be provided for by an agreement between the authority and the joint owners, and the purposes of the subsidiary.

c. The directors of the subsidiary shall be members or employees of the authority, who shall constitute at least a majority, and such other persons representing any joint owner or owners, if any, as may be provided for in the agreement in connection with the incorporation of the subsidiary.

d. The subsidiary shall have all the powers vested in the authority which the authority may delegate to it by terms of the agreement entered into pursuant to subsection b. of this section, except that it shall not have the power to contract indebtedness independently of the authority. The subsidiary and any of its properties, functions and activities shall have all the privileges, immunities, tax exemptions and other exemptions as the authority's property, functions and activities. The subsidiary shall also be subject to the restrictions and limitations to which the authority is subject. The subsidiary shall be subject to suit as if it were the authority itself.

e. Whenever the State or any municipality, commission, public authority, agency, office, department, board, or division is authorized and empowered for any purposes of P.L.1997, c.150 (C.34:1B-144 et al.) to cooperate and enter into agreements with the authority or to grant any consent to the authority or to grant, convey, lease or otherwise transfer any property to the authority or to execute any document, the State or such municipality, commission, public authority, agency, officer, department, board, or division shall have the same authorization and power for any of such purposes to cooperate and enter into agreements with the subsidiary, to grant consents to the subsidiary, to grant, convey, lease or otherwise transfer property to the subsidiary and to execute documents for the subsidiary.

f. Among the powers that shall be granted to a subsidiary established by the authority, or which may be exercised by the authority itself, are:

(1) The power to participate as a co-owner or co-venturer in any activity financed by a loan from the authority;

(2) The power to issue its stock and employ the proceeds of such issuance for capital investment in, or other expenses in connection with, the projects of the subsidiary, upon authorization by the authority; and

(3) The power to enter into leases, subleases or other conveyances of property, or to grant easements, or licenses for the use of property.

C.34:1B-160 Joint ventures.

17. The authority, or any subsidiary, may enter into agreements with any individual, partnership, trust, association or corporation, or any public agency, under which the authority or subsidiary and such other entity or entities shall undertake a project as a joint venture, with the authority or subsidiary providing such financial assistance, through loans, grants or the acquisition of an ownership interest in the project, and such technical or managerial assistance or advice, as the agreement may provide for.

C.34:1B-161 Written summary of developments in Camden.

18. When undertaking any construction, reconstruction, or other improvement of property which is part of the marine facilities or redevelopment facilities located in the City of Camden, the authority shall provide the Planning Board of the City of Camden with a written summary, for informational purposes only, or an informational presentation to the Planning Board of the City of Camden which shall describe the proposed development.

C.34:1B-162 Authority's activities, tax exempt; in lieu of taxes on commercial activities.

19. a. The exercise of the powers granted by this act shall constitute the performance of an essential governmental function and the authority shall not be required to pay any taxes or assessments upon or in respect of its port facilities as defined in section 3 of P.L.1997, c.150 (C.34:1B-146), or any property or moneys of the authority, and the authority, its port facilities, property and moneys and any bonds and notes issued under the provisions of this act, their transfer and the income there-from, including any profit made on the sale thereof, shall at all times be free from taxation of every kind by the State except for transfer, inheritance and estate taxes and by any political subdivision of the State.

b. Notwithstanding the provisions of section 15 of P.L.1974, c.80 (C.34:1B-15) to the contrary: (1) any person occupying port facilities of the authority used as redevelopment facilities for commercial purposes, whether as lessee, vendee or otherwise, except a subsidiary corporation as defined in section 3 of P.L.1997, c.150 (C.34:1B-146), shall pay to any political subdivision in which such redevelopment facilities are located a payment in lieu of taxes which shall equal the taxes on real and personal property, including water and sewer service charges and assessments, which that person would have been required to pay to the respective political subdivisions had it been the owner of the property during the period for which such payment is made and neither the subsidiary nor the authority nor any of their projects, properties, moneys or bonds and notes shall be obligated, liable or subject to lien of any kind for the enforcement, collection or payment

thereof; (2) the State shall make a payment in lieu of taxes on the authority's port facilities used as marine facilities for commercial purposes and occupied by any person as lessee, except a subsidiary corporation as defined in section 3 of P.L.1997, c.150 (C.34:1B-146) and neither the subsidiary nor the authority nor any of their projects, properties, moneys, or bonds and notes shall be obligated, liable or subject to lien of any kind for the enforcement, collection or payment thereof. The payment by the State shall be made to the City of Camden, subject to annual appropriation by the Legislature, and shall be equal to 40 percent of the fair market value of the property, determined by the Department of the Treasury at the time of transfer of the facilities to the authority pursuant to this act, multiplied by the local municipal purposes tax rate.

c. Payments made pursuant to this section shall be paid to the political subdivision in the fiscal year commencing on July 1 following the year in which the occupancy occurred. Such payments shall only be payable for that portion of the year in which the facilities subject to the payment were actually occupied by a lessee, vendee or otherwise or in the case of paragraph (2) of subsection b. of this section by a lessee.

d. Any property transferred to the authority pursuant to the provisions of this act, which is not occupied by a lessee, vendee or otherwise, as provided in this section, shall not be subject to a payment in lieu of taxes.

e. In the event that the port facilities of the authority are transferred to another entity which is not subject to taxation, the provisions of this section concerning payments in lieu of taxes shall continue, and any person occupying the transferred redevelopment facilities as a lessee, vendee or otherwise, except a subsidiary corporation defined in section 3 of P.L.1997, c.150 (C.34:1B-146), shall make the payments prescribed in paragraph (1) of subsection b. of this section, and the entity to which the marine facilities are transferred, rather than the State, shall continue to make the payments prescribed in paragraph (2) of subsection b. of this section unless the entity and the City of Camden shall enter into an agreement to provide for a different method of determining the amount of payment in lieu of taxes or otherwise to alter the amount of the payment provided for in paragraph (2) of subsection b. of this section.

f. Notwithstanding the provisions of this section to the contrary, the governing body of a county or municipality in which the port facilities of the authority used as redevelopment facilities are located may, by resolution or ordinance, as appropriate, provide for the reduction in the amount of the in lieu of tax payment which a vendee, lessee or otherwise is required to pay under paragraph (1) of subsection b. of this section. The reduction in the amount shall be for a term of no greater than 20 years from the date of initial occupancy by the vendee, lessee or otherwise and shall be so structured that

the total reduction shall constitute no greater than 75 percent of the in lieu of tax payment required under paragraph (1) of subsection b. of this section over the 20-year or lesser period, and shall only be adopted upon a finding that the reduction would be in the best interest of the county or municipality.

20. Section 1 of P.L.1968, c.60 (C.12:11A-1) is amended to read as follows:

C.12:11A-1 Legislative findings.

1. The Legislature hereby finds and declares: a. that overlapping jurisdiction and responsibility for port development is not conducive to the provision of adequate port facilities in southern New Jersey; that the South Jersey Port Corporation hereinafter established by this act, should be the sole agency for the port development which is the purpose of this act; that said corporation should be vested with powers and responsibilities sufficient to fulfill not only its port development purposes but its financial obligations to the government and people of the State of New Jersey; that the Camden Marine Terminals, presently operated and maintained by the South Jersey Port Commission, are ideally suited to serve as the basis from which future port development in South Jersey may proceed; that the acquisition of said Camden Marine Terminals by the South Jersey Port Corporation will enable said corporation to accomplish the purposes of this act; that the indebtedness of the South Jersey Port Commission to its creditors and bondholders and to the city of Camden is properly an obligation of the State of New Jersey and a responsibility of the State of New Jersey to repay to the extent and in the manner provided herein; that prior to the disposition of the Camden Marine Terminals the financial obligations of the South Jersey Port Commission to the city of Camden must be discharged; that the State has already recognized its responsibility and taken steps to fulfill its obligation to the city of Camden by virtue of the appropriation of $1.5 million from the General Treasury of the State of New Jersey to the South Jersey Port Commission, pursuant to chapter 84 of the Laws of 1967, which sum was applied towards the reduction of the indebtedness of the commission to the city of Camden.

b. In order to facilitate the unification of the ports of the Delaware river, as provided in subdivision (m) of the Compact creating the Delaware River Port Authority (R.S.32:3-2), it is in the public interest to provide for the transfer of the port facilities of the corporation to the New Jersey Economic Development Authority so that all or a portion of them may be operated by a subsidiary corporation of the Delaware River Port Authority; that the current outstanding bonded indebtedness of the corporation shall be refunded by the issuance of bonds by the New Jersey Economic Develop-

ment Authority in order to facilitate that transfer; that provision be made for the employees of the corporation who may be employed by the subsidiary corporation; and that other measures be taken to facilitate the transfer.

21. Section 6 of P.L.1968, c.60 (C.12:11A-6) is amended to read as follows:

C.12:11A-6 Powers of corporation.

6. The corporation shall be a body corporate and politic and shall have perpetual succession and shall have the following powers:

(a) To adopt bylaws for the regulation of its affairs and the conduct of its business;

(b) To adopt an official seal and alter the same at pleasure;

(c) To maintain an office at such place or places within the district as it may designate;

(d) To sue and be sued in its own name;

(e) To establish, acquire, construct, rehabilitate, improve, own, operate and maintain marine terminals at such locations within the district as it shall determine;

(f) To enter into lease agreements with private marine terminal operators for the purpose of operating and maintaining any of the marine terminals established, acquired, owned, constructed, rehabilitated or improved by the corporation;

(g) To issue bonds or notes of the corporation for any of its corporate purposes and to provide for the rights of the holders thereof as provided in this act;

(h) To fix and revise from time to time and charge and collect rents, tolls, fees and charges for use of the several functions and services of any marine terminal acquired or constructed by it;

(i) To establish rules and regulations for the use of any terminal;

(j) To acquire, hold and dispose of real and personal property in the exercise of its powers and the performance of its duties under this act;

(k) To acquire in the name of the corporation by purchase or otherwise, on such terms and conditions and in such manner as it may deem proper, or by the exercise of the power of eminent domain any land and other property which it may determine is reasonably necessary for any marine terminal or for the relocation or reconstruction of any highway by the corporation and any and all rights, title and interest in such land and other property, including public lands, parks, playgrounds, reservations, highways or parkways, owned by or in which any county, city, borough, town, township, village, or other political subdivision of the State of New Jersey has any right, title or interest, or parts thereof or rights therein and any fee simple

absolute or any lesser interest in private property, and any fee simple absolute in, easements upon, or the benefit of restrictions upon, abutting property to preserve and protect any marine terminal.

Upon the exercise of the power of eminent domain, the compensation to be paid thereunder shall be ascertained and paid in the manner provided in the "Eminent Domain Act of 1971," P.L.1971, c.361 (C.20:3-1 et seq.), insofar as the provisions thereof are applicable and not inconsistent with the provisions contained in this act. The corporation may join in separate subdivisions in one petition or complaint the descriptions of any number of tracts or parcels of land or property to be condemned and the names of any number of owners and other parties who may have an interest therein and all such land or property included in said petition or complaint may be condemned in a single proceeding; provided, however, that separate awards be made for each tract or parcel of land or property; and provided further, that each of said tracts or parcels of land or property lies wholly in or has a substantial part of its value lying wholly within the same county.

Upon the filing of such petition or complaint or at any time thereafter the corporation may file with the clerk of the county in which such property is located and also with the Clerk of the Superior Court a declaration of taking, signed by the corporation declaring that possession of one or more of the tracts or parcels of land or property described in the petition or complaint is thereby being taken by and for the use of the corporation. The said declaration of taking shall be sufficient if it sets forth (1) a description of each tract or parcel of land or property to be so taken sufficient for the identification thereof to which there shall be attached a plan or map thereof; (2) a statement of the estate or interest in the said land or property being taken; (3) a statement of the sum of money estimated by the corporation by resolution to be just compensation for the taking of the estate or interest in each tract or parcel of land or property described in said declaration; and (4) that, in compliance with the provisions of this act, the corporation has established and is maintaining a trust fund as hereinafter provided.

Upon the filing of the said declaration, the corporation shall deposit with the Clerk of the Superior Court the amount of the estimated compensation stated in said declaration. In addition to the said deposits with the Clerk of the Superior Court the corporation at all times shall maintain a special trust fund on deposit with a bank or trust company doing business in this State in an account at least equal to twice the aggregate amount deposited with the Clerk of the Superior Court as estimated compensation for all property described in declarations of taking with respect to which the compensation has not been finally determined and paid to the persons entitled thereto or into court. Said trust fund shall consist of cash or securities readily convertible into cash constituting legal investment for trust funds under the

laws of this State. Said trust fund shall be held solely to secure and may be applied to the payment of just compensation for the land or other property described in such declarations of taking. The corporation shall be entitled to withdraw from said trust fund from time to time so much as may then be in excess of twice the aggregate of the amount deposited with the Clerk of the Superior Court as estimated compensation for all property described in declarations of taking with respect to which the compensation has not been finally determined and paid to the persons entitled thereto or into court.

Upon the filing of the said declaration as aforesaid and depositing with the Clerk of the Superior Court the amount of the estimated compensation stated in said declaration, the corporation without other process or proceedings, shall be entitled to the exclusive possession and use of each tract of land or property described in said declaration and may forthwith enter into and take possession of said land or property, it being the intent of this provision that the proceedings for compensation or any other proceedings relating to the taking of said land or interest therein or other property shall not delay the taking of possession thereof and the use thereof by the corporation for the purpose or purposes for which the corporation is authorized by law to acquire or condemn such land or other property or interest therein.

The corporation shall cause notice of the filing of said declaration and the making of said deposit to be served upon each party in interest named in the petition residing in this State, either personally or by leaving a copy thereof at his residence, if known, and upon each party in interest residing out of the State, by mailing a copy thereof to him at his residence, if known. In the event that the residence of any such party or the name of such party is unknown, such notice shall be published at least once in a newspaper published or circulating in the county or counties in which the land is located. Such service, mailing or publication shall be made within 10 days after filing such declaration. Upon the application of any party in interest and after notice to other parties in interest, including the corporation, any judge of the Superior Court assigned to sit for said county may order that the money deposited with the Clerk of the Superior Court or any part thereof be paid forthwith to the person or persons entitled thereto for or on account of the just compensation to be awarded in said proceeding; provided, that each such person shall have filed with the Clerk of the Superior Court a consent in writing that, in the event the award in the condemnation proceeding shall be less than the amount deposited, the court, after notice as herein provided and hearing, may determine his liability, if any, for the return of such difference or any part thereof and enter judgment therefor. If the amount of the award as finally determined shall exceed the amount so deposited, the person or persons to whom the award is payable shall be entitled to recover

from the corporation the difference between the amount of the deposit and the amount of the award, with interest at the rate of 6% per annum thereon from the date of making the deposit. If the amount of the award shall be less than the amount so deposited, the Clerk of the Superior Court shall return the difference between the amount of the award and the deposit to the corporation unless the amount of the deposit or any part thereof shall have theretofore been distributed, in which event the court, on petition of the corporation and notice to all persons interested in the award and affording them an opportunity to be heard, shall enter judgment in favor of the corporation for such difference against the party or parties liable for the return thereof. The corporation shall cause notice of the date fixed for such hearing to be served upon each party thereto residing in this State either personally or by leaving a copy thereof at his residence, if known, and upon each party residing out of the State by mailing a copy to him at his residence, if known. In the event that the residence of any party or the name of such party is unknown, such notice shall be published at least once in a newspaper published or circulating in the county or counties in which the land is located. Such service, mailing or publication shall be made at least 10 days before the date fixed for such hearing.

Whenever under the "Eminent Domain Act of 1971" the amount of the award may be paid into court, payment may be made into the Superior Court and may be distributed according to law. The corporation shall not abandon any condemnation proceeding subsequent to the date upon which it has taken possession of the land or property as herein provided;

(l) To make and enter into all contracts and agreements necessary or incidental to the performance of its duties and the execution of its powers under this act;

(m) To appoint such additional officers, who need not be members of the corporation as the corporation deems advisable, and to employ consulting engineers, attorneys, accountants, construction and financial experts, superintendents, managers, and such other employees and agents as may be necessary in its judgment; to fix their compensation; and to promote and discharge such officers, employees and agents; all without regard to the provisions of Title 11A of the New Jersey Statutes; provided, however that in the hiring of any employees or agents the corporation shall hire any full-time employees of the Camden Marine Terminals or of the South Jersey Port Commission, dissolved as hereinafter provided by this act, who express a desire to be employed by the corporation; and provided further, that the corporation shall provide for the protection and maintenance of any contract, agreement or memorandum of understanding concerning wages, working conditions or benefits of any nature whatsoever between said Camden Marine Terminals or South Jersey Port Commission and such

employees or their designated representative, and the corporation shall guarantee any pension rights or benefits, including membership in any State, private or other pension plan, of any such employees of the Camden Marine Terminals or the South Jersey Port Commission;

(n) To apply for, receive and accept from any federal agency, subject to the approval of the Governor, grants for or in aid of the planning or construction of any marine terminal, and to receive and accept aid or contributions from any source, of either money, property, labor or other things of value, to be held, used and applied only for the purposes for which such grants and contributions may be made;

(o) To acquire any lands under water in the State of New Jersey for marine terminal, purposes by grant, transfer or conveyance from the Resource Development Council in the Department of Conservation and Economic Development in accordance with the statutes of the State governing the making of riparian grants and leases, upon such terms and conditions as may be determined by said council;

(p) To acquire any real property required or used for State highway purposes in the State of New Jersey, by grant, transfer or conveyance from the State Department of Transportation of the State of New Jersey upon such terms and conditions as may be determined by said State Department of Transportation;

(q) To promote the use of the port facilities in the district and the use of the Delaware river and bay as a highway of commerce and in furtherance of such promotion to make expenditures in the United States and foreign countries, to pay commissions, and hire or contract with experts and consultants, and otherwise to do indirectly anything which the corporation may do directly;

(r) To co-operate with all other bodies interested or concerned with, or affected by the promotion, development or use of the Delaware river and bay and the port district;

(s) To enter into contracts and agreements with the Delaware River Port Authority or any other regional agency concerned with marine terminal purposes providing for joint participation by the parties in any undertaking for marine terminal purposes authorized by this act;

(t) Subject to the terms of any agreement by the corporation with the holders of bonds and notes and in the interests of promoting and establishing unity of authority in the control, development and over the use of the port facilities of the district, to lend, lease, grant or convey to or merge or consolidate with any other regional agency concerned with marine terminal purposes upon such terms and conditions and with such reservations as the corporation shall deem reasonable and fair, any marine terminal or part thereof or any port facility or property which it owns or controls, provided,

however, that the corporation shall not act under this subsection until it has submitted to the Legislature any proposed loan, lease, grant or conveyance to or merger with any other regional agency of any marine terminal or port thereof or any other port facility which it owns or controls, and the Legislature has expressed its approval thereof in the form of a concurrent resolution expressing such approval passed by both houses of the Legislature, provided, however, that no such approval shall be required for any action of the corporation or otherwise, pursuant to the provisions of P.L.1997, c.150 (C.34:1B-144 et al.);

(u) Subject to the terms of any agreement by the corporation with the holders of bonds and notes, to lend, lease, transfer, grant or convey to the New Jersey Economic Development Authority any port facility, as defined in section 3 of P.L.1997, c.150 (C.34:1B-146), which is under its jurisdiction, ownership or control;

(v) To do all acts and things necessary or convenient to carry out the powers expressly granted in this act.

22. Section 3 of P.L.1974, c.80 (C.34:1B-3) is amended to read as follows:

C.34:1B-3 Definitions.

3. As used in this act, unless a different meaning clearly appears from the context:

a. "Authority" means the New Jersey Economic Development Authority, created by section 4 of this act.

b. "Bonds" means bonds or other obligations issued by the authority pursuant to this act or "Economic Recovery Bonds or Notes" issued pursuant to P.L.1992, c.16 (C.34:1B-7.10 et al.).

c. "Cost" means the cost of the acquisition, construction, reconstruction, repair, alteration, improvement and extension of any building, structure, facility including water transmission facilities, or other improvement; the cost of machinery and equipment; the cost of acquisition, construction, reconstruction, repair, alteration, improvement and extension of energy saving improvements or pollution control devices, equipment or facilities; the cost of lands, rights-in-lands, easements, privileges, agreements, franchises, utility extensions, disposal facilities, access roads and site development deemed by the authority to be necessary or useful and convenient for any project or in connection therewith; discount on bonds; cost of issuance of bonds; engineering and inspection costs; costs of financial, legal, professional and other estimates and advice; organization, administrative, insurance, operating and other expenses of the authority or any person prior to and during any acquisition or construction, and all such expenses as may be necessary or

incident to the financing, acquisition, construction or completion of any project or part thereof, and also such provision for reserves for payment or security of principal of or interest on bonds during or after such acquisition or construction as the authority may determine.

d. "County" means any county of any class.

e. "Development property" means any real or personal property, interest therein, improvements thereon, appurtenances thereto and air or other rights in connection therewith, including land, buildings, plants, structures, systems, works, machinery and equipment acquired or to be acquired by purchase, gift or otherwise by the authority within an urban growth zone.

f. "Person" means any person, including individuals, firms, partnerships, associations, societies, trusts, public or private corporations, or other legal entities, including public or governmental bodies, as well as natural persons. "Person" shall include the plural as well as the singular.

g. "Pollution control project" means any device, equipment, improvement, structure or facility, or any land and any building, structure, facility or other improvement thereon, or any combination thereof, whether or not in existence or under construction, or the refinancing thereof in order to facilitate improvements or additions thereto or upgrading thereof, and all real and personal property deemed necessary thereto, having to do with or the end purpose of which is the control, abatement or prevention of land, sewer, water, air, noise or general environmental pollution, including, but not limited to, any air pollution control facility, noise abatement facility, water management facility, thermal pollution control facility, radiation contamination control facility, wastewater collection system, wastewater treatment works, sewage treatment works system, sewage treatment system or solid waste disposal facility or site; provided that the authority shall have received from the Commissioner of the State Department of Environmental Protection or his duly authorized representative a certificate stating the opinion that, based upon information, facts and circumstances available to the State Department of Environmental Protection and any other pertinent data, (1) said pollution control facilities do not conflict with, overlap or duplicate any other planned or existing pollution control facilities undertaken or planned by another public agency or authority within any political subdivision, and (2) that such facilities, as designed, will be a pollution control project as defined in this act and are in furtherance of the purpose of abating or controlling pollution.

h. "Project" means: (1) (a) acquisition, construction, reconstruction, repair, alteration, improvement and extension of any building, structure, facility, including water transmission facilities or other improvement, whether or not in existence or under construction, (b) purchase and

installation of equipment and machinery, (c) acquisition and improvement of real estate and the extension or provision of utilities, access roads and other appurtenant facilities; and (2) (a) the acquisition, financing, or refinancing of inventory, raw materials, supplies, work in process, or stock in trade, or (b) the financing, refinancing or consolidation of secured or unsecured debt, borrowings, or obligations, or (c) the provision of financing for any other expense incurred in the ordinary course of business; all of which are to be used or occupied by any person in any enterprise promoting employment, either for the manufacturing, processing or assembly of materials or products, or for research or office purposes, including, but not limited to, medical and other professional facilities, or for industrial, recreational, hotel or motel facilities, public utility and warehousing, or for commercial and service purposes, including, but not limited to, retail outlets, retail shopping centers, restaurant and retail food outlets, and any and all other employment promoting enterprises, including, but not limited to, motion picture and television studios and facilities and commercial fishing facilities, commercial facilities for recreational fishermen, fishing vessels, aquaculture facilities and marketing facilities for fish and fish products and (d) acquisition of an equity interest in, including capital stock of, any corporation; or any combination of the above, which the authority determines will: (i) tend to maintain or provide gainful employment opportunities within and for the people of the State, or (ii) aid, assist and encourage the economic development or redevelopment of any political subdivision of the State, or (iii) maintain or increase the tax base of the State or of any political subdivision of the State, or (iv) maintain or diversify and expand employment promoting enterprises within the State; and (3) the cost of acquisition, construction, reconstruction, repair, alteration, improvement and extension of an energy saving improvement or pollution control project which the authority determines will tend to reduce the consumption in a building devoted to industrial or commercial purposes, or in an office building, of nonrenewable sources of energy or to reduce, abate or prevent environmental pollution within the State; and (4) the acquisition, construction, reconstruction, repair, alteration, improvement, extension, development, financing or refinancing of infrastructure and transportation facilities or improvements related to economic development and of cultural, recreational and tourism facilities or improvements related to economic development and of capital facilities for primary and secondary schools and of mixed use projects consisting of housing and commercial development; and (5) the establishment, acquisition, construction, rehabilitation, improvement, and ownership of port facilities as defined in section 3 of P.L.1997, c.150 (C.34:1B-146). Project may also include: (i) reimbursement to any person for costs in connection with any project, or the

refinancing of any project or portion thereof, if determined by the authority as necessary and in the public interest to maintain employment and the tax base of any political subdivision and will facilitate improvements thereto or the completion thereof, and (ii) development property and any construction, reconstruction, improvement, alteration, equipment or maintenance or repair, or planning and designing in connection therewith. For the purpose of carrying out mixed use projects consisting of both housing and commercial development, the authority may enter into agreements with the New Jersey Housing and Mortgage Finance Agency for loan guarantees for any such project in accordance with the provisions of P.L.1995, c.359 (C.55:14K-64 et al.), and for that purpose shall allocate to the New Jersey Housing and Mortgage Finance Agency, under such agreements, funding available pursuant to subsection a. of section 4 of P.L.1992, c.16 (C.34:1B-7.13).

i. "Revenues" means receipts, fees, rentals or other payments to be received on account of lease, mortgage, conditional sale, or sale, and payments and any other income derived from the lease, sale or other disposition of a project, moneys in such reserve and insurance funds or accounts or other funds and accounts, and income from the investment thereof, established in connection with the issuance of bonds or notes for a project or projects, and fees, charges or other moneys to be received by the authority in respect of projects and contracts with persons.

j. "Resolution" means any resolution adopted or trust agreement executed by the authority, pursuant to which bonds of the authority are authorized to be issued.

k. "Energy saving improvement" means the construction, purchase and installation in a building devoted to industrial or commercial purposes of any of the following, designed to reduce the amount of energy from nonrenewable sources needed for heating and cooling that building: insulation, replacement burners, replacement high efficiency heating and air conditioning units, including modular boilers and furnaces, water heaters, central air conditioners with or without heat recovery to make hot water for industrial or commercial purposes or in office buildings, and any solar heating or cooling system improvement, including any system which captures solar radiation to heat a fluid which passes over or through the collector element of that system and then transfers that fluid to a point within the system where the heat is withdrawn from the fluid for direct usage or storage. These systems shall include, but not necessarily be limited to, systems incorporating flat plate, evacuated tube or focusing solar collectors.

The foregoing list shall not be construed to be exhaustive, and shall not serve to exclude other improvements consistent with the legislative intent of this amendatory act.

l. "Urban growth zone" means any area within a municipality receiving State aid pursuant to the provisions of P.L.1978, c.14 (C.52:27D-178 et seq.) or a municipality certified by the Commissioner of Community Affairs to qualify under such law in every respect except population, which area has been so designated pursuant to an ordinance of the governing body of such municipality.

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

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

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

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

b. Any person becoming an employee of the State or other employer after January 2, 1955 and every veteran, other than a retired member who returns to service pursuant to subsection b. of section 27 of P.L.1966, c.217 (C.43:15A-57.2) and other than those whose appointments are seasonal, becoming an employee of the State or other employer after such date, including a temporary employee with at least one year's continuous service; and

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

d. Membership in the retirement system shall be optional for elected officials other than veterans, and for school crossing guards, who having become eligible for benefits under other pension systems are so employed on a part-time basis. Any such part-time school crossing guard who is eligible for benefits under any other pension system and who was hired as a part-time school crossing guard prior to March 4, 1976, may at any time terminate his membership in the retirement system by making an application in writing to the board of trustees of the retirement system. Upon receiving such application, the board of trustees shall terminate his enrollment in the system and direct the employer to cease accepting contributions from the member or deducting from the compensation paid to

the member. State employees who become members of any other retirement system supported wholly or partly by the State as a condition of employment shall not be eligible for membership in this retirement system. Notwithstanding any other law to the contrary, all other persons accepting employment in the service of the State shall be required to enroll in the retirement system as a condition of their employment, regardless of age. No person in employment, office or position, for which the annual salary or remuneration is fixed at less than $1,500.00, shall be eligible to become a member of the retirement system.

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

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

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

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

i. Membership in the retirement system shall be optional for a special service employee who is employed under the federal Older American Community Service Employment Act, Pub.L.94-135 (42 U.S.C. s.3056). Any special service employee employed under the federal Older American Community Service Employment Act, Pub.L.94-135 (42 U.S.C. s.3056), who is in the retirement system on the effective date of P.L.1996, c.139 may terminate membership in the retirement system by making an application in writing to the board of trustees of the retirement system. Upon receiving the application, the board shall terminate enrollment in the system and the member shall receive a refund of accumulated deductions as of the date of commencement of employment in a federal Older American Community Service Employment Act program. This refund of contributions shall serve as a waiver of all benefits payable to the employee, to any dependent or dependents, or to any beneficiary under the retirement system.

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

24. Section 73 of P.L.1954, c.84 (C.43:15A-73) is amended to read as follows:

C.43:15A-73 Employees of certain authorities and commissions; State university; compensation rating and inspection bureau.

73. a. The Public Employees' Retirement System is hereby authorized and directed to enroll eligible employees of the New Jersey Turnpike Authority, the New Jersey Highway Authority, Palisades Interstate Park Commission, Interstate Sanitation Commission, the Delaware River Basin Commission and the Delaware River Joint Toll Bridge Commission.

In the case of the Delaware River Joint Toll Bridge Commission, the eligible employees shall be only those who are employed on the free bridges across the Delaware river, under the control of said commission, or who are members of the retirement system at the time they begin employment with the commission.

The said employees shall be subject to the same membership, contribution and benefit provisions of the retirement system as State employees.

b. The State University of New Jersey, as an instrumentality of the State, shall, for all purposes of this act, be deemed an employer and its

eligible employees, both veterans and nonveterans, shall be subject to the same membership, contribution and benefit provisions of the retirement system and to the provisions of chapter 3 of Title 43 of the Revised Statutes as are applicable to State employees and for all purposes of this act employment by the State University of New Jersey after April 16, 1945, and for the purposes of chapter 3 of Title 43 of the Revised Statutes any new employment after January 1, 1955, shall be deemed to be and shall be construed as service to and employment by the State of New Jersey.

c. The Compensation Rating and Inspection Bureau, created and established pursuant to the provisions of R.S.34:15-89, shall, for all purposes of this act, be deemed an employer and its eligible employees, both veterans and nonveterans, shall be subject to the same membership, contribution and benefit provisions of the retirement system and to the provisions of chapter 3 of Title 43 of the Revised Statutes as both are applicable to State employees.

The retirement system shall certify to the Commissioner of Banking and Insurance and the Commissioner of Banking and Insurance shall direct the Compensation Rating and Inspection Bureau to provide the necessary payments to the retirement system in accordance with procedures established by the retirement system. Such payments shall include (1) the contributions and charges, similar to those paid by other public agency employers, to be paid by the Compensation Rating and Inspection Bureau to the retirement system on behalf of its employee members, and (2) the contributions to be paid by the Compensation Rating and Inspection Bureau to provide the past service credits up to June 30, 1965 for these members, both veterans and nonveterans, who enroll before July 1, 1966.

d. The New Jersey Sports and Exposition Authority, created and established pursuant to the "New Jersey Sports and Exposition Authority Law," P.L.1971, c.137 (C.5:10-1 et seq.) shall for all purposes of this act, be deemed an employer and its eligible employees both veterans and nonveterans, shall be subject to the same membership, contribution and benefit provisions of the retirement system and to the provisions of chapter 3 of Title 43 of the Revised Statutes as are applicable to State employees.

(1) Eligible employees as used herein shall not include persons who are not classified as salaried, or who are compensated on an hourly or per diem basis, or whose employment is normally covered by other retirement systems to which the authority makes contributions.

(2) Eligible employees previously permitted to enroll in the retirement system shall redeposit the contributions previously made by them and all service credit shall then be restored and future contributions made at the date of contribution as originally assigned. The authority shall redeposit the employer payments it had made, with interest to the date of redeposit.

e. The New Jersey Transit Corporation created and established pursuant to the "New Jersey Public Transportation Act of 1979," P.L.1979, c.150 (C.27:25-1 et seq.) shall for all purposes of this act, be deemed an employer and its eligible employees both veterans and nonveterans, shall be subject to the same membership, contribution and benefit provisions of the retirement system and to the provisions of chapter 3 of Title 43 of the Revised Statutes as are applicable to State employees. Eligible employees as used herein means only those individuals who are members of the Public Employees' Retirement System or any other State-administered retirement system immediately prior to their initial employment by the corporation.

f. (1) The Casino Reinvestment Development Authority, created and established pursuant to P.L.1984, c.218 (C.5:12-153 et seq.), the New Jersey Urban Development Corporation, created and established pursuant to P.L.1985, c.227 (C.55:19-1 et seq.), the South Jersey Food Distribution Authority, created and established pursuant to P.L.1985, c.383 (C.4:26-1 et seq.), the New Jersey Development Authority for Small Businesses, Minorities and Women's Enterprises, created and established pursuant to P.L.1985, c.386 (C.34:1B-47 et seq.), and the Catastrophic Illness in Children Relief Fund Commission, created and established pursuant to P.L.1987, c.370 (C.26:2-148 et seq.) shall each, for all purposes of this act, be deemed an employer and eligible authority, corporation, or commission. Employees, both veterans and nonveterans, shall be subject to the same membership, contribution and benefit provisions of the retirement system and to the provisions of chapter 3 of Title 43 of the Revised Statutes as are applicable to State employees.

(2) The current or former employees of the authorities, the corporation, and the commission may purchase credit for all service with the authority, corporation, or commission rendered prior to the effective date of this amendatory and supplementary act, P.L.1990, c.25 (C.43:15A-73.2 et al.), if that service would otherwise be eligible for credit in the retirement system. This purchase shall be made in the same manner and shall be subject to the same terms and conditions provided for the purchase of previous membership service by section 8 of P.L.1954, c.84 (C.43:15A-8). The authority, corporation, or commission shall pay the unfunded liability as determined by the actuary for prior service purchased by its employees in accordance with a schedule approved by the actuary. This obligation of the authority, corporation, or commission shall be known as the accrued liability for prior service credit.

(3) For any employee of the authorities or of the corporation or commission who is in service with the authority, corporation, or commission on the effective date of this amendatory and supplementary act, P.L.1990, c.25 (C.43:15A-73.2 et al.), the age of enrollment for the purposes

of the member contribution rate under section 25 of P.L.1954, c.84 (C.43:15A-25) shall be the age of the employee on the date the continuous service with the authority began. Any employee who was a member of the retirement system on the date continuous service with the authority, corporation, or commission began but whose membership expired before the effective date of participation by the authority, corporation, or commission in the retirement system, and who has not withdrawn the employee contributions from the system, shall participate in the retirement system under the former membership and shall contribute to the system at the rate applicable to the former membership.

g. A subsidiary corporation or other corporation established by the Delaware River Port Authority pursuant to subdivision (m) of Article I of the compact creating the authority (R.S.32:3-2), as defined in section 3 of P.L.1997, c.150 (C.34:1B-146), shall, for all purposes of this act, be deemed an employer and its eligible employees, both veterans and nonveterans, shall be subject to the same membership, contribution and benefit provisions of the retirement system and to the provisions of chapter 3 of Title 43 of the Revised Statutes as are applicable to State employees. Employees of the subsidiary or other corporation eligible for participation in the retirement system under this subsection shall include only persons who are employees of the South Jersey Port Corporation on the effective date of P.L.1997, c.150 (C.34:1B-144 et al.) and are re-employed by the subsidiary or other corporation within 365 days of the effective date.

25. Section 2 of P.L.1961, c.49 (C.52:14-17.26) is amended to read as follows:

C.52:14-17.26 Definitions relative to health care benefits for public employees.

2. As used in this act:

(a) The term "State" means the State of New Jersey.

(b) The term "commission" means the State Health Benefits Commission, created by section 3 of this act.

(c) The term "employee" means an appointive or elective officer or full-time employee of the State of New Jersey. For the purposes of this act an employee of Rutgers, The State University of New Jersey, shall be deemed to be an employee of the State, and an employee of the New Jersey Institute of Technology shall be considered to be an employee of the State during such time as the Trustees of the Institute are party to a contractual agreement with the State Treasurer for the provision of educational services. The term "employee" shall further mean, for purposes of this act, a former employee of the South Jersey Port Corporation, who is employed by a subsidiary corporation or other corporation, which has been established by

the Delaware River Port Authority pursuant to subdivision (m) of Article I of the compact creating the Delaware River Port Authority (R.S.32:3-2), as defined in section 3 of P.L.1997, c.150 (C.34:1B-146), and who is eligible for continued membership in the Public Employees' Retirement System pursuant to subsection j. of section 7 of P.L.1954, c.84 (C.43:15A-7).

For the purposes of this act the term "employee" shall not include persons employed on a short-term, seasonal, intermittent or emergency basis, persons compensated on a fee basis, persons having less than two months of continuous service or persons whose compensation from the State is limited to reimbursement of necessary expenses actually incurred in the discharge of their official duties. An employee paid on a 10-month basis, pursuant to an annual contract, will be deemed to have satisfied the two-month waiting period if the employee begins employment at the beginning of the contract year. The term "employee" shall also not include retired persons who are otherwise eligible for benefits under this act but who, although they meet the age eligibility requirement of Medicare, are not covered by the complete federal program. A determination by the commission that a person is an eligible employee within the meaning of this act shall be final and shall be binding on all parties.

(d) The term "dependents" means an employee's spouse and the employee's unmarried children under the age of 23 years who live with the employee in a regular parent-child relationship. "Children" shall include stepchildren, legally adopted children and foster children provided they are reported for coverage and are wholly dependent upon the employee for support and maintenance. A spouse or child enlisting or inducted into military service shall not be considered a dependent during the military service. The term "dependents" shall not include spouses of retired persons who are otherwise eligible for the benefits under this act but who, although they meet the age eligibility requirement of Medicare, are not covered by the complete federal program.

(e) The term "carrier" means a voluntary association, corporation or other organization, including a health maintenance organization as defined in section 2 of the "Health Maintenance Organizations Act," P.L.1973, c.337 (C.26:2J-2), which is lawfully engaged in providing or paying for or reimbursing the cost of, personal health services, including hospitalization, medical and surgical services, under insurance policies or contracts, membership or subscription contracts, or the like, in consideration of premiums or other periodic charges payable to the carrier.

(f) The term "hospital" means (1) an institution operated pursuant to law which is primarily engaged in providing on its own premises, for compensation from its patients, medical diagnostic and major surgical facilities for the care and treatment of sick and injured persons on an

inpatient basis, and which provides such facilities under the supervision of a staff of physicians and with 24 hour a day nursing service by registered graduate nurses, or (2) an institution not meeting all of the requirements of (1) but which is accredited as a hospital by the Joint Commission on Accreditation of Hospitals. In no event shall the term "hospital" include a convalescent nursing home or any institution or part thereof which is used principally as a convalescent facility, residential center for the treatment and education of children with mental disorders, rest facility, nursing facility or facility for the aged or for the care of drug addicts or alcoholics.

(g) The term "State managed care plan" means a health care plan under which comprehensive health care services and supplies are provided to eligible employees, retirees, and dependents: (1) through a group of doctors and other providers employed by the plan; or (2) through an individual practice association, preferred provider organization, or point of service plan under which services and supplies are furnished to plan participants through a network of doctors and other providers under contracts or agreements with the plan on a prepayment or reimbursement basis and which may provide for payment or reimbursement for services and supplies obtained outside the network. The plan may be provided on an insured basis through contracts with carriers or on a self-insured basis, and may be operated and administered by the State or by carriers under contracts with the State.

(h) The term "Medicare" means the program established by the "Health Insurance for the Aged Act," Title XVIII of the "Social Security Act," Pub.L. 89-97 (42 U.S.C. s.1395 et seq.), as amended, or its successor plan or plans.

(i) The term "traditional plan" means a health care plan which provides basic benefits, extended basic benefits and major medical expense benefits as set forth in section 5 of P.L.1961, c.49 (C.52:14-17.29) by indemnifying eligible employees, retirees, and dependents for expenses for covered health care services and supplies through payments to providers or reimbursements to participants.

26. Section 4 of P.L.1964, c.125 (C.52:14-17.35) is amended to read as follows:

C.52:14-17.35 Definitions.

4. As used in this act and in the act to which this act is a supplement:

(a) The term "employer" means a county, municipality, school district, public agency or organization as defined in section 71 of P.L.1954, c.84, including the New Jersey Turnpike Authority, the New Jersey Highway Authority, the Interstate Sanitation Commission, the Delaware River Basin Commission, New Jersey Housing Finance Agency, New Jersey Educa-

tional Facilities Authority, Hackensack Meadowlands Development Commission and the Compensation Rating and Inspection Bureau. The term "employer" shall include a subsidiary corporation or other corporation established by the Delaware River Port Authority pursuant to subdivision (m) of Article I of the compact creating the authority (R.S.32:3-2), as defined in section 3 of P.L.1997, c.150 (C.34:1B-146), except that only persons who are employees of the South Jersey Port Corporation on the effective date of P.L.1997, c.150 (C.34:1B-144 et al.) and are re-employed by the subsidiary or other corporation within 365 days of the effective date are eligible to participate in the program.

(b) The term "State Treasury" means the State agency responsible for the administration of the New Jersey State Health Benefits Program Act which is to be located in the Division of Pensions and Benefits in the Department of the Treasury.

C.34:1B-163 Eligibility of employees for State Health Benefits Program.

27. A subsidiary corporation or other corporation established by the Delaware River Port Authority which has employees eligible to participate in the State Health Benefits Program as provided in section 3 of P.L.1964, c.125 (C.52:14-17.34) shall participate in the program in accordance with the laws and rules governing the program as long as it has employees participating in the program.

C.34:1B-164 Concurrent resolution expressing disapproval of Legislature.

28. At any time, the Legislature may express its disapproval of a decision, action or procedure of the subsidiary corporation established by the Delaware River Port Authority pursuant to the provisions of the "Port Unification and Financing Act," P.L.1997, c.150 (C.34:1B-144 et al.), by an affirmative vote of a majority of the authorized membership of both houses adopting a concurrent resolution setting forth the Legislature's findings and declarations and expressing the Legislature's disapproval of the matter at issue. Upon adoption, the concurrent resolution shall be transmitted by the Clerk of the General Assembly or the Secretary of the Senate to the Governor, all the directors of the subsidiary corporation from each state, the chairman and executive director of the Delaware River Port Authority, and the chairman and executive director of the New Jersey Economic Development Authority.

29. This act shall take effect immediately.

Approved June 30, 1997.

CHAPTER 151

AN ACT concerning automobile insurance and revising various parts of the statutory law.

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

C.17:33B-64 Findings, declarations relative to automobile insurance.

1. The Legislature finds and declares:

a. There continues to be a need to improve and expand the availability of automobile insurance in certain urban geographic areas of the State. To better serve consumers' needs and stimulate competition in these areas, it is necessary to create business opportunities aimed at increasing and promoting economic activity by establishing automobile insurance urban enterprise zones (UEZs), which will provide incentives for insurers to increase their writings in these urban centers through, among other things, the appointment of urban enterprise zone agents. To achieve that goal, the Legislature further finds:

(1) That the creation of business incentives aimed at increasing and promoting economic activity in specially designated Urban Enterprise Zones has been effectively utilized by the State in the past;

(2) That consumers located in a limited number of the State's urban centers would benefit from an increase in the number of locations at which they could secure automobile insurance;

(3) That to better serve the needs of automobile insurance consumers and stimulate competition and economic activity, access to automobile insurance needs to be expanded in certain defined urban areas of the State; and

(4) That the development of increased access to automobile insurance needs to be encouraged by establishing incentives for insurers to increase their writings in these urban centers through, among other things, the appointment of urban enterprise zone agents and the use of unused capacity in the assigned risk plan to provide additional accessible coverage.

b. Certain aspects of the current automobile insurance system are unfair and need to be reformed. To this end, it is in the public interest to:

(1) eliminate the current system of flex-rating, which guarantees insurers an increase in their rates each year regardless of need;

(2) eliminate the current surcharge system based on automobile insurance eligibility points that unfairly penalizes good drivers because of

recent minor traffic infractions, and provide for a system of rating tiers to provide greater flexibility in evaluating and rating risks based on factors that more accurately reflect the driver's characteristics; and

(3) revise current provisions of the law that permit insurers to arbitrarily and unfairly nonrenew insureds without reason.

c. It is also in the public's interest to increase efforts to fight fraud that occurs in the automobile insurance system, including:

(1) toughening sanctions on insurance companies that fail to implement fraud prevention programs, and on licensed professionals and drivers who make fraudulent claims; and

(2) improving efforts to educate law enforcement and the public on how to identify fraud.

2. Section 3 of P.L.1983, c.320 (C.17:33A-3) is amended to read as follows:

C.17:33A-3 Definitions.

3. As used in this act:

"Attorney General" means the Attorney General of New Jersey or his designated representatives.

"Commissioner" means the Commissioner of Banking and Insurance.

"Director" means the Director of the Division of Insurance Fraud Prevention in the Department of Banking and Insurance.

"Division" means the Division of Insurance Fraud Prevention established by this act.

"Hospital" means any general hospital, mental hospital, convalescent home, nursing home or any other institution, whether operated for profit or not, which maintains or operates facilities for health care.

"Insurance company" means:

a. Any corporation, association, partnership, reciprocal exchange, interinsurer, Lloyd's insurer, fraternal benefit society or other person engaged in the business of insurance pursuant to Subtitle 3 of Title 17 of the Revised Statutes (C.17:17-1 et seq.), or Subtitle 3 of Title 17B of the New Jersey Statutes (C.17B:17-1 et seq.);

b. Any medical service corporation operating pursuant to P.L.1940, c.74 (C.17:48A-1 et seq.);

c. Any hospital service corporation operating pursuant to P.L.1938, c.366 (C.17:48-1 et seq.);

d. Any health service corporation operating pursuant to P.L.1985, c.236 (C.17:48E-1 et seq.);

e. Any dental service corporation operating pursuant to P.L.1968, c.305 (C.17:48C-1 et seq.);

f. Any dental plan organization operating pursuant to P.L.1979, c.478 (C.17:48D-1 et seq.);

g. Any insurance plan operating pursuant to P.L.1970, c.215 (C.17:29D-1);

h. The New Jersey Insurance Underwriting Association operating pursuant to P.L.1968, c.129 (C.17:37A-1 et seq.);

i. The New Jersey Automobile Full Insurance Underwriting Association operating pursuant to P.L.1983, c.65 (C.17:30E-1 et seq.) and the Market Transition Facility operating pursuant to section 88 of P.L.1990, c.8 (C.17:33B-11); and

j. Any risk retention group or purchasing group operating pursuant to the "Liability Risk Retention Act of 1986," 15 U.S.C. §3901 et seq.

"Pattern" means five or more related violations of P.L.1983, c.320 (C.17:33A-1 et seq.). Violations are related if they involve either the same victim, or same or similar actions on the part of the person or practitioner charged with violating P.L.1983, c.320 (C.17:33A-1 et seq.).

"Person" means a person as defined in R.S.1:1-2, and shall include, unless the context otherwise requires, a practitioner.

"Principal residence" means that residence at which a person spends the majority of his time. Principal residence may be an abode separate and distinct from a person's domicile. Mere seasonal or weekend residence within this State does not constitute principal residence within this State.

"Practitioner" means a licensee of this State authorized to practice medicine and surgery, psychology, chiropractic, or law or any other licensee of this State whose services are compensated, directly or indirectly, by insurance proceeds, or a licensee similarly licensed in other states and nations or the practitioner of any nonmedical treatment rendered in accordance with a recognized religious method of healing.

"Producer" means an insurance producer as defined in section 2 of P.L.1987, c.293 (C.17:22A-2), licensed to transact the business of insurance in this State pursuant to the provisions of the "New Jersey Insurance Producer Licensing Act," P.L.1987, c.293 (C.17:22A-1 et seq.).

"Statement" includes, but is not limited to, any application, writing, notice, expression, statement, proof of loss, bill of lading, receipt, invoice, account, estimate of property damage, bill for services, diagnosis, prescription, hospital or physician record, X-ray, test result or other evidence of loss, injury or expense.

3. Section 4 of P.L.1983, c.320 (C.17:33A-4) is amended to read as follows:

C.17:33A-4 Violations.

4. a. A person or a practitioner violates this act if he:

(1) Presents or causes to be presented any written or oral statement as part of, or in support of or opposition to, a claim for payment or other benefit pursuant to an insurance policy or the "Unsatisfied Claim and Judgment Fund Law," P.L.1952, c.174 (C.39:6-61 et seq.), knowing that the statement contains any false or misleading information concerning any fact or thing material to the claim; or

(2) Prepares or makes any written or oral statement that is intended to be presented to any insurance company, the Unsatisfied Claim and Judgment Fund or any claimant thereof in connection with, or in support of or opposition to any claim for payment or other benefit pursuant to an insurance policy or the "Unsatisfied Claim and Judgment Fund Law," P.L.1952, c.174 (C.39:6-61 et seq.), knowing that the statement contains any false or misleading information concerning any fact or thing material to the claim; or

(3) Conceals or knowingly fails to disclose the occurrence of an event which affects any person's initial or continued right or entitlement to (a) any insurance benefit or payment or (b) the amount of any benefit or payment to which the person is entitled;

(4) Prepares or makes any written or oral statement, intended to be presented to any insurance company or producer for the purpose of obtaining:

(a) a motor vehicle insurance policy, that the person to be insured maintains a principal residence in this State when, in fact, that person's principal residence is in a state other than this State; or

(b) an insurance policy, knowing that the statement contains any false or misleading information concerning any fact or thing material to an insurance application or contract; or

(5) Conceals or knowingly fails to disclose any evidence, written or oral, which may be relevant to a finding that a violation of the provisions of paragraph (4) of this subsection a. has or has not occurred.

b. A person or practitioner violates this act if he knowingly assists, conspires with, or urges any person or practitioner to violate any of the provisions of this act.

c. A person or practitioner violates this act if, due to the assistance, conspiracy or urging of any person or practitioner, he knowingly benefits, directly or indirectly, from the proceeds derived from a violation of this act.

d. A person or practitioner who is the owner, administrator or employee of any hospital violates this act if he knowingly allows the use of the facilities of the hospital by any person in furtherance of a scheme or conspiracy to violate any of the provisions of this act.

e. A person or practitioner violates this act if, for pecuniary gain, for himself or another, he directly or indirectly solicits any person or practitioner to engage, employ or retain either himself or any other person to manage, adjust or prosecute any claim or cause of action, against any person, for damages for negligence, or, for pecuniary gain, for himself or another, directly or indirectly solicits other persons to bring causes of action to recover damages for personal injuries or death, or for pecuniary gain, for himself or another, directly or indirectly solicits other persons to make a claim for personal injury protection benefits pursuant to P.L.1972, c.70 (C.39:6A-1 et seq.); provided, however, that this subsection shall not apply to any conduct otherwise permitted by law or by rule of the Supreme Court.

4. Section 5 of P.L.1983, c.320 (C.17:33A-5) is amended to read as follows:

C.17:33A-5 Remedies; penalties; fund established.

5. a. Whenever the commissioner determines that a person has violated any provision of P.L.1983, c.320 (C.17:33A-1 et seq.), the commissioner may either:

(1) bring a civil action in accordance with subsection b. of this section; or

(2) levy a civil administrative penalty and order restitution in accordance with subsection c. of this section.

In addition to or as an alternative to the remedies provided in this section, the commissioner may request the Attorney General to bring a criminal action under applicable criminal statutes. Additionally, nothing in this section shall be construed to preclude the commissioner from referring the matter to appropriate state licensing authorities, including the insurance producer licensing section in the Department of Banking and Insurance, for consideration of licensing actions, including license suspension or revocation.

b. Any person who violates any provision of P.L.1983, c.320 (C.17:33A-1 et seq.) shall be liable, in a civil action brought by the commissioner in a court of competent jurisdiction, for a penalty of not more than $5,000 for the first violation, $10,000 for the second violation and $15,000 for each subsequent violation. The penalty shall be paid to the commissioner to be used in accordance with subsection e. of this section. The court shall also award court costs and reasonable attorneys' fees to the commissioner.

c. The commissioner is authorized to assess a civil and administrative penalty of not more than $5,000 for the first violation, $10,000 for the second violation and $15,000 for each subsequent violation of any provision

of P.L.1983, c.320 (C.17:33A-1 et seq.) and to order restitution to any insurance company or other person who has suffered a loss as a result of a violation of P.L.1983, c.320 (C.17:33A-1 et seq.). No assessment shall be levied pursuant to this subsection until the violator has been notified by certified mail or personal service. The notice shall contain a concise statement of facts providing the basis for the determination of a violation of P.L.1983, c.320 (C.17:33A-1 et seq.), the provisions of that act violated, a statement of the amount of civil penalties assessed and a statement of the party's right to a hearing in accordance with the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.). The noticed party shall have 20 calendar days from receipt of the notice within which to deliver to the commissioner a written request for a hearing containing an answer to the statement of facts contained in the notice. After the hearing and upon a finding that a violation has occurred, the commissioner may issue a final order assessing up to the amount of the penalty in the notice, restitution, and costs of prosecution, including attorneys' fees. If no hearing is requested, the notice shall become a final order after the expiration of the 20-day period. Payment of the assessment is due when a final order is issued or the notice becomes a final order.

Any penalty imposed pursuant to this subsection may be collected with costs in a summary proceeding pursuant to "the penalty enforcement law," N.J.S.2A:58-1 et seq. The Superior Court shall have jurisdiction to enforce the provisions of the "the penalty enforcement law" in connection with P.L.1983, c.320 (C.17:33A-1 et seq.). Any penalty collected pursuant to this subsection shall be used in accordance with subsection e. of this section.

d. Nothing in this section shall be construed to prohibit the commissioner and the person or practitioner alleged to be guilty of a violation of this act from entering into a written agreement in which the person or practitioner does not admit or deny the charges but consents to payment of the civil penalty. A consent agreement may contain a provision that it shall not be used in a subsequent civil or criminal proceeding relating to any violation of this act, but notification thereof shall be made to a licensing authority in the same manner as required pursuant to subsection c. of section 10 of P.L.1983, c.320 (C.17:33A-10). The existence of a consent agreement under this subsection shall not preclude any licensing authority from taking appropriate administrative action against a licensee over which it has regulatory authority, nor shall such a consent agreement preclude referral to law enforcement for consideration of criminal prosecution.

e. The New Jersey Automobile Full Insurance Underwriting Association and Market Transition Facility Auxiliary Fund (hereinafter referred to as the "fund") is established as a nonlapsing, revolving fund into which shall be deposited all revenues from the civil penalties imposed pursuant to this

section. Interest received on moneys in the fund shall be credited to the fund. The fund shall be administered by the Commissioner of Banking and Insurance and shall be used to help defray the operating expenses of the New Jersey Automobile Full Insurance Underwriting Association created pursuant to P.L.1983, c.65 (C.17:30E-1 et seq.) or shall be used to help defray the operating expenses of the Market Transition Facility created pursuant to section 88 of P.L.1990, c.8 (C.17:33B-11).

5. Section 7 of P.L.1983, c.320 (C.17:33A-7) is amended to read as follows:

C.17:33A-7 Actions by insurance companies against violators.

7. a. Any insurance company damaged as the result of a violation of any provision of this act may sue therefor in any court of competent jurisdiction to recover compensatory damages, which shall include reasonable investigation expenses, costs of suit and attorneys fees.

b. A successful claimant under subsection a. shall recover treble damages if the court determines that the defendant has engaged in a pattern of violating this act.

c. A claimant under this section shall mail a copy of the initial claim, amended claim, counterclaims, briefs and legal memoranda to the commissioner at the time of filing of such documents with the court wherein the matter is pending. A successful claimant shall report to the commissioner, on a form prescribed by the commissioner, the amount recovered and such other information as is required by the commissioner.

d. Upon receipt of notification of the filing of a claim by an insurer, the commissioner may join in the action for the purpose of seeking judgment for the payment of a civil penalty authorized under section 5 of this act. If the commissioner prevails, the court may also award court costs and reasonable attorney fees actually incurred by the commissioner.

e. No action shall be brought by an insurance company under this section more than six years after the cause of action has accrued.

6. Section 10 of P.L.1983, c.320 (C.17:33A-10) is amended to read as follows:

C.17:33A-10 Subpena powers; violations by persons licensed by State.

10. a. If the division 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 commissioner or his designee may administer oaths and affirmations, request or compel the attendance of witnesses or the production of documents. The commissioner may issue, or designate another to issue, subpenas to compel the attendance of

witnesses and the production of books, records, accounts, papers and documents. Witnesses who are not licensees of the Department of Banking and Insurance shall be entitled to receive the same fees and mileage as persons summoned to testify in the courts of the State.

If a person subpenaed pursuant to this section shall neglect or refuse to obey the command of the subpena, a judge of the Superior Court may, on proof by affidavit of service of the subpena, of payment or tender of the fees required and of refusal or neglect by the person to obey the command of the subpena, issue a warrant for the arrest of said person to bring him before the judge, who is authorized to proceed against the person as for a contempt of court.

b. If matter that the division seeks to obtain by request is located outside the State, the person so required may make it available to the division or its representative to examine the matter at the place where it is located. The division may designate representatives, including officials of the state in which the matter is located, to inspect the matter on its behalf, and it may respond to similar requests from officials of other states.

c. If (1) a practitioner, (2) an owner, administrator or employee of any hospital, (3) an insurance company, agent, broker, solicitor or adjuster, or (4) any other person licensed 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 act, the commissioner or the Attorney General shall notify the appropriate licensing authority of the violation so that the licensing authority may take appropriate administrative action. The licensing authority shall report quarterly to the commissioner through the Division of Insurance Fraud Prevention about the status of all pending referrals.

7. Section 11 of P.L.1983, c.320 (C.17:33A-11) is amended to read as follows:

C.17:33A-11 Handling of documents, records of investigations.

11. Papers, documents, reports, or evidence relative to the subject of an investigation under this act shall not be subject to public inspection except as specifically provided in this act. The commissioner shall not detain subpenaed records after an investigation is closed or, if a claim for a civil penalty is filed by the commissioner pursuant to section 5 or subsection d. of section 7, upon final disposition of the claim by a court of competent jurisdiction, whichever shall be the later date. Subpenaed records shall be returned to the persons from whom they were obtained. The commissioner may, in his discretion, make relevant papers, documents, reports, or evidence available to the Attorney General, an appropriate licensing

authority, law enforcement agencies, an insurance company or insurance claimant injured by a violation of this act, consistent with the purposes of this act and under such conditions as he deems appropriate. Such papers, documents, reports, or evidence shall not be subject to subpena, unless the commissioner consents, or until, after notice to the commissioner and a hearing, a court of competent jurisdiction determines that the commissioner would not be unnecessarily hindered by such subpena. Division investigators and insurance company fraud investigators shall not be subject to subpena in civil actions by any court of this State to testify concerning any matter of which they have knowledge pursuant to a pending insurance fraud investigation by the division, or a pending claim for civil penalties initiated by the commissioner.

8. Section 1 of P.L.1993, c.362 (C.17:33A-15) is amended to read as follows:

C.17:33A-15 Filing of plan for prevention, detection of fraudulent health, auto insurance claims.

1. a. Every insurer writing health insurance or private passenger automobile insurance in this State shall file with the commissioner a plan for the prevention and detection of fraudulent insurance applications and claims. The plan shall be deemed approved by the commissioner if not affirmatively approved or disapproved by the commissioner within 90 days of the date of filing. The commissioner may call upon the expertise of the director in his review of plans filed pursuant to this subsection. The commissioner may request such amendments to the plan as he deems necessary. Any subsequent amendments to a plan filed with and approved by the commissioner shall be submitted for filing and deemed approved if not affirmatively approved or disapproved within 90 days from the filing date.

b. The implementation of plans filed and approved pursuant to subsection a. of this section shall be monitored by the division. The division shall promptly notify the Attorney General of any evidence of criminal activity encountered in the course of monitoring the implementation and execution of the plans. Each insurer writing health insurance or private passenger automobile insurance in this State shall report to the director on an annual basis, on January 1st of each year, on the experience in implementing its fraud prevention plan.

c. In addition to any other penalties provided pursuant to P.L.1983, c.320 (C.17:33A-1 et seq.), the commissioner may impose a penalty of up to $25,000 per violation on any insurer for: failure to submit a plan; failure to submit any amendments to an approved plan; failure to properly implement an approved plan in a reasonable manner and within a reason-

able time period; failure to provide a report pursuant to subsection b. of this section; or for any other violation of the provisions of this section.

d. For the purposes of this section, "insurer" means an insurance company as defined in subsections a., b., c., d., e., and f. of section 3 of P.L.1983, c.320 (C.17:33A-3).

9. Section 15 of P.L.1972, c.70 (C.39:6A-15) is amended to read as follows:

C.39:6A-15 Penalties for false and fraudulent representation.

15. In any claim or action arising under section 4 of this act wherein any person, obtains or attempts to obtain from any other person, insurance company or Unsatisfied Claim and Judgment Fund any money or other thing of value by (1) falsely or fraudulently representing that such person is entitled to benefits under section 4 or, (2) falsely and fraudulently making statements or presenting documentation in order to obtain or attempt to obtain benefits under section 4 or, (3) cooperates, conspires or otherwise acts in concert with any person seeking to falsely or fraudulently obtain, or attempt to obtain, benefits under section 4 may upon conviction be fined not more than $5,000.00, or imprisoned for not more than 3 years or both, or in the event the sum so obtained or attempted to be obtained is not more than $500.00, may upon conviction, be fined not more than $500.00, or imprisoned for not more than six months or both, as a disorderly person.

In addition to any penalties imposed by law, any person who is either found by a court of competent jurisdiction to have violated any provision of P.L.1983 c.320 (C.17:33A-1 et seq.) pertaining to automobile insurance or been convicted of any violation of Title 2C of the New Jersey Statutes arising out of automobile insurance fraud shall not operate a motor vehicle over the highways of this State for a period of one year from the date of judgment or conviction.

10. Section 8 of P.L.1978, c.73 (C.45:1-21) is amended to read as follows:

C.45:1-21 Refusal to license or renew, grounds.

8. A board may refuse to admit a person to an examination or may refuse to issue or may suspend or revoke any certificate, registration or license issued by the board upon proof that the applicant or holder of such certificate, registration or license

a. Has obtained a certificate, registration, license or authorization to sit for an examination, as the case may be, through fraud, deception, or misrepresentation;

b. Has engaged in the use or employment of dishonesty, fraud, deception, misrepresentation, false promise or false pretense;

c. Has engaged in gross negligence, gross malpractice or gross incompetence;

d. Has engaged in repeated acts of negligence, malpractice or incompetence;

e. Has engaged in professional or occupational misconduct as may be determined by the board;

f. Has been convicted of any crime involving moral turpitude or any crime relating adversely to the activity regulated by the board. For the purpose of this subsection a plea of guilty, non vult, nolo contendere or any other such disposition of alleged criminal activity shall be deemed a conviction;

g. Has had his authority to engage in the activity regulated by the board revoked or suspended by any other state, agency or authority for reasons consistent with this section;

h. Has violated or failed to comply with the provisions of any act or regulation administered by the board;

i. Is incapable, for medical or any other good cause, of discharging the functions of a licensee in a manner consistent with the public's health, safety and welfare;

j. Has repeatedly failed to submit completed applications, or parts of, or documentation submitted in conjunction with, such applications, required to be filed with the Department of Environmental Protection;

k. Has violated any provision of P.L.1983, c.320 (C.17:33A-1 et seq.) or any insurance fraud prevention law or act of another jurisdiction.

For purposes of this act:

"Completed application" means the submission of all of the information designated on the checklist, adopted pursuant to section 1 of P.L.1991, c.421 (C.13:1D-101), for the class or category of permit for which application is made.

"Permit" has the same meaning as defined in section 1 of P.L.1991,c.421 (C.13:1D-101).

11. Section 3 of P.L.1983, c.248 (C.45:9-19.3) is amended to read as follows:

C.45:9-19.3 Confidentiality of information.

3. Any information concerning the conduct of a physician or surgeon provided to the State Board of Medical Examiners pursuant to section 1 of P.L.1983, c.248 (C.45:9-19.1), section 5 of P.L.1978, c.73 (C.45:1-18) or any other provision of law, is confidential pending final disposition of the

inquiry or investigation by the board, except for that information required to be shared with the Division of Insurance Fraud Prevention in the Department of Banking and Insurance to comply with the provisions of section 9 of P.L.1983, c.320 (C.17:33A-9) or with any other law enforcement agency. If the result of the inquiry or investigation is a finding of no basis for disciplinary action by the board, the information shall remain confidential, except that the board may release the information to a government agency, for good cause shown, upon an order of the Superior Court after notice to the physician or surgeon who is the subject of the information and an opportunity to be heard. The application for the court order shall be placed under seal.

12. Section 2 of P.L.1972, c.197 (C.39:6B-2) is amended to read as follows:

C.39:6B-2 Penalties.

2. Any owner or registrant of a motor vehicle registered or principally garaged in this State who operates or causes to be operated a motor vehicle upon any public road or highway in this State without motor vehicle liability insurance coverage required by this act, and any operator who operates or causes a motor vehicle to be operated and who knows or should know from the attendant circumstances that the motor vehicle is without motor vehicle liability insurance coverage required by this act shall be subject, for the first offense, to a fine of not less than $300 nor more than $1,000 and a period of community service to be determined by the court, and shall forthwith forfeit his right to operate a motor vehicle over the highways of this State for a period of one year from the date of conviction. Upon subsequent conviction, he shall be subject to a fine of up to $5,000 and shall be subject to imprisonment for a term of 14 days and shall be ordered by the court to perform community service for a period of 30 days, which shall be of such form and on such terms as the court shall deem appropriate under the circumstances, and shall forfeit his right to operate a motor vehicle for a period of two years from the date of his conviction, and, after the expiration of said period, he may make application to the Director of the Division of Motor Vehicles for a license to operate a motor vehicle, which application may be granted at the discretion of the director. The director's discretion shall be based upon an assessment of the likelihood that the individual will operate or cause a motor vehicle to be operated in the future without the insurance coverage required by this act. A complaint for violation of this act may be made to a municipal court at any time within six months after the date of the alleged offense.

Failure to produce at the time of trial an insurance identification card or an insurance policy which was in force for the time of operation for which the offense is charged creates a rebuttable presumption that the person was uninsured when charged with a violation of this section.

13. Section 14 of P.L.1985, c.520 (C.39:6A-4.5) is amended to read as follows:

C.39:6A-4.5 Loss of right to sue for failure to insure, for DWI, for intentional acts.

14. a. Any person who, at the time of an automobile accident resulting in injuries to that person, is required but fails to maintain medical expense benefits coverage mandated by section 4 of P.L.1972, c.70 (C.39:6A-4) shall have no cause of action for recovery of economic or noneconomic loss sustained as a result of an accident while operating an uninsured automobile.

b. Any person who is convicted of, or pleads guilty to, operating a motor vehicle in violation of R.S.39:4-50, section 2 of P.L.1981, c.512 (C.39:4-50.4a), or a similar statute from any other jurisdiction, in connection with an accident, shall have no cause of action for recovery of economic or noneconomic loss sustained as a result of the accident.

c. Any person acting with specific intent of causing injury to himself or others in the operation or use of an automobile shall have no cause of action for recovery of economic or noneconomic loss sustained as a result of an accident arising from such conduct.

C.17:29A-46.1 Rating plans for auto insurance.

14. a. Every insurer transacting or proposing to transact private passenger automobile insurance may file one or more rating plans in the voluntary market. Every insurer writing private passenger automobile insurance in this State which intends to write coverage in the voluntary market using more than one rate level shall file with the commissioner the rates and underwriting rules which are applicable to each rate level.

b. An insurer which intends to use more than one rating plan may make an initial filing for additional rating plans which are based on a percentage increase or decrease of the existing rate level in its current rating plan.

c. Notwithstanding any other law to the contrary, any initial rates filed pursuant to subsection b. of this section shall be deemed to be approved if not disapproved by the commissioner within 120 days of receipt of the filing by the department. Any subsequent modification of any rate level, or any initial rate level which is not based on a percentage increase or decrease of an existing rate level as provided for in this section, shall be subject to the provisions of P.L.1944, c.27 (C.17:29A-1 et seq.).

d. Any limitation on rates established by the provisions of section 7 of P.L.1983, c.65 (C.17:29A-36) shall apply separately to each rate level established pursuant to subsection a. of this section.

C.17:29A-46.2 Underwriting rules; factors.

15. a. Insurers shall put in writing all underwriting rules applicable to each rate level utilized pursuant to section 14 of this amendatory and supplementary act. An insurer may take into account factors, including, but not limited to, driving record characteristics appropriate for underwriting and classification in formulating its underwriting rules; provided that no underwriting rule based on motor vehicle violations shall be formulated in such a manner as to assign any named insured to a rating tier other than the standard rating tier applicable to the insured's territory solely on the basis of accumulating six motor vehicle points or less. No underwriting rule shall operate in such a manner as to assign a risk to a rating plan on the basis of the territory in which the insured resides or any other factor which the commissioner finds is a surrogate for territory. An insurer which knowingly fails to transact automobile insurance consistently with its underwriting rules shall be subject to a fine of not less than $1,000 for each violation.

b. All underwriting rules applicable to each rate level as provided for in section 14 of this amendatory and supplementary act shall be filed with the commissioner and shall be subject to his prior approval. All underwriting rules shall be subject to public inspection. Insurers shall apply their underwriting rules uniformly and without exception throughout the State, so that every applicant or insured conforming with the underwriting rules will be insured or renewed, and so that every applicant not conforming with the underwriting rules will be refused insurance.

c. An insurer with more than one rating plan for private passenger automobile insurance policies providing identical coverages shall not adopt underwriting rules which would permit a person to be insured for private passenger automobile insurance under more than one of the rating plans.

C.17:29A-46.3 Limitation of surcharges for motor vehicle points.

16. Except for a plan established pursuant to section 1 of P.L.1970, c.215 (C.17:29D-1), and except as otherwise provided in section 17 of this amendatory and supplementary act, no insurer shall charge or collect surcharges based on motor vehicle violation penalty points promulgated by the Director of the Division of Motor Vehicles pursuant to section 1 of P.L.1982, c.43 (C.39:5-30.5) or the schedule of automobile insurance eligibility points promulgated by the Commissioner of Banking and Insurance pursuant to section 26 of P.L.1990, c.8 (C.17:33B-14).

C.17:29A-46.4 Initial rate filing.

17. Any initial rate filing made on or after the effective date of this section pursuant to the provisions of section 14 of this amendatory and supplementary act shall be revenue neutral by coverage based upon the insurer's current coverages and book of business with respect to eligible persons, as defined in section 25 of P.L.1990, c.8 (C.17:33B-13), insured by the insurer. In addition to the filing of revenue neutral multiple rating plans, the initial filing shall include consideration for the cost containment measures implemented pursuant to this amendatory and supplementary act. The effective rate filing of an insurer as of the effective date of this section shall continue in effect until the initial rate filing as required by this section made by that insurer has been approved by the commissioner, or is deemed approved pursuant to subsection c. of section 14 of this amendatory and supplementary act.

C.17:29A-46.5 Rules, regulations.

18. To provide for an orderly transition with minimum disruption to the private passenger automobile insurance market, the Commissioner of Banking and Insurance shall establish rules and regulations and administrative processes that are reasonable, necessary, appropriate and consistent with the provisions of sections 14 through 17 of this amendatory and supplementary act.

C.17:33C-1 Definitions relative to automobile insurance urban enterprise zone program.

19. As used in sections 19 through 23 of this amendatory and supplementary act:

"Automobile" means an automobile as defined pursuant to subsection a. of section 2 of P.L.1972, c.70 (C.39:6A-2).

"Automobile insurance urban enterprise zone" means a geographic area identified and designated by the commissioner pursuant to section 20 of this amendatory and supplementary act.

"Automobile insurance urban enterprise zone program" or "program" means an automobile insurance urban enterprise zone program established pursuant to section 20 of this amendatory and supplementary act.

"Automobile insurer" means an insurer or group of affiliated insurers admitted or authorized to transact the business of automobile insurance in this State.

"Commissioner" means the Commissioner of Banking and Insurance.

"Eligible person" means an eligible person as defined in section 25 of P.L.1990, c.8 (C.17:33B-13).

"Qualified insurer" means an automobile insurer that is a qualified insurer pursuant to section 21 of this amendatory and supplementary act.

"Urban enterprise zone agent" or "UEZ agent" means an insurance producer who is licensed pursuant to P.L.1987, c.293 (C.17:22A-1 et seq.), is appointed by a qualified insurer to represent it in an automobile insurance urban enterprise zone under the terms of this amendatory and supplementary act and maintains a bona fide office within that automobile insurance urban enterprise zone.

C.17:33C-2 Automobile insurance urban enterprise zone program.

20. a. The commissioner shall establish in a fair and equitable manner an automobile insurance urban enterprise zone program designed to encourage greater availability of automobile insurance in certain urban areas of this State as designated pursuant to subsection b. of this section. The program shall provide for incentives that the commissioner deems necessary to encourage qualified insurers to write automobile insurance business in those areas and that adequately safeguard the interests of policyholders and the public.

b. The commissioner shall undertake a review of the availability of automobile insurance in this State and shall identify and designate as automobile insurance urban enterprise zones those urban-based geographic areas in which consumers would benefit from increased access to automobile insurance. In making this determination, the commissioner shall consider, among other things, representation by automobile insurers in those rating territories historically deemed underserved. To assist in this review, the commissioner may appoint an advisory committee composed of representatives of automobile insurers and insurance producer associations and individuals who reside in urban areas of this State. Automobile insurance urban enterprise zones designated pursuant to this section shall be defined by regulations promulgated by the commissioner. The commissioner shall conduct periodic reviews of the availability of automobile insurance throughout the State and may amend the regulations to modify the composition of designated automobile insurance urban enterprise zones for the purpose of furthering the intent of this amendatory and supplementary act.

C.17:33C-3 Standards for qualified insurer.

21. a. The commissioner shall establish by regulation standards for a qualified insurer. These standards may include, but not be limited to, demonstration by the automobile insurer that it has a plan to increase access to automobile insurance for consumers residing in an automobile insurance urban enterprise zone; demonstration by the automobile insurer that it has a plan to assist newly appointed UEZ agents in developing the skills necessary to manage a successful business; procedures to monitor and evaluate the impact of efforts to expand services to urban areas; and

materials designed to assist urban consumers in understanding automobile insurance coverages. For an automobile insurer doing business on a direct writing basis, the standards may include, but not be limited to, the insurer's marketing plans and goals for increasing its writing of risks in automobile insurance urban enterprise zones. Additionally, the commissioner shall consider the insurer's past performance in providing automobile insurance to persons residing in automobile insurance urban enterprise zones.

b. An automobile insurer, which meets the applicable standards established pursuant to subsection a. of this section, may certify to the commissioner that it is a qualified insurer.

c. An automobile insurer that certifies to the commissioner that it meets the standards established pursuant to subsection a. of this section shall be considered a qualified insurer for the purposes of this amendatory and supplementary act. If at any time the commissioner determines that a qualified insurer fails to meet the standards established pursuant to subsection a. of this section, or if the commissioner determines it necessary for the protection of the public, he may suspend or revoke the insurer's certification as a qualified insurer. If the commissioner determines that a qualified insurer has failed to meet its marketing plan and goals pursuant to this section, the commissioner may suspend or revoke the insurer's certification as a qualified insurer. In making this determination, the commissioner shall consider the past performance of the insurer in providing automobile insurance in urban areas. If an automobile insurer certifies that it meets the standards for becoming a qualified insurer and it does not meet those standards, that insurer shall not be a qualified insurer for purposes of this amendatory and supplementary act and may, at the discretion of the commissioner, be subject to a fine of not more than $25,000.

d. Only qualified insurers shall be eligible to participate in the automobile insurance urban enterprise zone program.

C.17:33C-4 UEZ agents.

22. a. A qualified insurer may appoint a UEZ agent or agents. Any appointment of a UEZ agent shall comply with the provisions of section 15 of P.L.1987, c.293 (C.17:22A-15), except when there is a conflict with a provision of this amendatory and supplementary act or any regulation promulgated hereunder, this amendatory and supplementary act is controlling. An agency contract between a qualified insurer and a UEZ agent shall be in writing, set forth specific duties and responsibilities of the parties regarding the obligations imposed pursuant to this section and section 21 of this amendatory and supplementary act, and detail the provisions of any

limit on the number of exposures provided for in subsection b. of this section.

b. A qualified insurer may limit the number of exposures written through a UEZ agent or in the case of a qualified insurer doing business on a direct writing basis, the qualified insurer may limit the number of exposures written in an automobile insurance urban enterprise zone consistent with its marketing plans and goals as provided in subsection a. of section 21 of this amendatory and supplementary act. An eligible person applying for automobile insurance coverage after the limit is reached shall be advised by the UEZ agent that coverage may be available from another agent of the qualified insurer or directly from the qualified insurer if the insurer is a direct writer. Any such limit shall be imposed on an equitable and nondiscriminatory basis consistent with the provisions of subsections a. and b. of section 27 of P.L.1990, c.8 (C.17:33B-15) until the specified limit is reached.

c. The commissioner shall establish by regulation requirements that shall be satisfied if a qualified insurer limits the number of exposures written through a UEZ agent, and the manner in which a qualified insurer engaged in the business of automobile insurance on a direct writer basis may utilize the provisions of this section.

C.17:33C-5 Study on effect of territorial rating caps; report.

23. a. The commissioner shall study the effect of territorial rating caps imposed on automobile insurance rates pursuant to section 7 of P.L.1983, c.65 (C.17:29A-36). The study shall include an evaluation of the general market conditions resulting from the imposition of territorial rating caps, including, but not limited to: market availability; affordability of automobile insurance coverage; the actuarial soundness of, and statistical basis for, territorial cap systems; and the creation of competitive market conditions.

b. In conducting this study, the commissioner shall examine the rating systems in use in other highly urbanized areas of this nation.

c. The commissioner shall report his findings and recommendations within 12 months of the effective date of this amendatory and supplementary act to the Governor and the Legislature.

24. Section 27 of P.L.1990, c.8 (C.17:33B-15) is amended to read as follows:

C.17:33B-15 Coverage for eligible persons; refusal to insure or renew, limitation of coverage of eligible persons prohibited.

27. a. On or after April 1, 1992, every insurer, either by one or more separate rating plans filed in accordance with the provisions of section 6 of P.L.1988, c.156 (C.17:29A-45) prior to March 1, 1998, or section 14 of

P.L.1997, c.151 (C.17:29A-46.1) on or after March 1, 1998, or through one or more affiliated insurers, shall provide automobile insurance coverage for eligible persons.

b. No insurer shall refuse to insure, refuse to renew, or limit coverage available for automobile insurance to an eligible person who meets its underwriting rules as filed with and approved by the commissioner in accordance with the provisions of section 7 of P.L.1988, c.156 (C.17:29A-46) prior to March 1, 1998 or section 15 of P.L.1997, c.151 (C.17:29A-46.2) on or after March 1, 1998.

c. Notwithstanding the provisions of subsections a. and b. of this section to the contrary, any qualified insurer engaged in writing automobile insurance in an automobile insurance urban enterprise zone pursuant to section 22 of P.L.1997, c.151 (C.17:33C-4) may limit the number of exposures written through its UEZ agent or agents, or in the case of a qualified insurer doing business on a direct writing basis, the qualified insurer may limit the number of exposures written in an automobile insurance urban enterprise zone consistent with its marketing plans and goals as provided in subsection a. of section 21 of P.L.1997, c.151 (C.17:33C-3). Nothing in this subsection shall be construed to relieve a qualified insurer from its obligation under subsections a. and b. of this section to write all eligible persons residing within an automobile insurance urban enterprise zone through its non-UEZ agent points of access.

d. The commissioner may suspend, revoke or otherwise terminate the certificate of authority to transact automobile insurance business in this State of any insurer who violates the provisions of this section.

25. 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) Provide each eligible person seeking automobile insurance premium quotations for the forms or types of automobile insurance coverages which are offered by all insurers represented by the agent or with which the agent places risks;

(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.

26. Section 1 of P.L.1970, c.215 (C.17:29D-1) is amended to read as follows:

C.17:29D-1 Rules, regulations for insurance plans; administration; requirements for auto plan.

1. The Commissioner of Banking and Insurance may adopt, issue and promulgate rules and regulations establishing a plan for the providing and apportionment of insurance coverage for applicants therefor who are in good faith entitled to, but are unable to procure the same, through ordinary methods. Every insurer admitted to transact and transacting any line, or lines, of insurance in the State of New Jersey shall participate in such plan and provide insurance coverage to the extent required in such rules and regulations.

The governing board of any plan established pursuant to the commissioner's rules and regulations shall continue to exercise such administrative authority, subject to the commissioner's oversight and as provided in any rules and regulations promulgated pursuant to this section, as is necessary to ensure the plan's efficient operation, including, but not limited to, the authority to investigate complaints and hear appeals from applicants, insureds, producers, servicing carriers or participants about any matter pertaining to the plan's proper administration, as well as the authority to appoint subcommittees to hear such appeals. Any determination of an appeal by a plan's governing board shall be subject to review by the commissioner on the record below, and shall not be considered a contested case under the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.). The commissioner's determination shall be a final order and shall be subject to review by the Superior Court.

Any plan established pursuant to this section to provide insurance for automobiles, as defined in section 2 of P.L.1972, c.70 (C.39:6A-2), shall provide:

a. For a rating system which shall produce rates for each coverage which are adequate for the safeness and soundness of the plan, and are not excessive nor unfairly discriminatory with regard to risks in the plan involving essentially the same hazards and expense elements, which rates may be changed from time to time by a filing with the commissioner in a manner and form approved by the commissioner;

b. For rates charged to plan insureds which shall be sufficient to meet the plan's expenses and the plan's losses on an incurred basis, including the establishment and maintenance of actuarially sound loss reserves to cover all future costs associated with the exposure;

c. For a limited assignment distribution system permitting insurers to enter into agreements with other mutually agreeable insurers or other qualified entities to transfer their applicants and insureds under such plan to such insurers or other entities;

d. That it shall not provide insurance coverage for more than 10 percent of the aggregate number of private passenger automobile non-fleet exposures being written in the total private passenger automobile insurance market in this State. The plan shall provide for the cessation of the acceptance of applications or the issuance of new policies at any time it reaches 10 percent of marketshare, as certified by the commissioner, until such time that the commissioner certifies that the plan is insuring less than 10 percent of the aggregate number of private passenger automobile non-fleet exposures being written in the total private passenger automobile insurance market in this State;

e. Except for risks written in automobile insurance urban enterprise zones pursuant to subsection i. of this section, that it shall not provide coverage to an eligible person as defined pursuant to section 25 of P.L.1990, c.8 (C.17:33B-13);

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

g. That the plan shall not be subsidized by any source external to the plan;

h. That a qualified insurer who writes automobile insurance risks in those automobile insurance urban enterprise zones designated by the commissioner pursuant to section 20 of P.L.1997, c.151 (C.17:33C-2) shall receive assigned risk credits for voluntary risks written in those designated automobile insurance urban enterprise zones as a direct writer or through a UEZ agent or agents or through any agent with whom the insurer has an in-force contract as of the effective date of P.L.1997, c.151. The commissioner shall establish by regulation the manner in which any qualified

automobile insurer may utilize the provisions of this subsection. In no event shall that credit apply to reduce an insurer's obligations under subsection i. of this section; and

i. (1) For a voluntary rating tier to accommodate eligible persons, as defined in section 25 of P.L.1990, c. 8 (C. 17:33B-13), residing in automobile insurance urban enterprise zones, designated by the commissioner pursuant to section 20 of P.L.1997, c.151 (C.17:33C-2), to provide increased availability and encourage the voluntary writing of eligible persons residing in those zones;

(2) The rates utilized in this voluntary rating tier shall be the voluntary market rates in use by the insurer to whom the risk is assigned in that territory;

(3) The voluntary rating tier shall not provide insurance coverage for more than five percent of the aggregate number of private passenger automobile non-fleet exposures being written in the total private passenger automobile insurance market in this State, and the number of exposures written in the voluntary rating tier shall be included for computing the maximum number of exposures permitted to be written in the plan;

(4) The plan shall distribute risks submitted by qualified producers to insurers authorized to write automobile insurance in this State pursuant to a fair and nondiscriminatory formula established by the commissioner. The formula shall provide that insurers which have, and maintain, an aggregate voluntary automobile insurance marketshare in automobile insurance urban enterprise zones, which is reasonably equal to the insurer's voluntary Statewide marketshare excluding risks written in automobile insurance urban enterprise zones, shall be exempt from these distributions;

(5) Qualified producers may submit eligible person risks from automobile insurance urban enterprise zones to the plan for coverage in the voluntary rating tier. As used in this subsection i.: a "qualified producer" means a UEZ agent, as defined in section 19 of P.L.1997, c.151 (C.17:33C-1), who has met any limit on exposures that may be written in accordance with the UEZ agent's agreement with the appointing insurer pursuant to section 22 of P.L.1997, c.151 (C.17:33C-4); and a producer who: is duly licensed with property/casualty authority for the three years immediately preceding the effective date of P.L.1997, c.151 (C.17:33B-64 et al.); has no affiliation with a voluntary market insurer for the placement of automobile insurance; had an affiliation with a voluntary market insurer for the placement of automobile insurance that was terminated by the insurer in the last three years; demonstrates to the plan his competency, efficiency and effectiveness in the solicitation, negotiation and effectuation of automobile insurance as evidenced by any history of disciplinary actions or complaints against the producer, and other relevant factors; and conducts his business

in an office in an automobile insurance urban enterprise zone. For purposes of this subsection i., 'insurer" means an insurer or group of affiliated insurers admitted or authorized to transact the business of automobile insurance in this State;

(6) This subsection shall expire on December 31, 2000.

Prior to the adoption or amendment of such rules and regulations, the commissioner shall consult with such members of the insurance industry as he deems appropriate. Such consultation shall be in addition to any otherwise required public hearing or notice with regard to the adoption or amendment of rules and regulations.

The governing body administering the plan shall report annually to the Legislature and the Governor on the activities of the plan. The report shall contain an actuarial analysis regarding the adequacy of the rates for each coverage for the safeness and soundness of the plan.

27. Section 26 of P.L.1988, c.119 (C.17:29C-7.1) is amended to read as follows:

C.17:29C-7.1 Refusal to renew, conditions.

26. a. Notwithstanding the provisions of section 3 of P.L.1972, c.70 (C.39:6A-3), a licensed insurer may, in accordance with subsections b. and c. of this section, refuse to renew a policy of private passenger automobile insurance that provides coverage required to be maintained pursuant to P.L.1972, c.70 (C.39:6A-1 et seq.), except that no insurer shall refuse to renew a policy pursuant to subsections b. and c. of this section:

(1) in an amount in excess of 20% of the entire private passenger automobile insurance book of business of any one producer in force with the insurer at the end of the previous calendar year. For purposes of this paragraph, "producer" means a person licensed pursuant to P.L.1987, c.293 (C.17:22A-1 et seq.), who earned $10,000 or more from the insurer in the prior calendar year; and

(2) unless the insured or operator insured under the policy in the five years immediately preceding renewal has had at least two of the following or any combination thereof: (a) an at-fault accident; or (b) a moving violation which was assessed at least four automobile insurance eligibility points; or (c) had been required, but failed, to maintain coverage mandated by section 4 of P.L.1972, c.70 (C.39:6A-4) without lapse.

b. For each calendar year period, an insurer may issue notices of intention not to renew an automobile insurance policy in the voluntary market in an amount not to exceed 2% of the total number of voluntary market automobile insurance policies of the insurer, rounded to the nearest

whole number, which are in force at the end of the previous calendar year in each of the insurer's rating territories in use in this State.

c. For every two newly insured automobiles which an insurer voluntarily writes in each territory during each calendar year period, the insurer shall be permitted to refuse to renew insurance on one additional automobile in that territory in excess of the 2% limitation established by subsection b. of this section, subject to a fair and nondiscriminatory formula developed by rule or regulation of the commissioner. The provisions of this subsection shall only apply to an insurer whose aggregate voluntary market share in an automobile insurance urban enterprise zone is reasonably proportionate to the insurer's voluntary Statewide market share as determined by the commissioner by regulation or in a rating territory in which the insurer demonstrates growth in the aggregate number of in-force exposures.

d. The provisions of this section shall not apply to any cancellation made pursuant to subsection (A) of section 2 of P.L.1968, c.158 (C.17:29C-7).

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

f. Nothing in this section shall prohibit an insurer from refusing to renew, in addition to nonrenewals permitted in subsections b. and c. of this section, the policy of any insured who has: (1) provided false or misleading information in connection with any application for insurance, renewal of insurance or claim for benefits under an insurance policy; or (2) who has failed to provide, after written request by an insurer, the minimum information necessary to accurately rate the policy under terms and conditions set forth by the commissioner in regulations .

28. Section 1 of P.L.1970, c.217 (C.17:22-6.14a) is amended to read as follows:

C.17:22-6.14a Rates of commission to be set forth in contracts; exceptions; termination of contracts.

1. a. In the event that a policy is canceled by the insurer, either at its own behest or at the behest of the agent or broker of record, the unearned premium, including the unearned commission, shall be returned to the policyholder.

b. In the event that a policy of insurance, issued by the automobile insurance plan established pursuant to P.L.1970, c.215 (C.17:29D-1) or any successor thereto, is canceled by reason of nonpayment of premium to the insurer issuing the policy or nonpayment of an installment payment due pursuant to an insurance premium finance agreement, the broker of record for that policy may retain the full annual commission due thereon and, if a premium finance agreement is not involved, the effective date of cancella-

tion of the policy shall be no earlier than 10 days prior to the last full day for which the premium paid by the insured, net of the broker's full annual commission, would pay for coverage on a pro rata basis in accordance with rules established by the commissioner.

c. Contracts between insurance companies and agents for the appointment of the agent as the representative of the company shall set forth the rate of commission to be paid to the agent for each class of insurance within the scope of such appointment written on all risks or operations in this State, except:

(1) Reinsurance.
(2) Life insurance.
(3) Annuities.
(4) Accident and health insurance.
(5) Title insurance.
(6) Mortgage guaranty insurance.
(7) Hospital service, medical service, health service, or dental service corporations, investment companies, mutual benefit associations, or fraternal beneficiary associations.

Said rates of commission shall continue in force and effect unless changed by mutual written consent or until termination of said contract as hereinafter provided. Failure to achieve such mutual consent shall require that the agent's contract be terminated as hereinbelow provided. The rate of commission being paid on each class of insurance on the date of enactment hereof shall be deemed to be pursuant to the existing contract between agent and company.

d. Termination of any such contract for any reason other than one excluded herein shall become effective after not less than 90 days' notice in writing given by the company to the agent and the Commissioner of Banking and Insurance. No new business or changes in liability on renewal or in force business, except as provided in subsection l. of this section, shall be written by the agent for the company after notice of termination without prior written approval of the company. However, during the term of the agency contract, including the said 90-day period, the company shall not refuse to renew such business from the agent as would be in accordance with said company's current underwriting standards. The company shall, during a period of 12 months from the effective date of such termination, provided the former agent has not been replaced as the broker of record by the insured, and upon request in writing of the terminated agent, renew all contracts of insurance for such agent for said company as may be in accordance with said company's then current underwriting standards and pay to the terminated agent a commission in accordance with the agency contract in effect at the time notice of termination was issued. Said

commission can be paid only to the holder of a valid New Jersey insurance producer's license. In the event any risk shall not meet the then current underwriting standards of said company, that company may decline its renewal, provided that the company shall give the terminated agent and the insured not less than 60 days' notice of its intention not to renew said contract of insurance.

e. The agency termination provisions of this act shall not apply to those contracts:

(1) in which the agent is paid on a salary basis without commission or where he agrees to represent exclusively one company or to the termination of an agent's contract for insolvency, abandonment, gross and willful misconduct, or failure to pay over to the company moneys due to the company after his receipt of a written demand therefor, or after revocation of the agent's license by the Commissioner of Banking and Insurance; and in any such case the company shall, upon request of the insured, provided he meets the then current underwriting standards of the company, renew any contract of insurance formerly processed by the terminated agent, through an active agent, or directly pursuant to such rules and regulations as may be promulgated by the Commissioner of Banking and Insurance; or

(2) which are entered into between a qualified insurer and a UEZ agent pursuant to section 22 of P.L.1997, c.151 (C.17:33C-4).

f. The Commissioner of Banking and Insurance, on the written complaint of any person stating that there has been a violation of this act, or when he deems it necessary without a complaint, may inquire and otherwise investigate to determine whether there has been any violation of this act.

g. All existing contracts between agent and company in effect in the State of New Jersey on the effective date of this act are subject to all provisions of this act.

h. The Commissioner of Banking and Insurance may, if he determines that a company is in unsatisfactory financial condition, exclude such company from the provisions of this act.

i. Whenever under this act it is required that the company shall renew a contract of insurance, the renewal shall be for a time period equal to one additional term of the term specified in the original contract, but in no event to be less than one year.

j. The provisions of subsection b. of this section shall not apply to policies written by the New Jersey Automobile Full Insurance Underwriting Association established pursuant to sections 13 through 34 of P.L.1983, c.65 (C.17:30E-1 et seq.).

k. The New Jersey Automobile Full Insurance Underwriting Association established pursuant to sections 13 through 34 of P.L.1983, c.65 (C.17:30E-1 et seq.), shall not be liable to pay any commission required by

subsection b. of this section on any policies written by the association prior to January 1, 1986.

l. A company which terminates its contractual relationship with an agent subject to the provisions of subsection d. of this section shall, at the time of the agent's termination, with respect to insurance covering an automobile as defined in subsection a. of section 2 of P.L.1972, c.70 (C.39:6A-2), notify each named insured whose policy is serviced by the terminated agent in writing of the following: (1) that the agent's contractual relationship with the company is being terminated and the effective date of that termination; and (2) that the named insured may (a) continue to renew and obtain service through the terminated agent; or (b) renew the policy and obtain service through another agent of the company.

Notwithstanding any provision of this section to the contrary, no insurance company which has terminated its contractual relationship with an agent subject to subsection d. of this section shall, upon the expiration of any automobile insurance policy renewed pursuant to subsection d. of this section which is required to be renewed pursuant to section 3 of P.L.1972, c.70 (C.39:6A-3), refuse to renew, accept additional or replacement vehicles, refuse to provide changes in the limits of liability or refuse to service a policyholder in any other manner which is in accordance with the company's current underwriting standards, upon the written request of the agent or as otherwise provided in this section, provided the agent maintains a valid New Jersey insurance producer's license and has not been replaced as the broker of record by the insured. However, nothing in this section shall be deemed to prevent nonrenewal of an automobile insurance policy pursuant to the provisions of section 26 of P.L.1988, c.119 (C.17:29C-7.1).

The company shall pay a terminated agent who continues to service policies pursuant to the provisions of this subsection a commission in an amount not less than that provided for under the agency contract in effect at the time the notice of termination was issued. A terminated agent who continues to service automobile insurance policies pursuant to this subsection shall be deemed to be an insurance broker as defined in section 2 of P.L.1987, c.293 (C.17:22A-2), and not an agent of the company, except that the terminated agent shall have the authority to bind coverage for renewals, additional or replacement vehicles, and for changed limits of liability as provided in this subsection to the same extent as an active agent for the company. The company shall provide the terminated agent with a written copy of its current underwriting guidelines during the time the agent continues to service policies pursuant to this subsection.

If a terminated agent who is continuing to service policies pursuant to the provisions of this subsection violates the written underwriting guidelines of the company in such a manner or with such frequency as to substantially

affect the company's ability to underwrite or provide coverage, the company may discontinue accepting renewal and service requests from, and paying commissions to, the terminated agent; provided, however, that the company provides the terminated agent with at least 45 days' written notice which shall include a detailed explanation of the reasons for discontinuance. A copy of this notice, along with supporting documentation providing evidence that the terminated agent received proper notice of discontinuance pursuant to this subsection and evidence in support of the company's action, shall be sent by the company to the Division of Enforcement and Consumer Protection in the Department of Banking and Insurance.

The provisions of this subsection shall not apply to any policy issued by the New Jersey Automobile Full Insurance Underwriting Association created pursuant to the provisions of P.L.1983, c.65 (C.17:30E-1 et seq.).

m. A qualified insurer which terminates its contractual relationship with its UEZ agent pursuant to section 22 of P.L.1997, c.151 (C.17:33C-4) shall terminate its relationship in accordance with the following provisions:

(1) The qualified insurer shall give the UEZ agent at least 60 days' written notice of termination. Notice of termination shall be on a form prescribed by the commissioner and shall indicate the date of termination and the reason for the termination. A copy of the notice of termination shall be sent to the commissioner.

(2) Notwithstanding the provisions of this section and section 26 of P.L.1988, c.119 (C.17:29C-7.1), a qualified insurer may refuse to renew the business written through a UEZ agent in an orderly and non-discriminatory manner over the course of at least a three-year period provided that such refusals to renew in each year shall not exceed one-third of a terminated UEZ agent's book of business on the effective date of termination of its relationship with its UEZ agent. A qualified insurer intending to refuse renewal business written by a terminated UEZ agent shall notify the commissioner prior to the date of the UEZ agent's termination.

(3) The terminated UEZ agent who continues to service automobile insurance policies shall continue to receive commissions for any renewal business pursuant to the terms of the contract in force with the qualified insurer at the time of termination, provided that the UEZ agent maintains a valid New Jersey insurance producer's license and has not been replaced as the broker of record by the insured. A terminated UEZ agent who continues to service automobile insurance policies shall be deemed to be an insurance broker and not the agent of the qualified insurer.

29. Section 4 of P.L.1947, c.379 (C.17:29B-4) is amended to read as follows:

C.17:29B-4 Unfair methods of competition, unfair, deceptive acts, practices, defined.

4. The following are hereby defined as unfair methods of competition and unfair and deceptive acts or practices in the business of insurance:

(1) Misrepresentations and false advertising of policy contracts. Making, issuing, circulating, or causing to be made, issued or circulated, any estimate, illustration, circular or statement misrepresenting the terms of any policy issued or to be issued or the benefits or advantages promised thereby or the dividends or share of the surplus to be received thereon, or making any false or misleading statement as to the dividends or share of surplus previously paid on similar policies, or making any misleading representation or any misrepresentation as to the financial condition of any insurer, or as to the legal reserve system upon which any life insurer operates, or using any name or title of any policy or class of policies misrepresenting the true nature thereof, or making any misrepresentation to any policyholder insured in any company for the purpose of inducing or tending to induce such policyholder to lapse, forfeit, or surrender his insurance.

(2) False information and advertising generally. Making, publishing, disseminating, circulating, or placing before the public, or causing, directly or indirectly, to be made, published, disseminated, circulated, or placed before the public, in a newspaper, magazine or other publication, or in the form of a notice, circular, pamphlet, letter or poster, or over any radio station, or in any other way, an advertisement, announcement or statement containing any assertion, representation or statement with respect to the business of insurance or with respect to any person in the conduct of his insurance business, which is untrue, deceptive or misleading.

(3) Defamation. Making, publishing, disseminating, or circulating, directly or indirectly, or aiding, abetting or encouraging the making, publishing, disseminating or circulating of any oral or written statement or any pamphlet, circular, article or literature which is false, or maliciously critical of or derogatory to the financial condition of an insurer, and which is calculated to injure any person engaged in the business of insurance.

(4) Boycott, coercion and intimidation. Entering into any agreement to commit, or by any concerted action committing, any act of boycott, coercion or intimidation resulting in or tending to result in unreasonable restraint of, or monopoly in, the business of insurance, or resulting in or tending to result in unreasonable influence being exerted upon any producer that has an in-force contract as of the effective date of P.L.1997, c.151 (C.17:33B-64 et al.) for the purpose of replacing the in-force contract with a UEZ agent contract pursuant to section 22 of P.L.1997, c.151 (C.17:33C-4).

(5) False financial statements. Filing with any supervisory or other public official, or making, publishing, disseminating, circulating or delivering to any person, or placing before the public, or causing directly or

indirectly, to be made, published, disseminated, circulated, delivered to any person, or placed before the public, any false statement of financial condition of an insurer with intent to deceive.

Making any false entry in any book, report or statement of any insurer with intent to deceive any agent or examiner lawfully appointed to examine into its condition or into any of its affairs, or any public official to whom such insurer is required by law to report, or who was authorized by law to examine into its condition or into any of its affairs, or, with like intent, willfully omitting to make a true entry of any material fact pertaining to the business of such insurer in any book, report or statement of such insurer.

(6) Stock operations and advisory board contracts. Issuing or delivering or permitting agents, officers, or employees to issue or deliver, agency company stock or other capital stock, or benefit certificates or shares in any common-law corporation, or securities or any special or advisory board contracts or other contracts of any kind promising returns and profits as an inducement to insurance.

(7) Unfair discrimination. (a) Making or permitting any unfair discrimination between individuals of the same class and equal expectation of life in the rates charged for any contract of life insurance or of life annuity or in the dividends or other benefits payable thereon, or in any other of the terms and conditions of such contract.

(b) Making or permitting any unfair discrimination between individuals of the same class and of essentially the same hazard in the amount of premium, policy fees, or rates charged for any policy or contract of accident or health insurance or in the benefits payable thereunder, or in any of the terms or conditions of such contract, or in any other manner whatsoever.

(c) Making or permitting any discrimination against any person or group of persons because of race, creed, color, national origin or ancestry of such person or group of persons in the issuance, withholding, extension or renewal of any policy of insurance, or in the fixing of the rates, terms or conditions therefor, or in the issuance or acceptance of any application therefor.

(d) Making or permitting discrimination in the use of any form of policy of insurance which expresses, directly or indirectly, any limitation or discrimination as to race, creed, color, national origin or ancestry or any intent to make any such limitation or discrimination.

(e) Making or permitting any unfair discrimination solely because of age in the issuance, withholding, extension or renewal of any policy or contract of automobile liability insurance or in the fixing of the rates, terms or conditions therefor, or in the issuance or acceptance of any application therefor, provided, that nothing herein shall be construed to interfere with the application of any applicable rate classification filed with and approved

by the commissioner pursuant to P.L.1944, c. 27 (C.17:29A-1 to 17:29A-28), or any amendment or supplement thereof, which is in effect with respect to such policy or contract of insurance.

(8) Rebates. (a) Except as otherwise expressly provided by law, knowingly permitting or offering to make or making any contract of life insurance, life annuity or accident and health insurance, or agreement as to such contract other than as plainly expressed in the contract issued thereon, or paying or allowing, or giving or offering to pay, allow, or give, directly or indirectly, as inducement to such insurance, or annuity, any rebate of premiums payable on the contract, or any special favor or advantage in the dividends or other benefits thereon, or any valuable consideration or inducement whatsoever not specified in the contract; or giving, or selling, or purchasing or offering to give, sell, or purchase as inducement to such insurance or annuity or in connection therewith, any stocks, bonds, or other securities of any insurance company or other corporation, association, or partnership, or any dividends or profits accrued thereon, or anything of value whatsoever not specified in the contract.

(b) Nothing in clause 7 or paragraph (a) of this clause 8 shall be construed as including within the definition of discrimination or rebates any of the following practices (i) in the case of any contract of life insurance or life annuity, paying bonuses to policyholders or otherwise abating their premiums in whole or in part out of surplus accumulated from nonparticipating insurance; provided, that any such bonuses or abatement of premiums shall be fair and equitable to policyholders and for the best interests of the company and its policyholders; (ii) in the case of life insurance policies issued on the industrial debit plan, making allowance to policyholders who have continuously for a specified period made premium payments directly to an office of the insurer in an amount which fairly represents the saving in collection expense; (iii) readjustment of the rate of premium for a group policy based on the loss or expense experience thereunder, at the end of the first or any subsequent policy year of insurance thereunder, which may be made retroactive only for such policy year.

(9) Unfair claim settlement practices. Committing or performing with such frequency as to indicate a general business practice any of the following:

(a) Misrepresenting pertinent facts or insurance policy provisions relating to coverages at issue;

(b) Failing to acknowledge and act reasonably promptly upon communications with respect to claims arising under insurance policies;

(c) Failing to adopt and implement reasonable standards for the prompt investigation of claims arising under insurance policies;

(d) Refusing to pay claims without conducting a reasonable investigation based upon all available information;

(e) Failing to affirm or deny coverage of claims within a reasonable time after proof of loss statements have been completed;

(f) Not attempting in good faith to effectuate prompt, fair and equitable settlements of claims in which liability has become reasonably clear;

(g) Compelling insureds to institute litigation to recover amounts due under an insurance policy by offering substantially less than the amounts ultimately recovered in actions brought by such insureds;

(h) Attempting to settle a claim for less than the amount to which a reasonable man would have believed he was entitled by reference to written or printed advertising material accompanying or made part of an application;

(i) Attempting to settle claims on the basis of an application which was altered without notice to, or knowledge or consent of the insured;

(j) Making claims payments to insureds or beneficiaries not accompanied by a statement setting forth the coverage under which the payments are being made;

(k) Making known to insureds or claimants a policy of appealing from arbitration awards in favor of insureds or claimants for the purpose of compelling them to accept settlements or compromises less than the amount awarded in arbitration;

(l) Delaying the investigation or payment of claims by requiring an insured, claimant or the physician of either to submit a preliminary claim report and then requiring the subsequent submission of formal proof of loss forms, both of which submissions contain substantially the same information;

(m) Failing to promptly settle claims, where liability has become reasonably clear, under one portion of the insurance policy coverage in order to influence settlements under other portions of the insurance policy coverage;

(n) Failing to promptly provide a reasonable explanation of the basis in the insurance policy in relation to the facts or applicable law for denial of a claim or for the offer of a compromise settlement.

(10) Failure to maintain complaint handling procedures. Failure of any person to maintain a complete record of all the complaints which it has received since the date of its last examination. This record shall indicate the total number of complaints, their classification by line of insurance, the nature of each complaint, the disposition of these complaints, and the time it took to process each complaint. For purposes of this subsection, "complaint" shall mean any written communication primarily expressing a grievance.

(11) The enumeration of this act of specific unfair methods of competition and unfair or deceptive acts and practices in the business of insurance is not exclusive or restrictive or intended to limit the powers of the commissioner or any court of review under the provisions of section 9 of this act.

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

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

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

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

(1) (a) Plan surcharges shall be levied, beginning on or after January 1, 1984, by the Division of Motor Vehicles on any driver who has accumulated, within the immediately preceding three-year period, beginning on or after February 10, 1983, six or more motor vehicle points, as provided in Title 39 of the Revised Statutes, exclusive of any points for convictions for which surcharges are levied under paragraph (2) of this subsection; 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. Surcharges shall be levied for each year in which the driver possesses six or more points. Surcharges assessed pursuant to this paragraph shall be $100.00 for six points, and $25.00 for each additional point.

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

(2) Plan surcharges shall be levied for convictions (a) under R.S.39:4-50 for violations occurring on or after February 10, 1983, and (b) under section 2 of P.L.1981, c.512 (C.39:4-50.4a), or for offenses committed in other jurisdictions of a substantially similar nature to those under R.S.39:4-50 or section 2 of P.L.1981, c.512 (C.39:4-50.4a), for violations occurring on or after January 26, 1984. Except as hereinafter provided, surcharges under this paragraph shall be levied annually for a three-year period, and shall be $1,000.00 per year for each of the first two convictions, for a total surcharge of $3,000 for each conviction, and $1,500.00 per year for the third conviction occurring within a three-year period, for a total surcharge of $4,500 for the third conviction. If a driver is convicted under both R.S.39:4-50 and section 2 of P.L.1981, c.512 (C.39:4-50.4a) for offenses arising out of the same incident, the driver shall be assessed only one surcharge for the two offenses.

If, upon written notification from the Division of Motor Vehicles, mailed to the last address of record with the division, a driver fails to pay a surcharge levied under this subsection, the license of the driver shall be suspended forthwith until the surcharge is paid to the Division of Motor Vehicles; except that the Division of Motor Vehicles may authorize payment of the surcharge on an installment basis over a period not to exceed 12 months. If a driver fails to pay the surcharge or any installments on the surcharge, the total surcharge shall become due immediately.

The director may authorize any person to pay the surcharge levied under this section by use of a credit card, and the director is authorized to require the person to pay all costs incurred by the division in connection with the acceptance of the credit card.

In addition to any other remedy provided by law, the director is authorized to utilize the provisions of the SOIL (Setoff of Individual Liability) program established pursuant to P.L.1981, c.239 (C.54A:9-8.1 et seq.) to collect any surcharge levied under this section that is unpaid on or after the effective date of this act. As an additional remedy, the director 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 director 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 director. In the event that the surcharge remains unpaid following the issuance of the certificate of debt and the director 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 the surcharge or $200, whichever is greater. The director shall provide written notification to a driver of the proposed filing of the certificate of debt 10 days prior to the

proposed filing; such notice shall be mailed to the driver's last address of record with the division.

All moneys collectible under this subsection b. shall be billed and collected by the Division of Motor Vehicles. Of the moneys collected: 10%, or the actual cost of administering the collection of the surcharge, whichever is less, shall be retained by the Division of Motor Vehicles until August 31, 1996; five percent, or the actual cost of administering the cancellation notification system established pursuant to section 50 of P.L.1990, c.8 (C.17:33B-41), whichever is less, shall be retained by the Division of Motor Vehicles until August 31, 1996; and prior to October 1, 1991, the remainder shall be remitted to the New Jersey Automobile Full Insurance Underwriting Association and on or after October 1, 1991 until August 31, 1996, the remainder shall be remitted to the New Jersey Automobile Insurance Guaranty Fund created pursuant to section 23 of P.L.1990, c.8 (C.17:33B-5). Commencing on September 1, 1996, or such earlier time as the Commissioner of Banking and Insurance shall certify to the State Treasurer that amounts on deposit in the New Jersey Automobile Insurance Guaranty Fund are sufficient to satisfy the current and anticipated financial obligations of the New Jersey Automobile Full Insurance Underwriting Association, all plan surcharges collected by the Division of Motor Vehicles under this subsection b. shall be remitted to the Division of Motor Vehicles Surcharge Fund for transfer to the Market Transition Facility Revenue Fund, as provided in section 12 of P.L.1994, c.57 (C.34:1B-21.12), for the purposes of section 4 of P.L.1994, c.57 (C.34:1B-21.4) until such a time as all the Market Transition Facility bonds, notes and obligations issued pursuant to that section 4 of that act and the costs thereof are discharged and no longer outstanding. From the date of certification by the Commissioner of Banking and Insurance that the moneys collectible under this subsection are no longer needed to fund the association or at such a time as all Market Transition Facility bonds, notes and obligations issued pursuant to section 4 of P.L.1994, c.57 (C.34:1B-21.4) and the costs thereof are discharged and no longer outstanding moneys collectible under this subsection shall, subject to appropriation, be remitted to the New Jersey Property-Liability Insurance Guaranty Association created pursuant to section 6 of P.L.1974, c.17 (C.17:30A-6) to be used for payment of any loans made by that association to the New Jersey Automobile Insurance Guaranty Fund pursuant to paragraph (10) of subsection a. of section 8 of P.L.1974, c.17 (C.17:30A-8); provided that all such payments shall be subject to and dependent upon appropriation by the State Legislature.

(3) In addition to any other authority provided in P.L.1983, c.65 (C.17:29A-33 et al.), the commissioner, after consultation with the Director

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

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

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

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

31. Section 4 of P.L.1972, c.70 (C.39:6A-4) is amended to read as follows:

C.39:6A-4 Personal injury protection coverage, regardless of fault.

4. Personal injury protection coverage, regardless of fault.

Every automobile liability insurance policy, issued or renewed on or after January 1, 1991, insuring an automobile as defined in section 2 of P.L.1972, c.70 (C.39:6A-2) against loss resulting from liability imposed by law for bodily injury, death and property damage sustained by any person arising out of ownership, operation, maintenance or use of an automobile shall provide personal injury protection coverage, as defined hereinbelow, under provisions approved by the Commissioner of Banking and Insurance, for the payment of benefits without regard to negligence, liability or fault of any kind, to the named insured and members of his family residing in his household who sustained bodily injury as a result of an accident while occupying, entering into, alighting from or using an automobile, or as a

pedestrian, caused by an automobile or by an object propelled by or from an automobile, to other persons sustaining bodily injury while occupying, entering into, alighting from or using the automobile of the named insured, with the permission of the named insured, and to pedestrians, sustaining bodily injury caused by the named insured's automobile or struck by an object propelled by or from such automobile.

"Personal injury protection coverage" means and includes:

a. Medical expense benefits. Payment of reasonable medical expense benefits in an amount not to exceed $250,000 per person per accident. In the event benefits paid by an insurer pursuant to this subsection are in excess of $75,000 on account of personal injury to any one person in any one accident, such excess shall be paid by the insurer in consultation with the Unsatisfied Claim and Judgment Fund Board and shall be reimbursable to the insurer from the Unsatisfied Claim and Judgment Fund pursuant to section 2 of P.L.1977, c.310 (C.39:6-73.1).

b. Income continuation benefits. The payment of the loss of income of an income producer as a result of bodily injury disability, subject to a maximum weekly payment of $100.00. Such sum shall be payable during the life of the injured person and shall be subject to an amount or limit of $5,200.00, on account of injury to any one person in any one accident, except that in no case shall income continuation benefits exceed the net income normally earned during the period in which the benefits are payable.

c. Essential services benefits. Payment of essential services benefits to an injured person shall be made in reimbursement of necessary and reasonable expenses incurred for such substitute essential services ordinarily performed by the injured person for himself, his family and members of the family residing in the household, subject to an amount or limit of $12.00 per day. Such benefits shall be payable during the life of the injured person and shall be subject to an amount or limit of $4,380.00, on account of injury to any one person in any one accident.

d. Death benefits. In the event of the death of an income producer as a result of injuries sustained in an accident entitling such person to benefits under this section, the maximum amount of benefits which could have been paid to the income producer, but for his death, under subsection b. of this section shall be paid to the surviving spouse, or in the event there is no surviving spouse, then to the surviving children, and in the event there are no surviving spouse or surviving children, then to the estate of the income producer.

In the event of the death of one performing essential services as a result of injuries sustained in an accident entitling such person to benefits under subsection c. of this section, the maximum amount of benefits which could

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have been paid such person, under subsection c., shall be paid to the person incurring the expense of providing such essential services.

e. Funeral expenses benefits. All reasonable funeral, burial and cremation expenses, subject to a maximum benefit of $1,000.00, on account of the death of any one person in any one accident shall be payable to the decedent's estate.

Benefits payable under this section shall:

(1) Be subject to any option elected by the policyholder pursuant to section 13 of P.L.1983, c.362 (C.39:6A-4.3);

(2) Not be assignable, except to a provider of service benefits under this section in accordance with policy terms approved by the commissioner, nor subject to levy, execution, attachment or other process for satisfaction of debts.

Medical expense benefit payments shall be subject to a deductible of $250.00 on account of injury in any one accident and a copayment of 20% of any benefits payable between $250.00 and $5,000.00.

No insurer or health provider providing benefits to an insured shall have a right of subrogation for the amount of benefits paid pursuant to any deductible or copayment under this section.

32. Section 13 of P.L.1983, c.362 (C.39:6A-4.3) is amended to read as follows:

C.39:6A-4.3 Personal injury protection coverage options.

13. Personal injury protection coverage options. With respect to personal injury protection coverage provided on an automobile in accordance with section 4 of P.L.1972, c.70 (C.39:6A-4), the automobile insurer shall provide the following coverage options:

a. Medical expense benefit deductibles in amounts of $500.00, $1,000.00 and $2,500.00 for any one accident;

b. The option to exclude all benefits offered under subsections b., c., d., and e. of section 4;

c. (Deleted by amendment, P.L.1988, c.119.)

d. For policies issued or renewed on or after January 1, 1991, the option that other health insurance coverage or benefits of the insured, including health care services provided by a health maintenance organization and any coverage or benefits provided under any federal or State program, are the primary coverage in regard to medical expense benefits pursuant to section 4 of P.L.1972, c.70 (C.39:6A-4). If health insurance coverage or benefits are primary, an automobile insurer providing medical expense benefits under personal injury protection coverage shall be liable for reasonable medical expenses not covered by the health insurance coverage or benefits

up to the limit of the medical expense benefit coverage. The principles of coordination of benefits shall apply to personal injury protection medical expense benefits coverage pursuant to this subsection.

Insurers shall offer the options provided by subsections a. and b. of this section at appropriately reduced premiums. For policies issued or renewed prior to January 1, 1992, insurers shall offer the option provided by subsection d. of this section at a discount of not less than 25% from the base rate applicable to the first $250,000 of medical expense benefits, and for policies issued or renewed on or after January 1, 1992, insurers shall offer the option at an appropriate discount from the base rate for the amount of medical expense benefits coverage taken.

Any named insured who chooses the option provided by subsection d. of this section shall provide proof that he and members of his family residing in his household are covered by health insurance coverage or benefits in a manner and to an extent approved by the commissioner. Nothing in this section shall be construed to require a health insurer, health maintenance organization or governmental agency to cover individuals or treatment which is not normally covered under the applicable benefit contract or plan. If it is determined that an insured who selected or is otherwise covered by the option provided in subsection d. of this section did not have such health coverage in effect at the time of an accident, medical expense benefits shall be payable by the person's automobile insurer and shall be subject to any deductible required by law or otherwise selected as an option pursuant to subsection a. of this section, any copayment required by law and an additional deductible in the amount of $750.

An option elected by the named insured in accordance with this section shall apply only to the named insured and any resident relative in the named insured's household who is not a named insured under another automobile insurance policy, and not to any other person eligible for personal injury protection benefits required to be provided in accordance with section 4 of P.L.1972, c.70 (C.39:6A-4).

In the case of a medical expense benefit deductible, the deductible elected by the named insured shall be satisfied for any one accident, whether the medical expense benefits are paid or provided, in the amount of the deductible, to the named insured or to one or more resident relatives in the named insured's household who are not named insureds under another insurance policy, or to any combination thereof.

Medical expense benefits payable in any amount between the deductible selected pursuant to subsection a. of this section and $5,000.00 shall be subject to a copayment of 20%.

No insurer or health provider providing benefits to an insured who has elected a deductible pursuant to subsection a. of this section shall have a

right of subrogation for the amount of benefits paid pursuant to a deductible elected thereunder or any applicable copayment.

The Commissioner of Banking and Insurance shall adopt rules and regulations to effectuate the purposes of this section and may promulgate standards applicable to the coordination of personal injury protection medical expense benefits coverage.

33. Section 10 of P.L.1988, c.119 (C.39:6A-4.6) is amended to read as follows:

C.39:6A-4.6 Medical fee schedules.

10. a. The Commissioner of Banking and Insurance shall, within 90 days after the effective date of P.L.1990, c.8 (C.17:33B-1 et al.), promulgate medical fee schedules on a regional basis for the reimbursement of health care providers providing services or equipment for medical expense benefits for which payment is to be made by an automobile insurer under personal injury protection coverage pursuant to P.L.1972, c.70 (C.39:6A-1 et seq.), or by an insurer under medical expense benefits coverage pursuant to section 2 of P.L.1991, c.154 (C.17:28-1.6). These fee schedules shall be promulgated on the basis of the type of service provided, and shall incorporate the reasonable and prevailing fees of 75% of the practitioners within the region. If, in the case of a specialist provider, there are fewer than 50 specialists within a region, the fee schedule shall incorporate the reasonable and prevailing fees of the specialist providers on a Statewide basis. The commissioner may contract with a proprietary purveyor of fee schedules for the maintenance of the fee schedule, which shall be adjusted biennially for inflation and for the addition of new medical procedures.

b. The fee schedule may provide for reimbursement for appropriate services on the basis of a diagnostic-related (DRG) payment by diagnostic code where appropriate, and may establish the use of a single fee, rather than an unbundled fee, for a group of services if those services are commonly provided together. In the case of multiple procedures performed simultaneously, the fee schedule and regulations promulgated pursuant thereto may also provide for a standard fee for a primary procedure, and proportional reductions in the cost of the additional procedures.

c. No health care provider may demand or request any payment from any person in excess of those permitted by the medical fee schedules established pursuant to this section, nor shall any person be liable to any health care provider for any amount of money which results from the charging of fees in excess of those permitted by the medical fee schedules established pursuant to this section.

C.17:29A-46.6 Proposed alteration to rating system, expedited.

34. a. Notwithstanding section 14 of P.L.1944, c.27 (C.17:29A-14), an insurer or rating organization may elect to file a proposed alteration to its rating system pursuant to the expedited process set forth in this section when the filer requests either an increase of no more than 3% or any decrease in its Statewide average base rate for private passenger automobile insurance.

b. A filer electing to use this expedited process shall file with the commissioner that reasonable information necessary to support the rate change which the commissioner prescribes by regulation. The prescribed filing requirements shall recognize the intent of this section to provide an expedited process.

c. If the commissioner determines that the filing will not produce rates that are excessive, inadequate for the safety and soundness of the insurer, or unfairly discriminatory between risks in this State involving substantially the same hazards and expense elements, the commissioner shall approve the filing.

d. A decision on the filing shall be rendered not later that 45 days after receipt of the filing, unless the commissioner grants an extension, in which case a decision shall be rendered not later than 60 days after receipt of the filing. A filing shall be complete and received when the filing is accompanied by a certification by a qualified actuary which states that the material, data and documentation, which is part of the filing, includes the documents set forth in regulations, supports the requested rate change and is consistent with generally accepted ratemaking principles of the actuarial profession. A filing shall be deemed to be approved unless rejected or modified by the commissioner within the time provided.

e. The commissioner shall not approve any rate change pursuant to this expedited process that results in an overall increase of more than 3% or an increase in any single coverage of more than 5%.

f. An insurer shall not file more than one request for an increase in rates pursuant to this section in any twelve-month period.

Repealer.

35. Section 56 of P.L.1990, c.8 (C.17:33B-46) and section 5 of P.L.1988, c.156 (C.17:29A-44) are repealed.

Repealer.

36. Sections 6 and 7 of P.L.1988, c.156 (C.17:29A-45 and 17:29A-46) are repealed.

C.17:29A-46.7 Regulations, administrative processes.

37. The Commissioner of Banking and Insurance may promulgate regulations and other administrative processes necessary to effectuate the

purposes of this amendatory and supplementary act, including, but not limited to, procedures governing rating system filings to implement this amendatory and supplementary act.

38. This act shall take effect on January 1, 1998, except that sections 14 through 16 and section 36 shall take effect on March 1, 1998 and sections 1 through 13 and sections 17, 18, 27, 33, 34, 35 and 37 shall take effect immediately.

Approved June 30, 1997.

CHAPTER 152

AN ACT concerning the operation of personal watercraft and certain power vessels, amending P.L.1995, c.401 and P.L.1987, c.453, and supplementing chapter 7 of Title 12 of the Revised Statutes.

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

1. Section 3 of P.L.1995, c.401 (C.12:7-72) is amended to read as follows:

C.12:7-72 Issuance of license to operate power vessel; requirements.

3. a. Upon proper application therefor, the director shall license a person to operate a power vessel on the nontidal waters of this State. A person shall not make any misstatement of fact in an application for a power vessel operator's license.

b. Except as provided pursuant to subsections c. and g.of this section:

(1) A person shall not operate a power vessel on the nontidal waters of this State without being licensed by the director; and

(2) A person under 16 years of age shall not be licensed to operate a power vessel on the nontidal waters of this State.

c. A person is not required to be licensed pursuant to subsection b. of this section when operating a power vessel:

(1) powered solely by a motor of less than one horsepower or an electric motor of 12 volts or less;

(2) that is 12 feet or greater in length and powered by a motor, or combination of motors, of less than 10 horsepower;

(3) while actually competing in an authorized race held under the auspices of a duly incorporated yacht club or racing association in accordance with rules and regulations prescribed by the Division of State Police

in the Department of Law and Public Safety and pursuant to a permit duly issued by that division;

(4) if the person is an out-of-State resident and has written proof, while operating the power vessel, of successful completion of a boat safety course substantially similar to the boat safety course administered pursuant to section 1 of P.L.1987, c.453 (C.12:7-60).

d. Except as provided pursuant to subsection c. of this section, a person shall have in his possession a proper license at all times when operating a power vessel on nontidal waters and shall exhibit the license to any law enforcement officer upon request. Failure of a person to exhibit such license upon request shall be presumptive evidence that the person is not a licensed operator.

e. A person who violates the provisions of subsection b. of this section shall be subject to a fine of not more than $500 or to a term of imprisonment not to exceed 60 days, or both, except that:

(1) A person who has never been licensed to operate a power vessel on the nontidal waters of this State or any other jurisdiction shall be subject to a fine of not less than $200 and, in addition, the court shall issue an order to the Director of the Division of Motor Vehicles requiring the director to refuse to issue a license to operate a power vessel on the nontidal waters of this State to that person for a period of not less than 180 days; and

(2) A person who can exhibit to the court before which the person is summoned to answer to the charge a valid operator's license issued to that person which was valid on the day that person was charged shall be subject to a fine of not more than $100, in addition to any reasonable court costs the court may impose. Notwithstanding the provisions of this subsection, the court may, in its discretion, dismiss a charge regarding the failure to exhibit an operator's license brought pursuant to the provisions of this section.

f. The penalties provided for pursuant to subsection e. of this section shall not be applicable in cases where failure to have actual possession of the operator's license is due to an administrative or technical error by the Division of Motor Vehicles.

g. A person who is under 16 years of age and was issued an operator's license pursuant to section 7 of P.L.1954, c.236 (C.12:7-34.7) before July 1, 1996 may operate a power vessel equipped with an outboard motor until the expiration date of that license.

2. Section 18 of P.L.1995, c.401 (C.12:7-86) is amended to read as follows:

C.12:7-86 Conditions for operation of personal watercraft without completion of boat safety course; violations, penalties; rules, regulations.

18. A person who is 16 years of age or older may operate a personal watercraft without having completed a boat safety course required pursuant

to subsection c. of section 2 of P.L.1987, c.453 (C.12:7-61) or a written test administered pursuant to section 17 of P.L.1995, c.401, under the following conditions:

a. (1) the person operates the personal watercraft within the boundaries of an area designated solely for the operation of personal watercraft by a business engaged in renting personal watercraft for use on the waters of the State;

(2) the area designated for such operation is supervised by a person who is experienced in the operation of personal watercraft and who has successfully completed a boat safety course approved pursuant to section 1 of P.L.1987, c.453 (C.12:7-60); and

(3) the person has successfully completed an instruction course provided by the owner or lessee of the personal watercraft prior to operating the personal watercraft within the designated area.

b. For the first 21 days following the purchase of a personal watercraft, provided that:

(1) the operator of the personal watercraft is the person who purchased the personal watercraft or a member of that person's immediate family;

(2) the operator of the personal watercraft is at least 16 years of age;

(3) the personal watercraft that has been purchased is the only personal watercraft being operated pursuant to this subsection;

(4) the seller of the personal watercraft has provided educational materials regarding the safe operation of the personal watercraft at the time of sale; and

(5) the purchaser and the seller of the personal watercraft have signed a certificate acknowledging that the information required pursuant to paragraph 4 of this subsection has been provided by the seller and received by the purchaser at the time of purchase of the personal watercraft.

c. The person has written proof, while operating the personal watercraft, of successful completion of a boat safety course substantially similar to the boat safety course required pursuant to the boat safety course administered pursuant to section 1 of P.L.1987, c.453 (C.12:7-60).

d. (1) The person does not own a personal watercraft and the owner of the personal watercraft possesses a certificate showing the successful completion of a boat safety course required pursuant to subsection c. of section 2 of P.L.1987, c.453 (C.12:7-61) or a written test administered pursuant to section 17 of P.L.1995, c.401;

(2) the owner of the personal watercraft instructs the owner in the proper operation of the personal watercraft;

(3) the person is accompanied by the owner of the personal watercraft and they remain within 150 feet and in sight of each other;

(4) the cumulative number of days of operation by a person under this subsection does not exceed five days during a calendar year; and

(5) the person has not violated any provision of chapter 7 of this title.

A person who violates this subsection shall be subject to a penalty of not less than $200 and not more than $500 for each violation.

Pursuant to the provisions of the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), the Superintendent of State Police shall adopt any rules or regulations necessary to implement the provisions of this section.

3. Section 2 of P.L.1987, c.453 (C.12:7-61) is amended to read as follows:

C.12:7-61 Operation of power vessels, personal watercraft; boat safety course requirements; violations.

2. a. A person who is under 16 years of age shall not operate a power vessel on the waters of this State, except that:

(1) a person who is under 16 years of age but at least 13 years of age and possesses a certificate certifying that person's successful completion of a boat safety course approved by the Superintendent of State Police in the Department of Law and Public Safety may operate:

(a) a power vessel powered solely by a motor of less than one horsepower or an electric motor of 12 volts or less; or

(b) a power vessel which is 12 feet or greater in length and powered by a motor, or combination of motors, of less than 10 horsepower; and

(2) A person who is under 16 years of age and has successfully completed an approved boat safety course prior to July 1, 1996 may operate a power vessel on the tidal waters of this State, provided that the person complies with all other requirements of law, rule and regulation.

b. A person who is 16 years of age or older and was born after December 31, 1978 shall not operate a power vessel on the waters of this State without having completed a boat safety course approved by the Superintendent of State Police in the Department of Law and Public Safety.

c. Except as provided pursuant to section 18 of P.L.1995, c.401 (C.12:7-86), a person shall not operate a personal watercraft on the waters of this State after July 1, 1997, without having successfully completed a boat safety course approved by the Superintendent of State Police in the Department of Law and Public Safety or a written test pursuant to section 17 of P.L.1995, c.401.

d. Whenever a person who is required by this section or by section 7 of P.L.1995, c.401 (C.12:7-76), section 3 or 4 of P.L.1952, c.157 (C.12:7-46 or C.12:7-47), or section 9 of P.L.1986, c.39 (C.12:7-57) to have completed a boat safety course operates a power vessel or personal watercraft, as appropriate, on the waters of this State, that person shall have in possession a certificate certifying that person's successful completion of a boat safety course approved by the superintendent and shall, when requested to do so, exhibit the certificate to a law enforcement or peace officer of this State. Failure of the person to exhibit the certificate is presumptive evidence that the person has not completed an approved boat safety course.

e. A person who violates subsection a., b., c. or d. of this section or who exhibits to a law enforcement or peace officer a certificate of completion of an approved boat safety course of another person is subject to a fine of not less than $100 nor more than $500.

f. A person who owns or has control or custody of a power vessel and allows the power vessel to be operated on the waters of this State by a person who is required pursuant to the provisions of this section to possess a certificate certifying successful completion of a boat safety course but who does not possess such certificate is subject to a fine of not more than $100.

g. A person making application to the Director of the Division of Motor Vehicles for a power vessel operator's license issued pursuant to section 3 of P.L.1995, c.401 (C.12:7-72) who is required pursuant to the provisions of this section to possess a certificate certifying successful completion of a boat safety course shall submit the original or a copy of the certificate with the application. The director shall not issue a power vessel operator's license to such person who fails to submit the original or a copy of the certificate.

C.12:7-74.1 Personal watercraft owner's liabilities.

4. In addition to all other remedies permitted and duties required by law, the owner of a personal watercraft shall be jointly liable for damage incurred by another person operating the owner's personal watercraft if the owner knowingly allows the person to operate the owner's personal watercraft, the operator has not successfully completed a boat safety course required pursuant to subsection c. of section 2 of P.L.1987, c.453 (C.12:7-61) or a written test administered pursuant to section 17 of P.L.1995, c.401 and the operator is not exempt from the boat safety certificate requirement pursuant to subsection a. or c. of section 18 of P.L.1995, c.401 (C.12:7-86).

5. Section 2 of P.L.1987, c.453 (C.12:7-61) is amended to read as follows:

C.12:7-61 Operation of power vessels, personal watercraft; boat safety course requirements; violations.

2. a. A person who is under 16 years of age shall not operate a power vessel on the waters of this State, except that:

(1) a person who is under 16 years of age but at least 13 years of age and possesses a certificate certifying that person's successful completion of a boat safety course approved by the Superintendent of State Police in the Department of Law and Public Safety may operate:

(a) a power vessel powered solely by a motor of less than one horsepower or an electric motor of 12 volts or less; or

(b) a power vessel which is 12 feet or greater in length and powered by a motor, or combination of motors, of less than 10 horsepower;

(2) A person who is under 16 years of age and has successfully completed an approved boat safety course prior to July 1, 1996 may operate a power vessel on the tidal waters of this State, provided that the person complies with all other requirements of law, rule and regulation; and

(3) A person who is under 16 years of age and was issued an operator's license pursuant to section 7 of P.L.1954, c.236 (C.12:7-34.7) before July 1, 1996 may operate a power vessel equipped with an outboard motor until the expiration date of that license.

b. A person who is 16 years of age or older and was born after December 31, 1978 shall not operate a power vessel on the waters of this State without having completed a boat safety course approved by the Superintendent of State Police in the Department of Law and Public Safety, except that:

(1) a person who is 18 years of age or older, and who has in his possession a valid motor vehicle operator's license issued pursuant to R.S.39:3-10, may operate on the waters of this State, without having completed a boat safety course approved by the Superintendent of State Police in the Department of Law and Public Safety, a power vessel that is (a) powered solely by an electric motor or a motor, or combination of motors, of 10 horsepower or less, and (b) not a personal watercraft;

(2) an out-of-State resident, or a resident of a foreign country, who is 18 years of age or older and who will be in this State for less than 90 days may operate on the waters of this State, without having completed a boat safety course approved by the Superintendent of State Police in the Department of Law and Public Safety, a power vessel that is (a) registered in that person's state or country of residence and (b) not a personal watercraft; and

(3) a person who is 18 years of age or older may operate on the waters of this State, without having completed a boat safety course approved by the Superintendent of State Police in the Department of Law and Public Safety, a rented power vessel that is powered by a motor, or combination of motors,

of more than 10 horsepower, and that is not a personal watercraft, under the following conditions:

(a) the person rents the power vessel from a business engaged in renting power vessels for use on the waters of the State;

(b) the person has successfully completed a State-approved pre-rental instruction course provided by the owner or lessor of the power vessel prior to operating the power vessel on the waters of the State; and

(c) the owner of the power vessel rental business is experienced in the operation of power vessels and has successfully completed a boat safety course approved by the Superintendent of State Police in the Department of Law and Public Safety.

The Superintendent of State Police shall establish appropriate guidelines to implement the provisions of this subsection.

c. Except as provided pursuant to section 18 of P.L.1995, c.401 (C.12:7-86), a person shall not operate a personal watercraft on the waters of this State after July 1, 1997, without having successfully completed a boat safety course approved by the Superintendent of State Police in the Department of Law and Public Safety or a written test pursuant to section 17 of P.L.1995, c.401.

d. Whenever a person who is required by this section or by section 7 of P.L.1995, c.401 (C.12:7-76), section 3 or 4 of P.L.1952, c.157 (C.12:7-46 or C.12:7-47), or section 9 of P.L.1986, c.39 (C.12:7-57) to have completed a boat safety course operates a power vessel or personal watercraft, as appropriate, on the waters of this State, that person shall have in possession a certificate certifying that person's successful completion of a boat safety course approved by the superintendent and shall, when requested to do so, exhibit the certificate to a law enforcement or peace officer of this State. Failure of the person to exhibit the certificate is presumptive evidence that the person has not completed an approved boat safety course.

e. A person who violates subsection a., b., c. or d. of this section or who exhibits to a law enforcement or peace officer a certificate of completion of an approved boat safety course of another person is subject to a fine of not less than $100 nor more than $500.

f. A person who owns or has control or custody of a power vessel and allows the power vessel to be operated on the waters of this State by a person who is required pursuant to the provisions of this section to possess a certificate certifying successful completion of a boat safety course but who does not possess such certificate is subject to a fine of not more than $100.

g. A person making application to the Director of the Division of Motor Vehicles for a power vessel operator's license issued pursuant to section 3 of P.L.1995, c.401 (C.12:7-72) who is required pursuant to the provisions of this section to possess a certificate certifying successful completion of a

boat safety course shall submit the original or a copy of the certificate with the application. The director shall not issue a power vessel operator's license to such person who fails to submit the original or a copy of the certificate.

6. This act shall take effect immediately.

Approved July 1, 1997.

CHAPTER 153

AN ACT concerning the taxation of certain apple ciders under the alcoholic beverage tax law, amending R.S.54:41-2 and R.S.54:43-1.

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

1. R.S.54:41-2 is amended to read as follows:

Definitions.

54:41-2. As used in this subtitle:

"Alcoholic beverages" means liquors, beer, wines and sparkling wine, as defined in this section.

"Beer" means beer, lager beer, ale, stout, porter, and all similar fermented malt beverages having an alcoholic content of one-half of one per centum (1/2 of 1%) or more by volume.

"Bonded warehouse" means the warehouse of any licensed manufacturer or licensed wholesaler or licensed warehouseman for which the licensee has given special security to obtain certain privileges given by this subtitle.

"Bureau" means the Beverage Tax Bureau of the Division of Taxation in the State Department of the Treasury.

"Cider" means a beverage made from the alcoholic fermentation of the juice of apples, including but not limited to flavored, sparkling or carbonated cider.

"Commissioner," "State Tax Commissioner" or "Director" means the Director of the Division of Taxation in the State Department of the Treasury.

"Container" means the receptacle immediately surrounding the alcoholic beverage and not the carton, box, case, sack, bag or other covering in which such containers may be packed, placed, or transported.

"Department," "State Tax Department," or "Beverage Tax Bureau" means the Division of Taxation in the State Department of the Treasury.

"Licensed manufacturer" means any person holding a valid and unrevoked brewery, winery, distillery, or rectifier's license issued pursuant to the provisions of any relevant law of this State.

"Licensed transporter" means any person holding a valid and unrevoked license or permit to transport alcoholic beverages pursuant to the provisions of any relevant law of this State.

"Licensee" means the holder of any valid and unrevoked license or special permit issued pursuant to any relevant law of this State, pertaining to alcoholic beverages.

"Liquors" means all distilled or rectified spirits, alcohol, brandy, whisky, rum, gin and all similar distilled alcoholic beverages, including all dilutions and mixtures of one or more of the foregoing, such as liqueurs, cordials, and similar compounds, having an alcoholic content of one-half of one per centum (1/2 of 1%) or more by volume.

"Manufacturer" means any person holding a valid and unrevoked brewery, winery, distillery, supplemental limited distillery, or rectifier and blender's license, issued pursuant to the provisions of any relevant law of this State.

"Person" means a natural person, an association, a partnership or a corporation.

"Plenary retail transit licensee" means any person holding a valid and unrevoked plenary retail transit license issued pursuant to any relevant law of this State, authorizing the sale of alcoholic beverages for consumption only, on railroad trains, airplanes, and boats, while in transit in this State.

"Return" means the return of alcoholic beverages by a customer to the source from which such beverages were obtained, upon the cancellation of a sale, and shall include: (a) actual receipt of the beverages on the licensed premises of the source or in a licensed public warehouse for the account of the source; or (b) the sending of the beverages by the customer to another person upon instructions of the source; but shall not include any other disposition, such as samples, breakage, shortage, merchandising credits, or beverages dumped on the premises of the customer, except where such dumping is done under the supervision of the director or his representative.

"Sale" means and includes, in addition to its ordinary meaning, any exchange, gift, loss, theft, or other disposition. In every case where alcoholic beverages are exchanged, given, lost, stolen or otherwise disposed of, they shall be deemed to have been sold, unless, in case of loss by fire, proof is furnished to the satisfaction of the commissioner, that the alcoholic beverages have been so destroyed that they could not have been put to any use.

"Sparkling wine" means champagne and other effervescent wine charged with carbon dioxide, whether artificially or as the result of secondary fermentation of the wine within the container.

"State licensee" means any person holding a valid and unrevoked license or special permit, issued by the Director of the Division of Alcoholic Beverage Control, and who has posted a bond with the director to secure the payment of the alcoholic beverage taxes.

"Taxpayer" means a person chargeable with the payment of a tax pursuant to the provisions of this subtitle.

"Transportation licensee" means any person holding a valid and unrevoked license or special permit to transport alcoholic beverages pursuant to the provisions of any relevant law of this State.

"Treasurer" means the Treasurer of the State of New Jersey.

"Vermouth" means any compound made by the mixture of extracts from macerated aromatic flavoring materials with wines and manufactured in such manner that the product possesses the taste, aroma, and characteristics generally attributed to vermouth.

"Warehouse receipt" means a certificate or receipt given upon the storage of alcoholic beverages in a United States custom or United States internal revenue warehouse under federal bond.

"Warehouse receipts licensee" means any person holding a valid and unrevoked warehouse receipts license issued pursuant to any relevant law of this State.

"Wines" means all wines whether known as "dry wines," "sweet wines," "still wines," or "fortified wines" and any artificial or imitation wine or compound sold as wine, and any fruit juice containing one-half of one per centum (1/2 of 1%) or more of alcohol by volume, and any other beverage containing alcohol produced by the fermentation of the natural sugar content of fruits or other agricultural products containing sugar, which beverage contains one-half of one per centum (1/2 of 1%) or more of alcohol by volume, but shall not mean or include vermouth, or cider containing less than three and two-tenths per centum (3 2/10 %) of alcohol by volume.

2. R.S.54:43-1 is amended to read as follows:

Tax rates.

54:43-1. Tax rates. There are hereby levied and imposed upon any sale of alcoholic beverages made within this State or upon any delivery of alcoholic beverages made within or into this State the following excise taxes:

a. Beer--From July 1, 1990 through June 30, 1992, at the rate of $0.10 a gallon or fraction thereof and on or after July 1, 1992, at the rate of $0.12 a gallon or fraction thereof.

b. Liquors--From July 1, 1990 through June 30, 1992, at the rate of $4.20 a gallon and on or after July 1, 1992, at the rate of $4.40 a gallon.

c. (Deleted by amendment, P.L.1972, c.53.)

d. (Deleted by amendment, P.L.1972, c.53.)

e. Wines, vermouth and sparkling wines--From July 1, 1990 through June 30, 1992, at the rate of $0.50 a gallon and on or after July 1, 1992, at the rate of $0.70 a gallon; provided however, that cider containing at least three and two-tenths per centum (3 2/10 %) of alcohol by volume but not more than 7 per centum (7%) of alcohol by volume shall be taxed at the rate of $0.12 a gallon.

3. This act shall take effect immediately but remain inoperative until the first day of the fourth month following enactment.

Approved July 1, 1997.

CHAPTER 154

AN ACT concerning the special purpose apportionment of insurers and amending and supplementing P.L.1995, c.156.

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

1. Section 13 of P.L.1995, c.156 (C.17:1C-31) is amended to read as follows:

C.17:1C-31 Permitted increase in amount assessable.

13. The total amount assessable to companies in any fiscal year for all special purpose assessments made pursuant to applicable law as of the effective date of this act, including the special purpose apportionment established by this act, shall not increase, as a percentage, more than the percentage increase in the combined net written premiums received, as defined in subsection b. of section 2 of this act, by all companies for the previous year, except that, with respect to fiscal year 1998 and each fiscal year thereafter, the total amount of all direct and indirect expenditures incurred by the Division of Insurance Fraud Prevention in connection with the appointment of additional insurance fraud investigators pursuant to the Special Purpose appropriation in P.L.1997, c.131, may be included in the

special purpose apportionment, notwithstanding any limitation on the total amount assessable to companies under this section.

C.17:1C-20.1 Distribution of special purpose apportionment.

2. Notwithstanding the provisions of any law to the contrary, the Commissioner of Banking and Insurance shall take that action necessary to ensure that policyholders of the companies paying the special purpose apportionment pursuant to P.L.1995, c.156 (C.17:1C-19 et seq.) shall not pay for that portion of the special purpose apportionment attributable to the appointment of additional insurance fraud investigators as provided in section 13 of P.L.1995, c.156 (C.17:1C-31).

3. This act shall take effect on July 1, 1997.

Approved July 2, 1997.

CHAPTER 155

AN ACT concerning the licensure of professional counselors, associate counselors, and rehabilitation counselors and amending the title and body of and supplementing P.L.1993, c.340.

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

1. The title of P.L.1993, c.340 is amended to read as follows:

Title amended.

An Act to license professional counselors, associate counselors and rehabilitation counselors and amending and supplementing Chapter 8B of Title 45 of the Revised Statutes.

2. Section 2 of P.L.1993, c.340 (C.45:8B-35) is amended to read as follows:

C.45:8B-35 Determinations.

2. The professions of counseling and rehabilitation counseling in the State of New Jersey are determined to affect the public safety and welfare, and to be subject to regulation and control in the public interest in order to protect the public by setting standards of qualification, education, training, and experience for those persons seeking to practice and be licensed as professional counselors, associate counselors and rehabilitation counselors.

3. Section 3 of P.L.1993, c.340 (C.45:8B-36) is amended to read as follows:

C.45:8B-36 Definitions relative to counseling.

3. As used in this act:

"Board" means the State Board of Marriage and Family Therapy Examiners.

"Committee" means the Professional Counselor Examiners Committee.

"Counseling" means offering to assist or assisting, for a fee or other compensation, an individual or group through a counseling relationship to develop an understanding of interpersonal and intra personal problems and to plan and act on a course of action to restore optimal functioning to that individual or group but does not mean rehabilitation counseling.

"Counseling specialty" means a field of specialization in which counseling takes place and which has been designated as a counseling specialty by the committee.

"Licensed associate counselor" means an individual who holds a current, valid license as a licensed associate counselor pursuant to this act and who practices counseling under the direct supervision of a licensed professional counselor or a supervisor acceptable to the committee.

"Licensed professional counselor" means an individual who holds a current, valid license as a licensed professional counselor pursuant to this act.

"Licensed rehabilitation counselor" means an individual who holds a current, valid license as a licensed rehabilitation counselor pursuant to this amendatory and supplementary act.

"Rehabilitation counseling" means offering to assist or assisting, for a fee or other compensation, an individual through a rehabilitation counseling relationship to develop an understanding of the personal, social and vocational impact of the person's disabilities and to plan and implement a rehabilitation program, which may include training to help the person become more independent and employable.

4. Section 4 of P.L.1993, c.340 (C.45:8B-37) is amended to read as follows:

C.45:8B-37 Professional Counselor Examiners Committee.

4. There is established a committee of the board to be known as the Professional Counselor Examiners Committee. The committee shall consist of six residents of this State, four of whom shall be licensed professional counselors engaged primarily in the practice of counseling, one of whom shall be a licensed professional counselor engaged primarily in teaching, training or research in counseling and one of whom shall be a licensed

rehabilitation counselor primarily engaged in the practice of rehabilitation counseling.

The members of the committee shall be appointed by the Governor for terms of three years, except that the terms of the first six members of the committee shall be as follows: one member for a term of one year, two members for a term of two years, and three members for a term of three years. A member of the committee shall not be eligible to succeed himself more than once. Vacancies shall be filled for the unexpired term in the manner provided by the original appointment. The Governor may remove any member of the board for cause, upon notice and opportunity to be heard.

The first appointees shall become licensed as soon as practicable after their appointments.

Members of the committee shall receive no compensation for their services, but may be reimbursed for all necessary expenses incidental to performance of their duties as members of the committee.

The committee shall annually elect from its members a chairperson and a vice-chairperson.

Regular meetings of the committee shall be held at least once during each quarter of the year and special meetings may be held upon the call of the chairperson or the vice-chairperson in the chairperson's absence. Four members of the committee shall constitute a quorum and no action shall be taken at a meeting without at least four votes in accord.

5. Section 5 of P.L.1993, c.340 (C.45:8B-38) is amended to read as follows:

C.45:8B-38 Powers, duties of committee.

5. The committee is authorized to: administer examinations required pursuant to this act; review the content and duration of courses of study offered by colleges and universities for degrees in counseling or rehabilitation counseling, and to establish and maintain a register of colleges and universities whose curricula in counseling or rehabilitation counseling are approved by the committee or an accrediting body acceptable to the committee; establish and maintain a list of recognized subjects and courses of study; and establish minimum requirements therefor which shall be acceptable to the board and the committee.

In addition to those records of proceedings and applicants established by the board, the committee shall keep a record of its proceedings and a record of all applicants for licensure, showing for each whether the application is for a license as a licensed professional counselor, licensed rehabilitation counselor, licensed associate counselor or a counseling specialty, the date of application, name, age, education, and other qualifica-

tions, place of practice and place of residence, and whether the applicant was rejected or a license or specialty granted, and the date of that action.

6. Section 6 of P.L.1993, c.340 (C.45:8B-39) is amended to read as follows:

C.45:8B-39 License required.

6. a. No person shall engage in the practice of counseling as a licensed professional counselor or licensed associate counselor or represent or hold himself out as a licensed professional counselor or licensed associate counselor unless licensed pursuant to this act. No person licensed as a professional counselor or an associate counselor shall engage in the practice of rehabilitation counseling unless licensed as a rehabilitation counselor pursuant to this amendatory and supplementary act.

b. No person shall engage in the practice of rehabilitation counseling as a licensed rehabilitation counselor or represent or hold himself out as a licensed rehabilitation counselor unless licensed pursuant to this amendatory and supplementary act. No person licensed as a rehabilitation counselor shall engage in the practice of professional counseling unless licensed as a professional counselor pursuant to section 7 of P.L.1993, c.340 (C.45:8B-40).

7. Section 7 of P.L.1993, c.340 (C.45:8B-40) is amended to read as follows:

C.45:8B-40 Requirements, application for licensure as professional counselor.

7. Each person applying for licensure as a licensed professional counselor shall make application therefor to the board on the form and in the manner the committee prescribes and the board shall immediately refer each application to the committee for appropriate action. Each applicant shall furnish evidence satisfactory to the committee that he:

a. Is at least 18 years of age;

b. Is of good moral character;

c. Has completed a minimum of 60 graduate semester hours in a planned educational program, which includes a master's degree or doctorate in counseling from a regionally accredited institution of higher education, of which 45 graduate semester hours are distributed in at least eight of the following areas:

(1) Counseling theory and practice;

(2) The helping relationship;

(3) Human growth and development and maladaptive behavior;

(4) Lifestyle and career development;

(5) Group dynamics, processes, counseling, and consulting;

(6) Appraisal of individuals;
(7) Social and cultural foundations;
(8) Research and evaluation;
(9) The counseling profession;

d. Has had at least three years of supervised full-time counseling experience in a professional counseling setting acceptable to the committee, one year of which may be obtained prior to the granting of the master's degree. The committee shall establish criteria for determining the qualifications and status which may constitute supervised counseling experience. An applicant may eliminate one year of the required supervised counseling experience by substituting 30 graduate semester hours beyond the master's degree if those graduate semester hours are clearly related to counseling and are acceptable to the committee. In no case, however, may the applicant have less than one year of supervised professional counseling experience after the granting of the master's degree; and

e. Has passed the National Counselor Examination of the National Board for Certified Counselors.

8. Section 8 of P.L.1993, c.340 (C.45:8B-41) is amended to read as follows:

C.45:8B-41 Requirements, application, for licensure as associate counselor.

8. Each person applying for licensure as a licensed associate counselor shall make application therefor to the board on the form and in the manner the committee prescribes and the board shall immediately refer each application to the committee for appropriate action. Each applicant shall furnish evidence satisfactory to the committee that he:

a. Is at least 18 years of age;
b. Is of good moral character;
c. Has completed a minimum of 60 graduate semester hours in a planned educational program, which includes a master's degree or doctorate in counseling from a regionally accredited institution of higher education, of which 45 graduate semester hours are distributed in at least eight of the following areas:

(1) Counseling theory and practice;
(2) The helping relationship;
(3) Human growth and development and maladaptive behavior;
(4) Lifestyle and career development;
(5) Group dynamics, processes, counseling, and consulting;
(6) Appraisal of individuals;
(7) Social and cultural foundations;
(8) Research and evaluation;

(9) The counseling profession; and

d. Has passed the National Counselor Examination of the National Board for Certified Counselors.

C.45:8B-41.1 Requirements, application for licensure as rehabilitation counselor.

9. Each person applying for licensure as a rehabilitation counselor shall make application therefor to the board on the form and in the manner the committee prescribes and the board shall immediately refer each application to the committee for appropriate action. Each applicant shall furnish evidence satisfactory to the committee that he:

a. Is at least 18 years of age;

b. Is of good moral character;

c. Has completed a planned educational program in rehabilitation counseling approved by the committee, which includes a master's degree in rehabilitation counseling from a regionally accredited institution of higher education;

d. Has had at least three years of supervised full-time rehabilitation counseling experience in a rehabilitation counseling setting acceptable to the committee, one year of which may be obtained prior to the granting of the master's degree. The committee shall establish criteria for determining the qualifications and status which may constitute supervised rehabilitation counseling experience. An applicant may eliminate one year of the required supervised rehabilitation counseling experience by substituting 30 graduate semester hours beyond the master's degree if those graduate semester hours are clearly related to rehabilitation counseling and are acceptable to the committee. In no case, however, may the applicant have less than one year of supervised rehabilitation counseling experience after the granting of the master's degree; and

e. Has passed the Certified Rehabilitation Counselor Examination by the Commission on Rehabilitation Counselor Certification.

C.45:8B-41.2 Professional counselor, rehabilitation counselor, license issuance; alternate requirements.

10. a. The board shall issue to any individual, upon application during the first 360 days after the effective date of this amendatory and supplementary act, a professional counselor license, if the applicant has either:

(1) completed a minimum of 45 graduate semester hours, which includes a master's degree or doctorate from a regionally accredited institution of higher education, in subject matter that is primarily counseling in content; and has documented five years of experience in the practice of professional counseling acceptable to the committee prior to the date of application for licensure. The board shall waive written examination of these applicants; or

(2) completed fewer than 45 semester hours, which includes a master's degree from a regionally accredited institution of higher education, in subject matter that is primarily counseling in content; and has documented five years of experience in the practice of professional counseling acceptable to the committee prior to the date of application for licensure. The board shall require that the applicant provide evidence that he has passed the National Counselor Examination of the National Board for Certified Counselors.

b. The board shall issue to any individual, upon application during the first 360 days after the effective date of this amendatory and supplementary act, a rehabilitation counselor license if the applicant has either:

(1) completed a minimum of 45 graduate semester hours, which includes a master's degree or doctorate from a regionally accredited institution of higher education, in subject matter that is primarily counseling or rehabilitation counseling in content; and has documented five years of experience in the practice of rehabilitation counseling acceptable to the committee prior to the date of application for licensure. The board shall waive written examination of these applicants; or

(2) completed a master's degree of fewer than 45 semester hours or bachelor's degree from a regionally accredited institution of higher education in subject matter that is primarily counseling or a related field in content; has documented 10 years of experience, during the last 15 years immediately preceding the enactment date of this amendatory and supplementary act, in the practice of rehabilitation counseling acceptable to the committee; and provides evidence that he has passed the Certified Rehabilitation Counselor Examination by the Commission on Rehabilitation Certification.

11. Section 9 of P.L.1993, c.340 (C.45:8B-42) is amended to read as follows:

C.45:8B-42 Review by committee of applicants.

9. The committee shall review the qualifications of each person who applies for licensure. No applicant shall be licensed by the board unless a majority of the full committee first determines that the applicant has met the education and experience requirements and performed satisfactorily on the appropriate examination required pursuant to this act. All applicants who are determined to be qualified and are recommended for licensure by the committee shall be considered for licensure by the board. Licenses shall be issued for a period of two years and may be renewed biennially.

The committee is authorized to make recommendations to the board with the final decisions to be made by the board. The board is authorized

to review the actions taken by the committee with respect to the committee's evaluation and examination of applicants for licensure as licensed professional counselors, licensed associate counselors or licensed rehabilitation counselors but the board may reverse, modify or fail to implement any determination by the committee with an affirmative vote of a majority of the board.

12. Section 13 of P.L.1993, c.340 (C.45:8B-46) is amended to read as follows:

C.45:8B-46 Granting of license to practitioner licensed, certified out-of-State.

13. The board may grant a license to practice counseling or rehabilitation counseling to any person who at the time of application is licensed or certified by an agency located in another state, territory or jurisdiction, if in the opinion of the committee the requirements of that licensure or certification are substantially similar to the requirements of this act.

13. Section 15 of P.L.1993, c.340 (C.45:8B-48) is amended to read as follows:

C.45:8B-48 Construction of act.

15. Nothing in this act shall be construed to apply to:

a. The activities and services of qualified members of other professions, including physicians, psychologists, registered nurses, marriage and family therapists, attorneys, social workers or any other professionals licensed by the State, when acting within the scope of their profession and doing work of a nature consistent with their training, provided they do not hold themselves out to the public as possessing a license issued pursuant to this act or represent themselves by any professional title regulated by this act.

b. The activities, services and use of an official title on the part of a person employed as a counselor or rehabilitation counselor by any federal, State, county, or municipal agency; or public or private educational institution, but only when these persons are performing counseling, rehabilitation counseling or activities related to counseling or rehabilitation counseling within the scope of their employment.

c. The activities and services of a student, intern or trainee in counseling or rehabilitation counseling pursuing a course of study in counseling or rehabilitation counseling in a regionally accredited institution of higher education or training institution, if these activities are performed under supervision and constitute a part of the supervised course of study, and if the person is clearly designated a "Counselor intern" or a "Rehabilitation counselor intern".

d. The activities and services in this State of a nonresident person rendered on not more than 30 days during any calendar year, if that person is duly authorized to perform those activities and services under the laws of his residence.

e. The activities and services of a rabbi, priest, minister, Christian Science practitioner or clergyman of any religious denomination or sect, if those activities and services are within the scope of the performance of his regular or specialized ministerial duties and for which no separate charge is made, or when these activities are performed with or without charge, for or under auspices or sponsorship, individually or in conjunction with others, of an established and legally cognizable church, denomination, or sect, and when the person rendering the service remains accountable to the established authority thereof.

f. The activities, services, titles and descriptions of persons employed as professionals or volunteers in the practice of counseling or rehabilitation counseling for public or private nonprofit organizations or charities.

g. The activities and services of persons employed as peer counselors in organizations devoted to prevention of alcoholism, drug abuse, or relief of emotional effects of rape or other crimes, and telephone "hotline" organizations.

14. Section 16 of P.L.1993, c.340 (C.45:8B-49) is amended to read as follows:

C.45:8B-49 Confidentiality of communications.

16. Any communication between a licensed professional counselor, licensed associate counselor or licensed rehabilitation counselor and the person or persons counseled while performing counseling or rehabilitation counseling shall be confidential and its secrecy preserved. This privilege shall not be subject to waiver, except when disclosure is required by State law or when the licensed professional counselor, licensed associate counselor or licensed rehabilitation counselor is a party defendant to a civil, criminal or disciplinary action arising from that counseling or rehabilitation counseling, in which case the waiver of the privilege accorded by this section shall be limited to that action.

15. Section 17 of P.L.1993, c.340 (C.45:8B-50) is amended to read as follows:

C.45:8B-50 Supervision for associate counselor required.

17. No licensed associate counselor shall practice without direct supervision by a licensed professional counselor or a supervisor acceptable to the committee. The plan for supervision of the licensed associate counselor shall be approved by the committee prior to any actual performance of counseling by the licensed associate counselor.

16. This act shall take effect immediately.

Approved July 3, 1997.

CHAPTER 156

AN ACT concerning clinical laboratories and amending and supplementing P.L.1975, c.166.

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

C.45:9-42.41a Clinical laboratory bills, presentation.

1. A clinical laboratory shall present or cause to be presented a claim, bill or demand for payment for clinical laboratory services directly to the recipient of the services, except that the claim, bill or demand for payment may be presented to any of the following:

a. An immediate family member of the recipient of the services or other person legally responsible for the debts or care of the recipient of the services;

b. A third party payer including a health insurer, a health, hospital or medical services corporation, a State approved or federally qualified health maintenance organization in which the recipient of the services is enrolled, a governmental agency or its specified agent which provides health care benefits on behalf of the recipient of the services, and an employer of the recipient of the services who is responsible for payment of the services, provided that billing these payers is consistent with the terms of any applicable contract between the payer and the recipient of the services;

c. A hospital or skilled nursing facility in which the recipient of the services is or has been an inpatient or outpatient;

d. A substance abuse program in which the recipient of the services is or has been a participant; and

e. A nonprofit clinic or other health care provider whose purpose is the promotion of public health, from which the recipient of the services has received health care.

Upon the request of the health care provider who requested the clinical laboratory services, a clinical laboratory shall notify the health care provider of the amount of the claim, bill or demand for payment that was presented to the recipient or the recipient's responsible third party pursuant to this section.

Notwithstanding the provisions of this section to the contrary, in the case of a clinical laboratory which performs services at the request of another clinical laboratory, the clinical laboratory may present the claim, bill or demand for payment to the requesting clinical laboratory.

Notwithstanding the provisions of this section to the contrary, nothing in this section shall affect a contractual agreement between a clinical laboratory and a third party payer regarding presentation of a claim, bill or demand for payment directly to that third party payer.

2. Section 17 of P.L.1975, c.166 (C.45:9-42.42) is amended to read as follows:

C.45:9-42.42 Prohibited activities.

17. No person shall:

a. Operate, maintain, direct, or engage in the business of operating a clinical laboratory, as herein defined, unless he has obtained a clinical laboratory license from the department, or is exempt under the provisions of this act.

b. Collect or receive specimens for analysis by an unlicensed laboratory.

c. Accept specimens for tests from and make reports to persons who are not legally qualified or authorized to submit specimens to clinical laboratories and to receive such reports, but this shall not prohibit the referral of specimens from one licensed clinical laboratory to another similarly licensed under the laws of the state in which it is located, providing the report indicates clearly the clinical laboratory performing the test and the name of the director of such clinical laboratory.

d. Either personally, or through an agent, solicit referral of specimens to his or any other clinical laboratory or contract to perform clinical laboratory examinations of specimens in a manner which offers or implies an offer of rebates to a person or persons submitting specimens, other fee-splitting inducements, participation in any fee-splitting arrangements or other unearned remuneration.

e. Obstruct or interfere with the department or any officer or employee thereof in the performance of any duty imposed by this act.

f. Collect any amounts that were billed in violation of section 1 of P.L.1997, c.156 (C.45:9-42.41a).

3. Section 18 of P.L.1975, c.166 (C.45:9-42.43) is amended to read as follows:

C.45:9-42.43 Violations, penalty.

18. a. Any person convicted of violating any provision of this act or of any rule or regulation adopted hereunder shall be subject to a penalty of not less than $100.00 nor more than $1,000.00 for each violation. The penalty shall be collected, and enforced in summary proceedings under the penalty enforcement law (N.J.S.2A:58-1 et seq.).

b. A person who collects any amounts that were billed in violation of section 1 of P.L.1997, c.156 (C.45:9-42.41a), is liable for, and shall refund on a timely basis to the person who was billed, any amounts so collected.

C.45:9-42.41b Schedule of fees, charges, provided annually.

4. A clinical laboratory shall annually provide a health care provider with a list of its schedule of fees and charges for laboratory services rendered to the health care provider's patients. The clinical laboratory shall promptly provide the health care provider with an updated list of its schedule of fees and charges whenever any changes are made to the list. The clinical laboratory shall include with the list a form to be used by the health care provider to request billing information pursuant to section 1 of this act.

C.45:9-42.41c Interpretation charges permitted.

5. Nothing in this act shall be construed to prevent a health care provider from including a charge for the interpretation of a laboratory test as part of the health care provider's office visit fee.

6. This act shall take effect immediately.

Approved July 3, 1997.

CHAPTER 157

AN ACT concerning cemetery company annual reports and amending N.J.S.8A:4-12.

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

1. N.J.S.8A:4-12 is amended to read as follows:

Annual report; supplemental report and investigation; examination; fees.

8A:4-12. a. Every cemetery company that is not a municipality shall file with the New Jersey Cemetery Board on a form established by the board, an annual report showing the extent of and sources of augmentation of the maintenance and preservation fund, the manner of employment by said cemetery company of the income of the maintenance and preservation fund during the preceding year, which report shall also contain a list of the securities in which said trust funds are invested, the total acreage available and the total number of interment spaces, by type, in the cemetery and the number of interment spaces, by type, that have been conveyed during the preceding year. If the report so filed is deemed inadequate to properly apprise the New Jersey Cemetery Board of the information it requires to effectively administer the provisions of this act, it shall request a supplemental report and in its discretion conduct an investigation of the operations of the cemetery company.

Officials, managers and trustees or employees of every cemetery company that is not a municipality shall exhibit its books, papers and securities to the board when required and otherwise facilitate any examination of said company. Any cemetery official or employee may be required to testify under oath as to the conditions and affairs of the cemetery company.

b. To defray the expenses of examination and administration, each cemetery company, except any municipality or religious corporation, shall, at the time of filing its accounting and report as to its maintenance and preservation fund, but not later than 120 days after the close of the cemetery company's fiscal year, pay to the cemetery board the sum of $2.00 per interment in excess of 25 interments for the preceding fiscal year.

c. The annual report required by this section shall be filed by the cemetery company that is not a municipality no later than 120 days after the close of the cemetery company's fiscal year.

2. This act shall take effect immediately.

Approved July 3, 1997.

CHAPTER 158

AN ACT concerning commercial motor vehicles and amending R.S.39:4-46.

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

1. R.S.39:4-46 is amended to read as follows:

Commercial motor vehicle identification; GVWR to be displayed.

39:4-46. a. Every vehicle used for commercial purposes on a street or highway, except for passenger automobiles and vehicles owned or leased by a pharmacy and utilized for the transportation or delivery of drugs, shall have conspicuously displayed thereon, or on a name plate affixed thereto, the name of the owner, lessee or lessor of the vehicle and the name of the municipality in which the owner, lessee or lessor has his principal place of business. Franchised public utilities and operators of fleets of 50 or more commercial vehicles, shall be exempted from displaying the name of the municipality, provided that their vehicles display a corporate identification number. The sign or name plate shall be in plain view and not less than three inches high. Where available space for lettering is limited, either by the design of the vehicle or by the presence of other legally specified identification markings, making a strict compliance herewith impractical, the size of the lettering required by this section shall be as close to three inches high as is possible, within the limited space area, provided the name is clearly visible and readily identifiable. In the case of a combination of two vehicles the requirements of this section will be served when either unit of the combination conforms with the above identification specifications. No person shall operate or drive or cause or permit to be operated or driven on a road or highway a commercial vehicle, except for passenger automobiles and vehicles owned or leased by a pharmacy and utilized for the transportation or delivery of drugs, which does not conform hereto.

For purposes of this section, a franchised public utility means a public utility, as defined in R.S.48:2-13, that has a defined geographical service territory approved by the Board of Public Utilities.

b. Every owner of a commercial motor vehicle as defined in section 3 of P.L.1990, c.103 (C.39:3-10.11) which has a gross vehicle weight rating or a combined gross vehicle weight rating of 26,001 pounds or more and is registered or principally garaged in this State shall display the gross vehicle weight rating (GVWR) for the vehicle in the manner set forth in subsection a. of this section. For purposes of this subsection, GVWR means the value specified by the manufacturer as the maximum loaded weight of a single or

combination (articulated) vehicle, or registered gross weight, whichever is greater. Any person who knowingly displays or causes to be displayed on a commercial motor vehicle a GVWR less than the actual GVWR, or an owner who knowingly permits a commercial motor vehicle owned by him to be operated in this State with a displayed GVWR less than the actual GVWR shall, for each offense, be fined not more than $5,000, or imprisoned for a term of not more than 90 days, or both.

2. This act shall take effect immediately.

Approved July 3, 1997.

CHAPTER 159

AN ACT concerning special license plates and amending P.L.1979, c.457.

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

1. Section 1 of P.L.1979, c.457 (C.39:3-27.15) is amended to read as follows:

C.39:3-27.15 "Disabled veteran" license plate.

1. Upon the application of any disabled veteran eligible to operate a motor vehicle in this State under the provision of R.S.39:3-10, the Director of the Division of Motor Vehicles may issue for a motor vehicle owned or leased by such a person a license plate bearing the term "Disabled Vet" and registration numbers to be selected from the following registration numbers which shall be reserved for disabled veterans: D V 1 through D V 9999 and 1 D V through 9999 D V. The plate shall resemble the following illustration:

NEW JERSEY
DV1
DISABLED VET

For the purposes of this section, "disabled veteran" shall mean any citizen and resident of this State now or hereafter honorably discharged or released under honorable circumstances from active service in any branch of the Armed Forces of the United States and who has been or shall be

declared by the United States Veterans Administration, or its successor, to have a service-connected disability.

2. This act shall take effect immediately.

Approved July 3, 1997.

CHAPTER 160

AN ACT appropriating $28,390,000 from the "Green Acres, Farmland and Historic Preservation, and Blue Acres Bond Act of 1995," P.L.1995, c.204 for the development 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 to the Department of Environmental Protection from 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, the sum of $28,390,000 for the development of lands by the State for recreation and conservation purposes. This sum shall include administrative costs and shall be allocated for various State park and forest renovation, rehabilitation and development projects as follows:

PARKS AND FORESTS

ESTIMATED COST	*PROJECT*	*COUNTY*
$1,000,000	Allaire	
	Howell Twp.	Monmouth
	Wall Twp.	Monmouth
250,000	Allamuchy	
	Mount Olive Twp.	Morris
	Byram Twp.	Sussex
	Green Twp.	Sussex
	Allamuchy Twp.	Warren

ESTIMATED COST	*PROJECT*	*COUNTY*
200,000	Atsion	
	Shamong Twp.	Burlington
550,000	Bass River	
	Bass River Twp.	Burlington
	Woodland Twp.	Burlington
	Barnegat Twp.	Ocean
	Little Egg Harbor Twp.	Ocean
	Stafford Twp.	Ocean
900,000	Batsto	
	Washington Twp.	Burlington
450,000	Belleplain	
	Dennis Twp.	Cape May
	Upper Twp.	Cape May
	Maurice River Twp.	Cumberland
425,000	Cape May	
	Cape May Point Boro	Cape May
	Lower Twp.	Cape May
400,000	Cheesequake	
	Old Bridge Twp.	Middlesex
50,000	Clark House	
	Princeton Twp.	Mercer
1,800,000	Delaware & Raritan Canal	
	Bordentown City	Burlington
	Bordentown Twp.	Burlington
	Alexandria Twp.	Hunterdon
	Delaware Twp.	Hunterdon
	Frenchtown Boro	Hunterdon
	Kingwood Twp.	Hunterdon
	Lambertville City	Hunterdon
	Stockton Boro	Hunterdon
	West Amwell Twp.	Hunterdon
	Ewing Twp.	Mercer

ESTIMATED COST	*PROJECT*	*COUNTY*
	Hamilton Twp	Mercer
	Hopewell Twp.	Mercer
	Lawrence Twp.	Mercer
	Trenton City	Mercer
	West Windsor Twp.	Mercer
	New Brunswick City	Middlesex
	Plainsboro Twp.	Middlesex
	South Brunswick Twp.	Middlesex
	Franklin Twp.	Somerset
	Hillsborough Twp.	Somerset
	Manville Boro	Somerset
	Millstone Boro	Somerset
	Montgomery Twp.	Somerset
	South Bound Brook Boro	Somerset
500,000	Double Trouble	
	Berkeley Twp.	Ocean
	Lacey Twp.	Ocean
740,000	Fort Mott	
	Pennsville Twp.	Salem
175,000	Green Bank	
	Washington Twp.	Burlington
500,000	Grover Cleveland	
	West Caldwell Twp.	Essex
100,000	Hacklebarney	
	Tewksbury Twp.	Hunterdon
	Chester Twp.	Morris
	Washington Twp.	Morris
	Bedminister Twp.	Somerset
75,000	Hancock House	
	Lower Alloways Creek Twp.	Salem

ESTIMATED COST	*PROJECT*	*COUNTY*
2,250,000	High Point	
	Frankford Twp.	Sussex
	Montague Twp.	Sussex
	Wantage Twp.	Sussex
250,000	Hopatcong	
	Roxbury Twp.	Morris
	Hopatcong Boro	Sussex
850,000	Island Beach	
	Berkeley Twp.	Ocean
	Ocean Twp.	Ocean
400,000	Jenny Jump	
	Allamuchy Twp.	Warren
	Blairstown Twp.	Warren
	Frelinghuysen Twp.	Warren
	Hope Twp.	Warren
	Independence Twp.	Warren
	Liberty Twp.	Warren
	White Twp.	Warren
1,500,000	Kittatinny Valley	
	Andover Boro	Sussex
	Andover Twp.	Sussex
	Byram Twp.	Sussex
	Frankford Twp.	Sussex
	Fredon Twp.	Sussex
	Hampton Twp.	Sussex
	Lafayette Twp.	Sussex
	Newton Town	Sussex
	Sparta Twp.	Sussex
	Stillwater Twp.	Sussex
	Blairstown Twp.	Warren
	Frelinghuysen Twp.	Warren
	Hardwick Twp.	Warren
	Knowlton Twp.	Warren
655,000	Lebanon	
	Pemberton Twp.	Burlington

ESTIMATED COST	*PROJECT*	*COUNTY*
	Southampton Twp.	Burlington
	Woodland Twp.	Burlington
	Manchester Twp.	Ocean
250,000	Long Pond Ironworks	
	Ringwood Boro	Passaic
	West Milford Twp.	Passaic
800,000	Monmouth Battlefield	
	Freehold Twp.	Monmouth
	Manalapan Twp.	Monmouth
300,000	Parvin	
	Pittsgrove Twp.	Salem
2,550,000	Ringwood	
	Mahwah Twp.	Bergen
	Ringwood Boro	Passaic
1,500,000	Rockingham	
	Franklin Twp.	Somerset
350,000	Round Valley	
	Clinton Twp.	Hunterdon
150,000	Six Mile Run	
	Franklin Twp.	Somerset
470,000	Spruce Run	
	Union Twp.	Hunterdon
1,150,000	Stokes	
	Frankford Twp	Sussex
	Hampton Twp.	Sussex
	Montague Twp.	Sussex
	Sandyston Twp.	Sussex
	Walpack Twp.	Sussex
	Wantage Twp.	Sussex

ESTIMATED COST	*PROJECT*	*COUNTY*
100,000	Swartswood	
	Hampton Twp.	Sussex
	Stillwater Twp.	Sussex
400,000	Twin Lights	
	Highlands Boro	Monmouth
100,000	Von Steuben House	
	River Edge Boro	Bergen
300,000	Voorhees	
	High Bridge Boro	Hunterdon
	Lebanon Twp.	Hunterdon
150,000	Wallace House	
	Somerville Boro	Somerset
500,000	Walt Whitman	
	Camden City	Camden
800,000	Washington Crossing	
	Ewing Twp.	Mercer
	Hopewell Twp.	Mercer
900,000	Wawayanda	
	West Milford Twp.	Passaic
	Vernon Twp.	Sussex
1,900,000	Worthington	
	Blairstown Twp.	Warren
	Knowlton Twp.	Warren
	Pahaquarry Twp.	Warren
100,000	Fire Towers:	
	Apple Pie Tower	
	Tabernacle Twp.	Burlington
	Bass River Tower	
	Bass River Twp.	Burlington
	Batsto Tower	
	Washington Twp.	Burlington
	Bearfort Tower	
	West Milford Twp.	Passaic

ESTIMATED COST	*PROJECT*	*COUNTY*
	Belleplain Tower Dennis Twp.	Cape May
	Blue Anchor Tower Winslow Twp.	Camden
	Budd Lake Tower Mount Olive Twp.	Morris
	Catfish Tower Pahaquarry Twp.	Warren
	Cedar Bridge Tower Lacey Twp.	Ocean
	Culvers Tower Sandyston Twp.	Sussex
	Dias Creek Tower Middle Twp.	Cape May
	Graystone Tower Denville Twp.	Morris
	Jamesburg Tower Monroe Twp.	Middlesex
	Lakewood Tower Lakewood Twp.	Ocean
	Lebanon Tower Woodland Twp.	Burlington
	McKeetown Tower Egg Harbor Twp.	Atlantic
	Medford Tower Medford Twp.	Burlington
	Millville Tower Millville City	Cumberland
	Milton Tower Jefferson Twp.	Morris
	Mizpah Tower Hamilton Twp.	Atlantic
	Ramapo Tower Wanaque Boro	Passaic
400,000	Forest Resource Education Ctr. Jackson Twp.	Ocean

ESTIMATED COST	*PROJECT*	*COUNTY*
1,000,000	Statewide Env./ Health/ Life-Safety	All
200,000	Statewide Demolition	All
28,390,000		

b. Any transfer of funds, change in project sponsor, or change in project site or type listed in subsection a. of this section shall require the approval of the Joint Budget Oversight Committee or its successor.

c. To the extent that moneys remain available after the projects listed in subsection a. of this section are offered funding pursuant thereto, the projects listed in P.L.1997, c.163 shall be eligible for additional funding, including administrative costs, utilizing those remaining moneys, in a sequence consistent with the priority system established by the Department of Environmental Protection, and with the approval of the Joint Budget Oversight Committee or its successor.

2. The expenditure of the sums appropriated by this act is subject to the provisions and conditions of P.L.1995, c.204.

3. This act shall take effect immediately.

Approved July 10, 1997.

CHAPTER 161

AN ACT concerning the use of alcoholic beverages in certain cases and amending P.L.1979, c.264.

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

1. Section 1 of P.L.1979, c.264 (C.2C:33-15) is amended to read as follows:

C.2C:33-15 Possession, consumption of alcoholic beverages by persons under legal age; penalty.

1. a. Any person under the legal age to purchase alcoholic beverages who knowingly possesses without legal authority or who knowingly

consumes any alcoholic beverage in any school, public conveyance, public place, or place of public assembly, or motor vehicle, is guilty of a disorderly persons offense, and shall be fined not less than $500.00.

b. Whenever this offense is committed in a motor vehicle, the court shall, in addition to the sentence authorized for the offense, suspend or postpone for six months the driving privilege of the defendant. Upon the conviction of any person under this section, the court shall forward a report to the Division of Motor Vehicles stating the first and last day of the suspension or postponement period imposed by the court pursuant to this section. If a person at the time of the imposition of a sentence is less than 17 years of age, the period of license postponement, including a suspension or postponement of the privilege of operating a motorized bicycle, shall commence on the day the sentence is imposed and shall run for a period of six months after the person reaches the age of 17 years.

If a person at the time of the imposition of a sentence has a valid driver's license issued by this State, the court shall immediately collect the license and forward it to the division along with the report. If for any reason the license cannot be collected, the court shall include in the report the complete name, address, date of birth, eye color, and sex of the person as well as the first and last date of the license suspension period imposed by the court.

The court shall inform the person orally and in writing that if the person is convicted of operating a motor vehicle during the period of license suspension or postponement, the person shall be subject to the penalties set forth in R.S.39:3-40. A person shall be required to acknowledge receipt of the written notice in writing. Failure to receive a written notice or failure to acknowledge in writing the receipt of a written notice shall not be a defense to a subsequent charge of a violation of R.S.39:3-40.

If the person convicted under this section is not a New Jersey resident, the court shall suspend or postpone, as appropriate, the non-resident driving privilege of the person based on the age of the person and submit to the division the required report. The court shall not collect the license of a non-resident convicted under this section. Upon receipt of a report by the court, the division shall notify the appropriate officials in the licensing jurisdiction of the suspension or postponement.

c. In addition to the general penalty prescribed for a disorderly persons offense, the court may require any person who violates this act to participate in an alcohol education or treatment program, authorized by the Department of Health and Senior Services, for a period not to exceed the maximum period of confinement prescribed by law for the offense for which the individual has been convicted.

d. Nothing in this act shall apply to possession of alcoholic beverages by any such person while actually engaged in the performance of employ-

ment pursuant to an employment permit issued by the Director of the Division of Alcoholic Beverage Control, or for a bona fide hotel or restaurant, in accordance with the provisions of R.S.33:1-26, or while actively engaged in the preparation of food while enrolled in a culinary arts or hotel management program at a county vocational school or post secondary educational institution.

e. The provisions of section 3 of P.L.1991, c.169 (C.33:1-81.1a) shall apply to a parent, guardian or other person with legal custody of a person under 18 years of age who is found to be in violation of this section.

2. This act shall take effect immediately.

Approved July 10, 1997.

CHAPTER 162

AN ACT revising the taxation of gas and electric public utilities and certain telecommunications companies, and sales of electricity, natural gas and energy transportation service, in order to preserve certain revenues under transitions to more competitive markets in energy and telecommunications, revising and repealing various sections of statutory law.

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

1. Section 3 of P.L.1945, c.162 (C.54:10A-3) is amended to read as follows:

C.54:10A-3 Corporations exempt.

3. The following corporations shall be exempt from the tax imposed by this act:

(a) Corporations subject to a tax assessed upon the basis of gross receipts, or insurance premiums collected;

(b) Corporations which operate regular route autobus service within this State under operating authority conferred pursuant to R.S.48:4-3, provided, however, that such corporations shall not be exempt from the tax on net income imposed by section 5(c) of P.L.1945, c.162 (C.54:10A-5);

(c) Railroad, canal corporations, savings banks, production credit associations organized under the Farm Credit Act of 1933, agricultural cooperative associations incorporated or domesticated under or subject to chapter 13 of Title 4 of the Revised Statutes and exempt under Subtitle A,

Chapter 1F, Part IV, Section 521 of the federal Internal Revenue Code (26 U.S.C. s.521), or building and loan or savings and loan associations;

(d) Cemetery corporations not conducted for pecuniary profit or any private shareholder or individual;

(e) Nonprofit corporations, associations or organizations established, organized or chartered, without capital stock, under the provisions of Title 15, 16 or 17 of the Revised Statutes, Title 15A of the New Jersey Statutes or under a special charter or under any similar general or special law of this or any other State, and not conducted for pecuniary profit of any private shareholders or individual;

(f) Sewerage and water corporations subject to a tax under the provisions of P.L.1940, c.5 (C.54:30A-49 et seq.) or any statute or law imposing a similar tax or taxes;

(g) Nonstock corporations organized under the laws of this State or of any other state of the United States to provide mutual ownership housing under federal law by tenants, provided, however, that the exemption hereunder shall continue only so long as the corporations remain subject to rules and regulations of the Federal Housing Authority and the Commissioner of the Federal Housing Authority holds membership certificates in the corporations and the corporate property is encumbered by a mortgage deed or deed of trust insured under the National Housing Act (48 Stat.1246) as amended by subsequent Acts of Congress. In order to be exempted under this subsection, corporations shall annually file a report on or before August 15 with the commissioner, in the form required by the commissioner, to claim such exemption, and shall pay a filing fee of $25.00;

(h) Corporations not for profit organized under any law of this State where the primary purpose thereof is to provide for its shareholders or members housing in a retirement community as the same is defined under the provisions of the "Retirement Community Full Disclosure Act," P.L.1969, c.215 (C.45:22A-1 et seq.);

(i) Corporations which are licensed as insurance companies under the laws of another state, including corporations which are surplus lines insurers declared eligible by the Commissioner of Banking and Insurance pursuant to section 11 of P.L.1960, c.32 (C.17:22-6.45) to insure risks within this State; and

(j) Municipal electric corporations or utilities that are in existence as of January 1, 1995 and were exempt from tax under the provisions of P.L.1940, c.5 (C.54:30A-49 et seq.).

2. Section 4 of P.L.1945, c.162 (C.54:10A-4) is amended to read as follows:

C.54:10A-4 Definitions.

4. For the purposes of this act, unless the context requires a different meaning:

(a) "Commissioner" shall mean the Director of the Division of Taxation of the State Department of the Treasury.

(b) "Allocation factor" shall mean the proportionate part of a taxpayer's net worth or entire net income used to determine a measure of its tax under this act.

(c) "Corporation" shall mean any corporation, joint-stock company or association and any business conducted by a trustee or trustees wherein interest or ownership is evidenced by a certificate of interest or ownership or similar written instrument.

(d) "Net worth" shall mean the aggregate of the values disclosed by the books of the corporation for (1) issued and outstanding capital stock, (2) paid-in or capital surplus, (3) earned surplus and undivided profits, and (4) surplus reserves which can reasonably be expected to accrue to holders or owners of equitable shares, not including reasonable valuation reserves, such as reserves for depreciation or obsolescence or depletion. Notwithstanding the foregoing, net worth shall not include any deduction for the amount of the excess depreciation described in paragraph (2)(F) of subsection (k) of this section. The foregoing aggregate of values shall be reduced by 50% of the amount disclosed by the books of the corporation for investment in the capital stock of one or more subsidiaries, which investment is defined as ownership (1) of at least 80% of the total combined voting power of all classes of stock of the subsidiary entitled to vote and (2) of at least 80% of the total number of shares of all other classes of stock except nonvoting stock which is limited and preferred as to dividends. In the case of investment in an entity organized under the laws of a foreign country, the foregoing requisite degree of ownership shall effect a like reduction of such investment from the net worth of the taxpayer, if the foreign entity is considered a corporation for any purpose under the United States federal income tax laws, such as (but not by way of sole examples) for the purpose of supplying deemed paid foreign tax credits or for the purpose of status as a controlled foreign corporation. In calculating the net worth of a taxpayer entitled to reduction for investment in subsidiaries, the amount of liabilities of the taxpayer shall be reduced by such proportion of the liabilities as corresponds to the ratio which the excluded portion of the subsidiary values bears to the total assets of the taxpayer.

In the case of banking corporations which have international banking facilities as defined in subsection (n), the foregoing aggregate of values shall also be reduced by retained earnings of the international banking facility. Retained earnings means the earnings accumulated over the life of such

facility and shall not include the distributive share of dividends paid and federal income taxes paid or payable during the tax year.

If in the opinion of the commissioner, the corporation's books do not disclose fair valuations the commissioner may make a reasonable determination of the net worth which, in his opinion, would reflect the fair value of the assets, exclusive of subsidiary investments as defined aforesaid, carried on the books of the corporation, in accordance with sound accounting principles, and such determination shall be used as net worth for the purpose of this act.

(e) "Indebtedness owing directly or indirectly" shall include, without limitation thereto, all indebtedness owing to any stockholder or shareholder and to members of his immediate family where a stockholder and members of his immediate family together or in the aggregate own 10% or more of the aggregate outstanding shares of the taxpayer's capital stock of all classes.

(f) "Investment company" shall mean any corporation whose business during the period covered by its report consisted, to the extent of at least 90% thereof of holding, investing and reinvesting in stocks, bonds, notes, mortgages, debentures, patents, patent rights and other securities for its own account, but this shall not include any corporation which: (1) is a merchant or a dealer of stocks, bonds and other securities, regularly engaged in buying the same and selling the same to customers; or (2) had less than 90% of its average gross assets in New Jersey, at cost, invested in stocks, bonds, debentures, mortgages, notes, patents, patent rights or other securities or consisting of cash on deposit during the period covered by its report; or (3) is a banking corporation or a financial business corporation as defined in the Corporation Business Tax Act.

(g) "Regulated investment company" shall mean any corporation which for a period covered by its report, is registered and regulated under the Investment Company Act of 1940 (54 Stat. 789), as amended.

(h) "Taxpayer" shall mean any corporation required to report or to pay taxes, interest or penalties under this act.

(i) "Fiscal year" shall mean an accounting period ending on any day other than the last day of December on the basis of which the taxpayer is required to report for federal income tax purposes.

(j) Except as herein provided, "privilege period" shall mean the calendar or fiscal accounting period for which a tax is payable under this act.

(k) "Entire net income" shall mean total net income from all sources, whether within or without the United States, and shall include the gain derived from the employment of capital or labor, or from both combined, as well as profit gained through a sale or conversion of capital assets. For the purpose of this act, the amount of a taxpayer's entire net income shall be deemed prima facie to be equal in amount to the taxable income, before net

operating loss deduction and special deductions, which the taxpayer is required to report to the United States Treasury Department for the purpose of computing its federal income tax; provided, however, that in the determination of such entire net income,

(1) Entire net income shall exclude for the periods set forth in paragraph (2)(F)(i) of this subsection, any amount, except with respect to qualified mass commuting vehicles as described in section 168(f)(8)(D)(v) of the Internal Revenue Code as in effect immediately prior to January 1, 1984, which is included in a taxpayer's federal taxable income solely as a result of an election made pursuant to the provisions of paragraph (8) of that section.

(2) Entire net income shall be determined without the exclusion, deduction or credit of:

(A) The amount of any specific exemption or credit allowed in any law of the United States imposing any tax on or measured by the income of corporations;

(B) Any part of any income from dividends or interest on any kind of stock, securities or indebtedness, except as provided in paragraph (5) of subsection (k) of this section;

(C) Taxes paid or accrued to the United States, a possession or territory of the United States, a state, a political subdivision thereof, or the District of Columbia on or measured by profits or income, or business presence or business activity, or the tax imposed by this act, or any tax paid or accrued with respect to subsidiary dividends excluded from entire net income as provided in paragraph (5) of subsection (k) of this section;

(D) (Deleted by amendment, P.L.1985, c.143.)

(E) (Deleted by amendment, P.L.1995, c.418.)

(F) (i) The amount by which depreciation reported to the United States Treasury Department for property placed in service on and after January 1, 1981, but prior to taxpayer fiscal or calendar accounting years beginning on and after the effective date of P.L.1993, c.172, for purposes of computing federal taxable income in accordance with section 168 of the Internal Revenue Code in effect after December 31, 1980, exceeds the amount of depreciation determined in accordance with the Internal Revenue Code provisions in effect prior to January 1, 1981, but only with respect to a taxpayer's accounting period ending after December 31, 1981; provided, however, that where a taxpayer's accounting period begins in 1981 and ends in 1982, no modification shall be required with respect to this paragraph (F) for the report filed for such period with respect to property placed in service during that part of the accounting period which occurs in 1981. The provisions of this subparagraph shall not apply to assets placed in service prior to January 1, 1998 of a gas, gas and electric, and electric public utility

that was subject to the provisions of P.L.1940, c.5 (C.54:30A-49 et seq.) prior to 1998.

(ii) For the periods set forth in subparagraph (F)(i) of this subsection, any amount, except with respect to qualified mass commuting vehicles as described in section 168(f)(8)(D)(v) of the Internal Revenue Code as in effect immediately prior to January 1, 1984, which the taxpayer claimed as a deduction in computing federal income tax pursuant to a qualified lease agreement under paragraph (8) of that section.

The director shall promulgate rules and regulations necessary to carry out the provisions of this section, which rules shall provide, among others, the manner in which the remaining life of property shall be reported.

(G) (i) The amount of any civil, civil administrative, or criminal penalty or fine, including a penalty or fine under an administrative consent order, assessed and collected for a violation of a State or federal environmental law, an administrative consent order, or an environmental ordinance or resolution of a local governmental entity, and any interest earned on the penalty or fine, and any economic benefits having accrued to the violator as a result of a violation, which benefits are assessed and recovered in a civil, civil administrative, or criminal action, or pursuant to an administrative consent order. The provisions of this paragraph shall not apply to a penalty or fine assessed or collected for a violation of a State or federal environmental law, or local environmental ordinance or resolution, if the penalty or fine was for a violation that resulted from fire, riot, sabotage, flood, storm event, natural cause, or other act of God beyond the reasonable control of the violator, or caused by an act or omission of a person who was outside the reasonable control of the violator.

(ii) The amount of treble damages paid to the Department of Environmental Protection pursuant to subsection a. of section 7 of P.L.1976, c.141 (C.58:10-23.11f), for costs incurred by the department in removing, or arranging for the removal of, an unauthorized discharge upon failure of the discharger to comply with a directive from the department to remove, or arrange for the removal of, the discharge.

(H) The amount of any sales and use tax paid by a utility vendor pursuant to section 71 of P.L.1997, c.162.

(3) The commissioner may, whenever necessary to properly reflect the entire net income of any taxpayer, determine the year or period in which any item of income or deduction shall be included, without being limited to the method of accounting employed by the taxpayer.

(4) There shall be allowed as a deduction from entire net income of a banking corporation, to the extent not deductible in determining federal taxable income, the eligible net income of an international banking facility determined as follows:

(A) The eligible net income of an international banking facility shall be the amount remaining after subtracting from the eligible gross income the applicable expenses;

(B) Eligible gross income shall be the gross income derived by an international banking facility, which shall include, but not be limited to, gross income derived from:

(i) Making, arranging for, placing or carrying loans to foreign persons, provided, however, that in the case of a foreign person which is an individual, or which is a foreign branch of a domestic corporation (other than a bank), or which is a foreign corporation or foreign partnership which is controlled by one or more domestic corporations (other than banks), domestic partnerships or resident individuals, all the proceeds of the loan are for use outside of the United States;

(ii) Making or placing deposits with foreign persons which are banks or foreign branches of banks (including foreign subsidiaries) or foreign branches of the taxpayers or with other international banking facilities;

(iii) Entering into foreign exchange trading or hedging transactions related to any of the transactions described in this paragraph; or

(iv) Such other activities as an international banking facility may, from time to time, be authorized to engage in;

(C) Applicable expenses shall be any expense or other deductions attributable, directly or indirectly, to the eligible gross income described in subparagraph (B) of this paragraph.

(5) Entire net income shall exclude 100% of dividends which were included in computing such taxable income for federal income tax purposes, paid to the taxpayer by one or more subsidiaries owned by the taxpayer to the extent of the 80% or more ownership of investment described in subsection (d) of this section. With respect to other dividends, entire net income shall not include 50% of the total included in computing such taxable income for federal income tax purposes.

(6) (A) Net operating loss deduction. There shall be allowed as a deduction for the taxable year the net operating loss carryover to that year.

(B) Net operating loss carryover. A net operating loss for any taxable year ending after June 30, 1984 shall be a net operating loss carryover to each of the seven years following the year of the loss. The entire amount of the net operating loss for any taxable year (the "loss year") shall be carried to the earliest of the taxable years to which the loss may be carried. The portion of the loss which shall be carried to each of the other taxable years shall be the excess, if any, of the amount of the loss over the sum of the entire net income, computed without the exclusions permitted in paragraphs (4) and (5) of this subsection or the net operating loss deduction provided

by subparagraph (A) of this paragraph, for each of the prior taxable years to which the loss may be carried.

(C) Net operating loss. For purposes of this paragraph the term "net operating loss" means the excess of the deductions over the gross income used in computing entire net income without the net operating loss deduction provided for in subparagraph (A) of this paragraph and the exclusions in paragraphs (4) and (5) of this subsection.

(D) Change in ownership. Where there is a change in 50% or more of the ownership of a corporation because of redemption or sale of stock and the corporation changes the trade or business giving rise to the loss, no net operating loss sustained before the changes may be carried over to be deducted from income earned after such changes. In addition where the facts support the premise that the corporation was acquired under any circumstances for the primary purpose of the use of its net operating loss carryover, the director may disallow the carryover.

(7) The entire net income of gas, electric and gas and electric public utilities and municipal electric corporations that were subject to the provisions of P.L.1940, c.5 (C.54:30A-49 et seq.) prior to 1998, shall be adjusted by substituting the New Jersey depreciation allowance for federal tax depreciation with respect to assets placed in service prior to January 1, 1998. For gas, electric, and gas and electric public utilities, and municipal electric corporations that were subject to the provisions of P.L.1940, c.5 (C.54:30A-49 et seq.) prior to 1998, the New Jersey depreciation allowance shall be computed as follows: All depreciable assets placed in service prior to January 1, 1998 shall be considered a single asset account. The New Jersey tax basis of this depreciable asset account shall be an amount equal to the carryover adjusted basis for federal income tax purposes on December 31, 1997 of all depreciable assets in service on December 31, 1997, increased by the excess, of the "net carrying value," defined to be adjusted book basis of all assets and liabilities, excluding deferred income taxes, recorded on the public utility's books of account on December 31, 1997, over the carryover adjusted basis for federal income tax purposes on December 31, 1997 of all assets and liabilities owned by the gas, electric, or gas and electric public utility or municipal electric corporation as of December 31, 1997. "Books of account" for gas, gas and electric, and electric public utilities and municipal electric corporations means the uniform system of accounts as promulgated by the Federal Energy Regulatory Commission and adopted by the Board of Public Utilities. The following adjustments to entire net income shall be made pursuant to this section:

(A) Depreciation for property placed in service prior to January 1, 1998 shall be adjusted as follows:

(i) Depreciation for federal income tax purposes shall be disallowed in full.

(ii) A deduction shall be allowed for the New Jersey depreciation allowance. The New Jersey depreciation allowance shall be computed for the single asset account described above based on the New Jersey tax basis as adjusted above as if all assets in the single asset account were first placed in service on January 1, 1998. Depreciation shall be computed using the straight line method over a thirty-year life. A full year's depreciation shall be allowed in the initial tax year. No half-year convention shall apply. The depreciable basis of the single account shall be reduced by the adjusted federal tax basis of assets sold, retired, or otherwise disposed of during any year on which gain or loss is recognized for federal income tax purposes as described in subparagraph (B) of this paragraph.

(B) Gains and losses on sales, retirements and other dispositions of assets placed in service prior to January 1, 1998 shall be recognized and reported on the same basis as for federal income tax purposes.

(C) The Director of the Division of Taxation shall promulgate regulations describing the methodology for allocating the single asset account in the event that a portion of the utility's operations are separated, spun-off, transferred to a separate company or otherwise disaggregated.

(8) In the case of taxpayers that are gas, electric, gas and electric, or telecommunication public utilities as defined pursuant to subsection (q) of this section, the director shall have authority to promulgate rules and issue guidance correcting distortions and adjusting timing differences resulting from the adoption of P.L.1997, c.162 (C.54:10A-5.25 et al.).

(l) "Real estate investment trust" shall mean any corporation, trust or association qualifying and electing to be taxed as a real estate investment trust under federal law.

(m) "Financial business corporation" shall mean any corporate enterprise which is (1) in substantial competition with the business of national banks and which (2) employs moneyed capital with the object of making profit by its use as money, through discounting and negotiating promissory notes, drafts, bills of exchange and other evidences of debt; buying and selling exchange; making of or dealing in secured or unsecured loans and discounts; dealing in securities and shares of corporate stock by purchasing and selling such securities and stock without recourse, solely upon the order and for the account of customers; or investing and reinvesting in marketable obligations evidencing indebtedness of any person, copartnership, association or corporation in the form of bonds, notes or debentures commonly known as investment securities; or dealing in or underwriting obligations of the United States, any state or any political subdivision thereof, or of a corporate instrumentality of any of them. This

shall include, without limitation of the foregoing, business commonly known as industrial banks, dealers in commercial paper and acceptances, sales finance, personal finance, small loan and mortgage financing businesses, as well as any other enterprise employing moneyed capital coming into competition with the business of national banks; provided that the holding of bonds, notes, or other evidences of indebtedness by individual persons not employed or engaged in the banking or investment business and representing merely personal investments not made in competition with the business of national banks, shall not be deemed financial business. Nor shall "financial business" include national banks, production credit associations organized under the Farm Credit Act of 1933 or the Farm Credit Act of 1971, Pub.L. 92-181 (12 U.S.C. s.2091 et seq.), stock and mutual insurance companies duly authorized to transact business in this State, security brokers or dealers or investment companies or bankers not employing moneyed capital coming into competition with the business of national banks, real estate investment trusts, or any of the following entities organized under the laws of this State: credit unions, savings banks, savings and loan and building and loan associations, pawnbrokers, and State banks and trust companies.

(n) "International banking facility" shall mean a set of asset and liability accounts segregated on the books and records of a depository institution, United States branch or agency of a foreign bank, or an Edge or Agreement Corporation that includes only international banking facility time deposits and international banking facility extensions of credit as such terms are defined in section 204.8(a)(2) and section 204.8(a)(3) of Regulation D of the board of governors of the Federal Reserve System, 12 CFR Part 204, effective December 3, 1981. In the event that the United States enacts a law, or the board of governors of the Federal Reserve System adopts a regulation which amends the present definition of international banking facility or of such facilities' time deposits or extensions of credit, the Commissioner of Banking and Insurance shall forthwith adopt regulations defining such terms in the same manner as such terms are set forth in the laws of the United States or the regulations of the board of governors of the Federal Reserve System. The regulations of the Commissioner of Banking and Insurance shall thereafter provide the applicable definitions.

(o) "S corporation" means a corporation included in the definition of an "S corporation" pursuant to section 1361 of the federal Internal Revenue Code of 1986, 26 U.S.C. s.1361.

(p) "New Jersey S corporation" means a corporation that is an S corporation; which has made a valid election pursuant to section 3 of P.L.1993, c.173 (C.54:10A-5.22); and which has been an S corporation

continuously since the effective date of the valid election made pursuant to section 3 of P.L.1993, c.173 (C.54:10A-5.22).

(q) "Public Utility" means "public utility" as defined in R.S.48:2-13.

C.54:10A-5.25 Installment payments of estimated corporation business tax for certain public utilities.

3. a. Gas, electric, gas and electric and telecommunications and municipal electric corporations public utilities that were subject to a public utility tax either pursuant to P.L.1940, c.5 (C.54:30A-17 et seq.) or P.L.1940, c.4 (C.54:30A-49 et seq.) as of December 31, 1996, shall be required to file and remit installment payments of estimated corporation business tax pursuant to the provisions of subsection (f) of section 15 of P.L.1945, c.162 (C.54:10A-15) during the calendar year in which those taxpayers first become subject to the corporation business tax, provided however, that the provisions of subsection d. of section 5 of P.L.1981, c.184 (C.54:10A-15.4) shall not apply to those taxpayers during that year.

b. A telecommunications public utility that makes an advance payment of its applicable gross receipts and franchise tax to the State in the final year of the existence of such tax and treated such advance payment as an asset on its books and records for that year shall be entitled to a credit against its corporation business tax liability equal to the amount of such advance payment. Any unused portion of the credit may be carried forward in full to future privilege periods, provided however, that in any one privilege period the total amount of such credit which the taxpayer may utilize to pay its corporation business tax liability shall not exceed $5,000,000. Any gas, electric, or gas and electric public utility taxpayer that has made any advance credit payment pursuant to P.L.1940, c.5 (C.54:30A-49 et seq.), shall not be eligible for a credit for such amount or any part thereof to offset any liability under P.L.1945, c.162. Under no circumstances may any portion of an unused $5,000,000 per year credit be subject to refund.

c. All amounts remitted under P.L.1945, c.162 by any gas, electric, gas and electric or telecommunication public utility or municipal electric corporation shall be separately accounted for by the State Treasurer.

d. A public utility, including a municipal electric corporation with gas, electric or telecommunications operations or any of them shall file with the Board of Public Utilities amendments to its existing tariffs, contracts or schedules of service designating the appropriate apportionment of its corporation business tax liability in these tariffs, contracts or schedules so that rates will not be increased for any class of ratepayer as a result of the transition to this tax. The board may permit gas, electric, gas and electric or telecommunications public utilities or municipal electric corporations to establish new tariffs, contracts or schedules, or to amend existing tariffs,

contracts or schedules, as necessary to comply with the provisions of this act.

e. A qualified taxpayer may claim a corporation business tax credit in accordance with the provisions of section 53 of P.L.1997, c.162 (C.54:30A-117) and for local energy utility franchise taxes paid and subject to the limitations of subparagraph (C) of paragraph (2) of subsection (k) of section 4 of P.L.1945, c.162 (C. 54:10A-4).

f. A municipal electric corporation or utility that is required to file a corporation business tax return that is not required to file a federal corporation tax return shall file with the director a pro-forma federal corporation tax return at the same time it files its corporation business tax return. The director may promulgate rules and regulations and issue guidance with respect to all issues related to the pro-forma federal corporation tax return.

C.54:10A-5.26 Determination of taxpayer's liability.

4. If, in the first full privilege period commencing after the assessment under the Transitional Energy Facility Assessment Act, established in sections 36 through 49 of P.L.1997, c.162 (C.54:30A-100 through C.54:30A-113), has terminated, or in any subsequent privilege period thereafter, a taxpayer that was formerly subject to the Transitional Energy Facility Assessment Act and whose liability under the Corporation Business Tax Act (1945), P.L.1945, c.162 (C.54:10A-1 et seq.), for such privilege period after the assessment under the Transitional Energy Facility Assessment Act has terminated, is less than the taxpayer's liability for the first full privilege period as a taxpayer under P.L.1945, c.162, then that taxpayer or corporate or noncorporate legal successor or assignee whether through any reorganization, sale, bankruptcy, consolidation, merger, or other transaction or occurrence of any kind without limitation, shall pay as its liability under P.L.1945, c.162 for any of those privilege periods after the assessment under the Transitional Energy Facility Assessment Act has terminated an amount equal to the higher of:

a. The amount of its corporation business tax liability for that privilege period as would otherwise be computed under P.L.1945, c.162; or

b. The amount of corporation business tax it would be liable to pay for such privilege period if its gas or electric operations were accounted for on a separate basis, pursuant to regulations as may be promulgated by the director.

5. The title of P.L.1940, c.5 is amended to read as follows:

Title amended.

An act for the taxation of the gross receipts of sewerage and water corporations, using or occupying the public streets, highways, roads or other

public places, for the exemption from taxation of the franchises, stock and certain property of such corporations, and for the taxation of certain of the property of such corporations not so exempted from taxation.

6. Section 1 of P.L.1940, c.5 (C.54:30A-49) is amended to read as follows:

C.54:30A-49 Purpose of act.

1. The purpose of this act is to provide a complete scheme and method for the taxation of sewerage and water corporations using or occupying the public streets, highways, roads or other public places, to exempt from taxation other than imposed by this act the franchises, stock, and certain property of such corporations and for the taxation of the property of such corporations not so exempted from taxation; and the reimbursement to the State of certain costs and expenses incurred in the imposition of such taxes.

7. Section 2 of P.L.1940, c.5 (C.54:30A-50) is amended to read as follows:

C.54:30A-50 Definitions.

2. Definitions. As used in this act--unless the context otherwise requires:

(a) "Taxpayer" means any corporation subject to taxation under the provisions of this act.

(b) "Real estate" means lands and buildings of taxpayers, but it does not include pipes, conduits, bridges, viaducts, dams and reservoirs (except that the lands upon which dams and reservoirs are situated are real estate), machinery, apparatus and equipment, notwithstanding any attachment thereof to lands or buildings.

(c) "Gross receipts" means all receipts from the taxpayer's business over, in, through or from the whole of its lines or mains but does not include any sum or sums of money received by the taxpayer in payment for water sold and furnished to another public utility which is also subject to the payment of a tax based upon its gross receipts, or to a gas, electric or gas and electric public utility subject to the payment of taxes pursuant to P.L.1997, c.162 (C.54:10A-5.25 et al.), nor any sum or sums of money received by the taxpayer in payment for water sold or furnished that is used to generate electricity that is sold for resale or to an end user other than the one on-site end user upon whose property is located a co-generation facility or self-generation unit that generated the electricity or upon the property purchased or leased from the one on-site end user by the person owning the co-generation facility or self-generation unit if such property is contiguous to the user's property and is the property upon which is located a co-generation

facility or self-generation unit that generated the electricity, nor in the case of a sewerage corporation, an amount equal to any sum or sums of money payable by such sewerage corporation to any board, commission, department, branch, agency or authority of the State or of any county or municipality, for the treatment, purification or disposal of sewage or other wastes, nor in the case of a water purveyor, the amount which represents the water tax imposed by section 11 of P.L.1983, c.443 (C.58:12A-21) and which is included in the tariff altered pursuant to section 6 of P.L.1983, c.443 (C.58:12A-17).

(d) (Deleted by amendment, P.L.1997, c.162.)

(e) (Deleted by amendment, P.L.1997, c.162.)

(f) (Deleted by amendment, P.L.1997, c.162.)

(g) "Public street, highway, road or other public place" includes any street, highway, road or other public place which is open and used by the public, even though the same has not been formally accepted as a public street, highway, road, or other public place. However, for purposes of computing the tax in connection with lines or mains installed prior to February 19, 1991, "public street, highway, road or other public place" shall not mean or include non-restricted roadways, such as extended residential, commercial or recreational facility driveways, or dead end streets, cul-de-sacs or alleys which are connected to public roadways and are for access to or the use of supermarkets, shopping malls, planned communities and the connecting roads within or around the above facilities whether these roadways shall be located on public or private property, unless such shall have been determined a "public street, highway, road or other public place" for the purposes of P.L.1940, c.5 (C.54:30A-49 et seq.) prior to February 19, 1991.

(h) "Service connections" means the pipes connecting the building or place where the service or commodity supplied by the taxpayer is used or delivered, or is made available for use or delivery, with a supply line or supply main in the street, highway, road, or other public place, or with such supply line or supply main on private property.

(i) "State Tax Commissioner" or "director" means the Director of the Division of Taxation in the Department of the Treasury.

(j) (Deleted by amendment, P.L.1997, c.162.)

(k) (Deleted by amendment, P.L.1997, c.162.)

(l) (Deleted by amendment, P.L.1997, c.162.)

(m) (Deleted by amendment, P.L.1997, c.162.)

(n) (Deleted by amendment, P.L.1997, c.162.)

8. Section 3 of P.L.1940, c.5 (C.54:30A-51) is amended to read as follows:

C.54:30A-51 Taxation of sewerage, water corporations.

3. Sewerage and water corporations using or occupying public streets, highways, roads or other public places, and their property and franchises, shall be subject to taxation only as in this act provided. Any such corporation shall not be subject to any other taxes upon its property, franchises, stock or gross receipts, and the shares of stock of any such corporation shall not be taxed in the hands of shareholders.

9. Section 4 of P.L.1940, c.5 (C.54:30A-52) is amended to read as follows:

C.54:30A-52 Taxation of real estate.

4. All the real estate as herein defined, owned or held by any taxpayer shall be assessed and taxed at local rates in the manner provided by law for the taxation of similar property owned by other corporations or individuals, and all proceedings for appeal, review and collection available to municipalities and other corporations or individuals with respect to similar property shall be applicable.

10. Section 6 of P.L.1940, c.5 (C.54:30A-54) is amended to read as follows:

C.54:30A-54 Excise tax for sewerage, water corporation; rate; certain amount computed; average tax.

6. Every sewerage and water corporation using or occupying the public streets, highways, roads, or other public places in this State shall, annually, pay excise taxes for the privilege of exercising its franchises and using the public streets, highways, roads or other public places in this State, as follows:

(a) A tax computed at the rate of 5% of such proportion of the gross receipts of such taxpayer for the preceding calendar year as the length of the lines or mains in this State, located along, in or over any public street, highway, road or other public place, exclusive of service connections, bears to the whole length of its lines or mains, exclusive of service connections. In case the gross receipts of any such taxpayer for any calendar year shall not exceed $50,000.00 the tax on such taxpayer for such calendar year shall be computed at the rate of 2% instead of at the rate of 5%.

(b) A tax at the rate of 7 % upon the gross receipts of such taxpayer for the preceding calendar year from its business over, on, in, through or from its lines or mains in the State of New Jersey.

(c) In addition to the excise taxes imposed in subsections (a) and (b) hereof, every sewerage and water corporation which is subject to the taxes

imposed thereunder shall also pay to the State excise taxes for the franchise to operate and conduct business within the State and to use the public streets, highways, roads or other public places in the State as follows:

(1) A tax computed at the rate of 0.625% of such proportion of the gross receipts of such taxpayer for the preceding calendar year as the length of the lines or mains in this State, located along, in or over any public street, highway, road or other public place, exclusive of service connections, bears to the whole length of its lines or mains, exclusive of service connections. In case the gross receipts of any such taxpayer for any calendar year shall not exceed $50,000.00 the tax on such taxpayer for such calendar year shall be computed at the rate of 0.25% instead of at the rate of 0.625%.

(2) A tax at the rate of 0.9375% upon the gross receipts of such taxpayer for the preceding calendar year from its business over, on, in, through or from its lines or mains in the State of New Jersey.

11. Section 8 of P.L.1963, c.42 (C.54:30A-54.1) is amended to read as follows:

C.54:30A-54.1 Computation, certification of excise taxes.

8. The director shall annually, on or before April 1, 1964, and April 1 in each year thereafter, compute the excise taxes payable to the State as provided in subsection (c) of section 6 hereof. Within five days after making such computation, the director shall certify such taxes and the taxes provided for in section 2 of this act as a partial payment to the respective taxpayers who shall make payment thereof to the director on or before May 1 next succeeding.

12. Section 2 of P.L.1971, c.108 (C.54:30A-54.1a) is amended to read as follows:

C.54:30A-54.1a Amount, payment of tax.

2. a. For sewerage and water corporations, on or before May 1, 1971, except as hereinafter provided, and on or before May 1 of each year thereafter, every person, copartnership, association or corporation subject to the excise tax imposed by section 6 of P.L.1940, c.5 (C.54:30A-54) shall pay to the director an amount equal to 1/2 of the tax payable under section 6 of P.L.1940, c.5 (C.54:30A-54) upon its gross receipts determined thereunder for the preceding calendar year. Each such payment shall be in addition to the tax payable under section 6 of P.L.1940, c.5 (C.54:30A-54) and shall be considered as a partial payment of the tax which will become due under said section upon the following May 1. The additional taxes due on or before May 1, 1971 shall be payable in two equal installments. With respect to the additional taxes herein, the first installment shall be payable

on May 1, 1971 and the second installment thereof shall be payable on or before June 15, 1971.

In the calculation of the tax due in accordance with section 6 of P.L.1940, c.5 (C.54:30A-54) in the year 1972 and each applicable year thereafter, every person, copartnership, association or corporation subject to tax hereunder shall be entitled to a credit in the amount of the tax paid hereunder as a partial payment in the preceding calendar year and shall be entitled to the return, or credit against taxes due and payable in the next year, of any amount so paid which shall be found to be in excess of the total amount payable in accordance with section 6 of P.L.1940, c.5 (C.54:30A-54).

b. (Deleted by amendment, P.L.1997, c.162.)

13. Section 14 of P.L.1991, c.184 (C.54:30A-54.4) is amended to read as follows:

C.54:30A-54.4 Advance payment; computation; due date.

14. a. For sewerage and water corporations, on or before April 1, 1979 and on or before June 1 in each year thereafter, the director shall compute an advance payment equal in amount to 55% of the increase in taxes due under subsections (a) and (b) of section 6 of P.L.1940, c.5 (C.54:30A-54) during the preceding calendar year over the taxes due under such subsections in the calendar year immediately preceding that year. The advance payment shall not be considered for the purpose of determining the amount of the increase. Each such payment shall be in addition to the taxes payable under section 6 of P.L.1940, c.5 (C.54:30A-54) and section 2 of P.L.1971, c.108 (C.54:30A-54.1a) and shall be considered as a partial payment of the tax to become due and payable in the following year.

b. Every taxpayer subject to tax under section 6 of P.L.1940, c.5 (C.54:30A-54) shall be required to remit to the State for the use of the State as an advance payment, an amount equal to the amount as computed in subsection a. of this section payable in two installments as follows: 60% on May 1, 1979 and 40% on August 1, 1979.

c. In the year 1980 and in each year thereafter an advance payment pursuant to subsection a. of this section shall be paid by each taxpayer subject to subsection a. of this section in the manner provided for by law for payment of the taxes due under section 6 of P.L.1940, c.5 (C.54:30A-54).

d. (Deleted by amendment, P.L.1997, c.162.)

14. Section 7 of P.L.1940, c.5 (C.54:30A-55) is amended to read as follows:

C.54:30A-55 Statements by taxpayers operating public utilities.

7. (A) Every taxpayer shall on or before the first day of September, 1941 and on or before the first day of September in each year thereafter return to the Director of the Division of Taxation a statement in such form, manner, and detail as the Director of the Division of Taxation shall require, showing, as of the first day of July of such year:

(1) (Deleted by amendment, P.L.1997, c.162.)

(2) The length of the taxpayer's lines and mains along, in, on or over any public street, highway, road or other public place in this State, exclusive of service connections; and

(3) The whole length of the taxpayer's lines and mains, exclusive of service connections.

(4) (Deleted by amendment, P.L.1997,c.162.)

(B) Every taxpayer shall on or before February 1, 1998, and on or before February 1 in each year thereafter return to the Director of the Division of Taxation a statement showing:

(1) The gross receipts for the preceding calendar year from the business over, on, in, through or from the taxpayer's lines and mains in this State, stated separately for each class of business; and

(2) The gross receipts for the preceding calendar year from the business over, on, in, through or from the whole of the taxpayer's lines and mains.

(3) (Deleted by amendment, P.L.1997, c.162.)

(C) The statements herein provided for shall be subscribed and sworn to by the president, a vice-president or chief officer of the corporation making such return; any taxpayer or refusing or neglecting to make the statements herein provided for shall forfeit and pay to the State of New Jersey the sum of one hundred dollars ($100) per day for each day of such refusal or neglect, to be recovered in an action at law in the name of the State and which, when recovered, shall be paid into the State Treasury. It shall be the duty of the Director of the Division of Taxation to certify any such default to the Attorney General of the State who, thereupon, shall prosecute an action at law for such penalty.

(D) The Director of the Division of Taxation shall audit and verify the statements filed by taxpayers and whenever and in such respects as he shall deem necessary or advisable. The Director of the Division of Taxation may require any taxpayer to supply additional data and information in such form and detail as he shall request, whenever he may deem it necessary or helpful, for the proper performance of his duties under this act.

15. Section 14 of P.L.1940, c.5 (C.54:30A-62) is amended to read as follows:

C.54:30A-62 Certification of excise taxes; statements to taxpayer.

14. Within five days after making the computation of the excise taxes under subsections (a) and (b) of section 6 of P.L.1940, c.5 (C.54:30A-54) the Director of the Division of Taxation shall certify to the State Treasurer the amount of such taxes. At the same time, the director shall issue directly to each taxpayer statements of taxes due, and payments with respect thereto shall be remitted by each taxpayer to the director in the following manner: 35% thereof within 15 days after the date of certification of the computation by the director, 35% thereof on or before August 15 and 30% thereof on or before November 15. The administration, collection and enforcement of the taxes payable by each taxpayer under subsections (a) and (b) of section 6 of P.L.1940, c.5 (C.54:30A-54) and any advance payment or payment of estimated tax liability required with regard to those taxes shall be subject to the provisions of the State Tax Uniform Procedure Law, R.S.54:48-1 et seq., to the extent that the provisions of that law are not inconsistent with the provisions of P.L.1940, c.5 (C.54:30A-49 et seq.).

The director may, by regulation, require that any payment of tax made, on or before the date established pursuant to this section for the payment, shall be by electronic funds transfer to such depositories as the State Treasurer shall designate pursuant to section 1 of P.L.1956, c.174 (C.52:18-16.1). A payment by electronic funds transfer shall be deemed to be made on the date the payment is received by the designated depository. The form and content of the electronic funds transfer message, the circumstances under which an electronic funds transfer shall serve as a substitute for the filing of another form of return, the means by which taxpayers will be provided with acknowledgments of payments, and the classes of taxpayers subject to the electronic funds transfer requirement shall be as prescribed by the director.

For the purposes of this section "electronic funds transfer" means any transfer of funds, other than a transaction originated by check, draft, or similar paper instrument, that is initiated through an electronic terminal, telephone, or computer or magnetic tape for the purpose of ordering, instructing or authorizing a financial institution to debit or credit an account.

16. Section 15 of P.L.1940, c.5 (C.54:30A-63) is amended to read as follows:

C.54:30A-63 Statements to director.

15. When any corporation subject to taxation under this act shall acquire the rights, property and franchises of using and occupying public streets, highways, roads or other public places in this State of persons, copartnerships, associations or corporations then subject to an excise tax

based upon its gross receipts, and shall retain such rights, property and franchises at the end of the calendar year in which such acquisition occurs, then and in such case on or before February 1 of the succeeding year, such acquiring corporation shall return to the Director of the Division of Taxation in the manner and form required by this act and in addition to the statements of gross receipts and length of lines to be filed under this act, a statement showing the gross receipts from the business over, on, in, through or from the lines or mains of the persons, copartnerships, associations or corporations whose rights, property and franchises were acquired as aforesaid, from January 1 of the year in which such property was acquired to the date of such acquisition, together with a statement showing the length of lines or mains as of July 1 of the year in which such acquisition took place, as hereinbefore required, unless such information has previously been supplied and filed with the Director of the Division of Taxation. The total of the gross receipts as shown in both of said statements to the Director of the Division of Taxation, or as otherwise ascertained by him, shall be used in ascertaining and fixing the excise tax imposed by section 6(a) of this act upon such acquiring corporation, and if said rights, property and franchises were acquired from a corporation subject to taxation under this act, then the total of the gross receipts as shown in both of said statements to the Director of the Division of Taxation, or as otherwise ascertained by him, shall be used in ascertaining and fixing the excise tax imposed by section 6(b) of this act upon such acquiring corporation.

The total of the gross receipts as shown in both of said statements to the Director of the Division of Taxation, or as otherwise ascertained by him, shall be used in ascertaining and fixing the excise tax imposed by section 6(c) of this act upon such acquiring corporation.

17. Section 2 of P.L.1966, c.30 (C.54:32B-2) is amended to read as follows:

C.54:32B-2 Definitions.

2. Unless the context in which they occur requires otherwise, the following terms when used in this act shall mean:

(a) Person. Person includes an individual, partnership, society, association, joint stock company, corporation, public corporation or public authority, estate, receiver, trustee, assignee, referee, and any other person acting in a fiduciary or representative capacity, whether appointed by a court or otherwise, and any combination of the foregoing.

(b) Purchase at retail. A purchase by any person at a retail sale.

(c) Purchaser. A person who purchases property or who receives services.

(d) Receipt. The amount of the sales price of any property and the charge for any service taxable under this act, valued in money, whether received in money or otherwise, including any amount for which credit is allowed by the vendor to the purchaser, without any deduction for expenses or early payment discounts, but excluding any credit for property of the same kind that is not tangible personal property purchased for lease accepted in part payment and intended for resale, excluding the cost of transportation where such cost is separately stated in the written contract, if any, and on the bill rendered to the purchaser, and excluding the amount of the sales price for which food stamps have been properly tendered in full or part payment pursuant to the federal Food Stamp Act of 1977, Pub.L.95-113 (7 U.S.C. s.2011 et seq.).

(e) Retail sale. (1) A sale of tangible personal property to any person for any purpose, other than (A) for resale either as such or as converted into or as a component part of a product produced for sale by the purchaser, including the conversion of natural gas into another intermediate or end product, other than electricity or thermal energy, produced for sale by the purchaser, or (B) for use by that person in performing the services subject to tax under subsection (b) of section 3 where the property so sold becomes a physical component part of the property upon which the services are performed or where the property so sold is later actually transferred to the purchaser of the service in conjunction with the performance of the service subject to tax.

(2) For the purposes of this act, the term retail sales includes:

Sales of tangible personal property to all contractors, subcontractors or repairmen of materials and supplies for use by them in erecting structures for others, or building on, or otherwise improving, altering, or repairing real property of others.

(3) For the purposes of this act, the term retail sale includes the purchase of tangible personal property for lease.

(4) The term retail sales does not include:

(A) Professional, insurance, or personal service transactions which involve the transfer of tangible personal property as an inconsequential element, for which no separate charges are made.

(B) The transfer of tangible personal property to a corporation, solely in consideration for the issuance of its stock, pursuant to a merger or consolidation effected under the laws of New Jersey or any other jurisdiction.

(C) The distribution of property by a corporation to its stockholders as a liquidating dividend.

(D) The distribution of property by a partnership to its partners in whole or partial liquidation.

(E) The transfer of property to a corporation upon its organization in consideration for the issuance of its stock.

(F) The contribution of property to a partnership in consideration for a partnership interest therein.

(G) The sale of tangible personal property where the purpose of the vendee is to hold the thing transferred as security for the performance of an obligation of the vendor.

(f) Sale, selling or purchase. Any transfer of title or possession or both, exchange or barter, rental, lease or license to use or consume, conditional or otherwise, in any manner or by any means whatsoever for a consideration, or any agreement therefor, including the rendering of any service, taxable under this act, for a consideration or any agreement therefor.

(g) Tangible personal property. Corporeal personal property of any nature including energy.

(h) Use. The exercise of any right or power over tangible personal property by the purchaser thereof and includes, but is not limited to, the receiving, storage or any keeping or retention for any length of time, withdrawal from storage, any installation, any affixation to real or personal property, or any consumption of such property. Use also includes the exercise of any right or power over intrastate or interstate telecommunications. Use also includes the exercise of any right or power over utility service.

(i) Vendor. (1) The term "vendor" includes:

(A) A person making sales of tangible personal property or services, the receipts from which are taxed by this act;

(B) A person maintaining a place of business in the State and making sales, whether at such place of business or elsewhere, to persons within the State of tangible personal property or services, the use of which is taxed by this act;

(C) A person who solicits business either by employees, independent contractors, agents or other representatives or by distribution of catalogs or other advertising matter and by reason thereof makes sales to persons within the State of tangible personal property or services, the use of which is taxed by this act;

(D) Any other person making sales to persons within the State of tangible personal property or services, the use of which is taxed by this act, who may be authorized by the director to collect the tax imposed by this act;

(E) The State of New Jersey, any of its agencies, instrumentalities, public authorities, public corporations (including a public corporation created pursuant to agreement or compact with another state) or political subdivisions when such entity sells services or property of a kind ordinarily sold by private persons;

(F) A person who purchases tangible personal property for lease, whether in this State or elsewhere. For the purposes of Title 54 of the Revised Statutes, the presence of leased tangible personal property in this State is deemed to be a place of business in this State; and

(G) A person who sells, stores, delivers or transports energy to users or customers in this State whether by mains, lines or pipes located within this State or by any other means of delivery.

(2) In addition, when in the opinion of the director it is necessary for the efficient administration of this act to treat any salesman, representative, peddler or canvasser as the agent of the vendor, distributor, supervisor or employer under whom he operates or from whom he obtains tangible personal property sold by him or for whom he solicits business, the director may, in his discretion, treat such agent as the vendor jointly responsible with his principal, distributor, supervisor or employer for the collection and payment over of the tax.

(j) Hotel. A building or portion of it which is regularly used and kept open as such for the lodging of guests. The term "hotel" includes an apartment hotel, a motel, boarding house or club, whether or not meals are served.

(k) Occupancy. The use or possession or the right to the use or possession, of any room in a hotel.

(l) Occupant. A person who, for a consideration, uses, possesses, or has the right to use or possess, any room in a hotel under any lease, concession, permit, right of access, license to use or other agreement, or otherwise.

(m) Permanent resident. Any occupant of any room or rooms in a hotel for at least 90 consecutive days shall be considered a permanent resident with regard to the period of such occupancy.

(n) Room. Any room or rooms of any kind in any part or portion of a hotel, which is available for or let out for any purpose other than a place of assembly.

(o) Admission charge. The amount paid for admission, including any service charge and any charge for entertainment or amusement or for the use of facilities therefor.

(p) Amusement charge. Any admission charge, dues or charge of roof garden, cabaret or other similar place.

(q) Charge of a roof garden, cabaret or other similar place. Any charge made for admission, refreshment, service, or merchandise at a roof garden, cabaret or other similar place.

(r) Dramatic or musical arts admission charge. Any admission charge paid for admission to a theater, opera house, concert hall or other hall or place of assembly for a live, dramatic, choreographic or musical performance.

(s) Lessor. Any person who is the owner, licensee, or lessee of any premises or tangible personal property which he leases, subleases, or grants a license to use to other persons.

(t) Place of amusement. Any place where any facilities for entertainment, amusement, or sports are provided.

(u) Casual sale. Casual sale means an isolated or occasional sale of an item of tangible personal property by a person who is not regularly engaged in the business of making sales at retail where such property was obtained by the person making the sale, through purchase or otherwise, for his own use in this State.

(v) Motor vehicle. Motor vehicle shall include all vehicles propelled otherwise than by muscular power (excepting such vehicles as run only upon rails or tracks), trailers, semitrailers, housetrailers, or any other type of vehicle drawn by a motor-driven vehicle, and motorcycles, designed for operation on the public highways.

(w) "Persons required to collect tax" or "persons required to collect any tax imposed by this act" shall include: every vendor of tangible personal property or services; every recipient of amusement charges; every operator of a hotel; every lessor; and every vendor of telecommunications. Said terms shall also include any officer or employee of a corporation or of a dissolved corporation who as such officer or employee is under a duty to act for such corporation in complying with any requirement of this act and any member of a partnership. Provided, however, the vendor of tangible personal property to all contractors, subcontractors or repairmen, consisting of materials and supplies for use by them in erecting structures for others, or building on, or otherwise improving, altering or repairing real property of others, shall not be deemed a person required to collect tax, and the tax imposed by any section of this act shall be paid directly to the director by such contractors, subcontractors or repairmen.

(x) "Customer" shall include: every purchaser of tangible personal property or services; every patron paying or liable for the payment of any amusement charge; and every occupant of a room or rooms in a hotel.

(y) "Property and services the use of which is subject to tax" shall include: (1) all property sold to a person within the State, whether or not the sale is made within the State, the use of which property is subject to tax under section 6 or will become subject to tax when such property is received by or comes into the possession or control of such person within the State; (2) all services rendered to a person within the State, whether or not such services are performed within the State, upon tangible personal property the use of which is subject to tax under section 6 or will become subject to tax when such property is received by or comes into possession or control of such person within the State; (3) intrastate or interstate telecommunications

charged to a service address in this State; (4) (Deleted by amendment, P.L.1995, c.184); (5) energy sold, exchanged or delivered in this State for use in this State; and (6) utility service sold, exchanged or delivered in this State for use in this State.

(z) Director. Director means the Director of the Division of Taxation of the State Department of the Treasury, or any officer, employee or agency of the Division of Taxation in the Department of the Treasury duly authorized by the director (directly, or indirectly by one or more redelegations of authority) to perform the functions mentioned or described in this act.

(aa) "Lease" means the possession or control of tangible personal property by an agreement, not transferring sole title, as may be evidenced by a contract, contracts, or by implication from other circumstances including course of dealing or usage of trade or course of performance, for a period of more than 28 days.

(bb) "The amount of the sales price" of tangible personal property purchased for lease means, at the election of the lessor, either (1) the amount of the lessor's purchase price or (2) the amount of the total of the lease payments attributable to the lease of such property. Tangible personal property purchased for lease is subject to the provisions of subsection (a) of section 3 of P.L.1966, c.30 (C.54:32B-3).

(cc) "Telecommunications" means the act or privilege of originating or receiving messages or information through the use of any kind of one-way or two-way communication; including but not limited to voice, video, facsimile, teletypewriter, computer, cellular mobile or portable telephone, specialized mobile or portable pager or paging service, or any other type of communication; using electronic or electromagnetic methods, and all services and equipment provided in connection therewith or by means thereof. "Telecommunications" shall not include:

(1) one-way radio or television broadcasting transmissions available universally to the general public without a fee;

(2) purchases of telecommunications by a telecommunications provider for use as a component part of telecommunications provided to an ultimate retail consumer who (A) originates or terminates the taxable end-to-end communications or (B) pays charges exempt from taxation pursuant to paragraph (5) of this subsection;

(3) services provided by a person, or by that person's wholly owned subsidiary, not engaged in the business of rendering or offering telecommunications services to the public, for private and exclusive use within its organization, provided however, that "telecommunications" shall include the sale of telecommunications services attributable to the excess unused telecommunications capacity of that person to another;

(4) charges in the nature of subscription fees paid by subscribers for cable television service; and

(5) charges subject to the local calling rate paid by inserting coins into a coin operated telecommunications device available to the public.

(dd) "Interstate telecommunication" means any telecommunication that originates or terminates inside this State, including international telecommunication.

(ee) "Intrastate telecommunication" means any telecommunication that originates and terminates within this State.

(ff) "Natural gas" means any gaseous fuel distributed through a pipeline system.

(gg) "Energy" means natural gas or electricity.

(hh) "Utility service" means the transportation or transmission of natural gas or electricity by means of mains, wires, lines or pipes, to users or customers.

(ii) "Self-generation unit" means a facility located on the user's property, or on property purchased or leased from the user by the person owning the self-generation unit and such property is contiguous to the user's property, which generates electricity to be used only by that user on the user's property and is not transported to the user over wires that cross a property line or public thoroughfare unless the property line or public throughfare merely bifurcates the user's or self-generation unit owner's otherwise contiguous property.

(jj) "Co-generation facility" means a facility the primary purpose of which is the sequential production of electricity and steam or other forms of useful energy which are used for industrial or commercial heating or cooling purposes and which is designated by the Federal Energy Regulatory Commission, or its successor, as a "qualifying facility" pursuant to the provisions of the "Public Utility Regulatory Policies Act of 1978," Pub.L. 95-617.

(kk) "Non-utility" means a company engaged in the sale, exchange or transfer of natural gas that was not subject to the provisions of P.L.1940, c.5 (C.54:30A-49 et seq.) prior to December 31, 1997.

18. Section 3 of P.L.1966, c.30 (C.54:32B-3) is amended to read as follows:

C.54:32B-3 Imposition of sales tax.

3. There is imposed and there shall be paid a tax of 6% upon:

(a) The receipts from every retail sale of tangible personal property, except as otherwise provided in this act. If the lessor of tangible personal property purchased for lease elects to pay tax on the amount of the sales

price as provided in paragraph (2) of subsection (bb) of section 2 of P.L.1966, c.30 (C.54:32B-2), any and each subsequent lease or rental is a retail sale, and a subsequent sale of such property is a retail sale.

(b) The receipts from every sale, except for resale, of the following services:

(1) Producing, fabricating, processing, printing or imprinting tangible personal property, performed for a person who directly or indirectly furnishes the tangible personal property, not purchased by him for resale, upon which such services are performed.

(2) Installing tangible personal property, or maintaining, servicing, repairing tangible personal property not held for sale in the regular course of business, whether or not the services are performed directly or by means of coin-operated equipment or by any other means, and whether or not any tangible personal property is transferred in conjunction therewith, except (i) such services rendered by an individual who is engaged directly by a private homeowner or lessee in or about his residence and who is not in a regular trade or business offering his services to the public, (ii) such services rendered with respect to personal property exempt from taxation hereunder pursuant to section 13 of P.L.1980, c.105 (C.54:32B-8.1), (iii) (Deleted by amendment, P.L.1990, c.40), (iv) any receipts from laundering, dry cleaning, tailoring, weaving, pressing, shoe repairing and shoeshining and (v) services rendered in installing property which, when installed, will constitute an addition or capital improvement to real property, property or land.

(3) Storing all tangible personal property not held for sale in the regular course of business and the rental of safe deposit boxes or similar space.

(4) Maintaining, servicing or repairing real property, other than a residential heating system unit serving not more than three families living independently of each other and doing their cooking on the premises, whether the services are performed in or outside of a building, as distinguished from adding to or improving such real property by a capital improvement, but excluding services rendered by an individual who is not in a regular trade or business offering his services to the public, and excluding garbage removal and sewer services performed on a regular contractual basis for a term not less than 30 days.

(5) Advertising services, except advertising services for use directly and primarily for publication in newspapers and magazines and except for direct-mail advertising processing services in connection with distribution to out-of-State recipients.

(6) (Deleted by amendment, P.L.1995, c.184).

(7) Utility service provided to persons in this State, any right or power over which is exercised in this State.

Wages, salaries and other compensation paid by an employer to an employee for performing as an employee the services described in this subsection are not receipts subject to the taxes imposed under this subsection (b).

Services otherwise taxable under paragraph (1) or (2) of this subsection (b) are not subject to the taxes imposed under this subsection, where the tangible personal property upon which the services were performed is delivered to the purchaser outside this State for use outside this State.

(c) Receipts from the sale of food and drink in or by restaurants, taverns, vending machines or other establishments in this State, or by caterers, including in the amount of such receipts any cover, minimum, entertainment or other charge made to patrons or customers:

(1) In all instances where the sale is for consumption on the premises where sold;

(2) In those instances where the vendor or any person whose services are arranged for by the vendor, after the delivery of the food or drink by or on behalf of the vendor for consumption off the premises of the vendor, serves or assists in serving, cooks, heats or provides other services with respect to the food or drink, except for meals especially prepared for and delivered to homebound elderly, age 60 or older, and to disabled persons, or meals prepared and served at a group-sitting at a location outside of the home to otherwise homebound elderly persons, age 60 or older, and otherwise homebound disabled persons, as all or part of any food service project funded in whole or in part by government or as part of a private, nonprofit food service project available to all such elderly or disabled persons residing within an area of service designated by the private nonprofit organization;

(3) In those instances where the sale is for consumption off the premises of the vendor, and consists of a meal, or food prepared and ready to be eaten, of a kind obtainable in restaurants as the main course of a meal, including a sandwich, except where food other than sandwiches is sold in an unheated state and is of a type commonly sold in the same form and condition in food stores other than those which are principally engaged in selling prepared foods; and

(4) Sales of food and beverages sold through coin-operated vending machines, at the wholesale price of such sale, which shall be defined as 70% of the retail vending machine selling price, except sales of milk, which shall not be taxed. Nothing herein contained shall affect other sales through coin-operated vending machines taxable pursuant to subsection (a) above or the exemption thereto provided by section 21 of P.L.1980, c.105 (C.54:32B-8.9).

The tax imposed by this subsection (c) shall not apply to food or drink which is sold to an airline for consumption while in flight.

(d) The rent for every occupancy of a room or rooms in a hotel in this State, except that the tax shall not be imposed upon (1) a permanent resident, or (2) where the rent is not more than at the rate of $2.00 per day.

(e) (1) Any admission charge, where such admission charge is in excess of $0.75 to or for the use of any place of amusement in the State, including charges for admission to race tracks, baseball, football, basketball or exhibitions, dramatic or musical arts performances, motion picture theaters, except charges for admission to boxing, wrestling, kick boxing or combative sports exhibitions, events, performances or contests which charges are taxed under any other law of this State or under section 20 of P.L.1985, c.83 (C.5:2A-20), and, except charges to a patron for admission to, or use of, facilities for sporting activities in which such patron is to be a participant, such as bowling alleys and swimming pools. For any person having the permanent use or possession of a box or seat or lease or a license, other than a season ticket, for the use of a box or seat at a place of amusement, the tax shall be upon the amount for which a similar box or seat is sold for each performance or exhibition at which the box or seat is used or reserved by the holder, licensee or lessee, and shall be paid by the holder, licensee or lessee.

(2) The amount paid as charge of a roof garden, cabaret or other similar place in this State, to the extent that a tax upon such charges has not been paid pursuant to subsection (c) hereof.

(f) The receipts from every sale, except for resale, of intrastate or interstate telecommunications charged to an address in this State, regardless of where the services are billed or paid.

19. Section 6 of P.L.1966, c.30 (C.54:32B-6) is amended to read as follows:

C.54:32B-6 Imposition of compensating use tax.

6. Unless property or services have already been or will be subject to the sales tax under this act, there is hereby imposed on and there shall be paid by every person a use tax for the use within this State of 6%, except as otherwise exempted under this act, (A) of any tangible personal property purchased at retail, including energy, provided however, that electricity consumed by the generating facility that produced it shall not be subject to tax, (B) of any tangible personal property manufactured, processed or assembled by the user, if items of the same kind of tangible personal property are offered for sale by him in the regular course of business, or if items of the same kind of tangible personal property are not offered for sale by him in the regular course of business and are used as such or incorpo-

rated into a structure, building or real property, (C) of any tangible personal property, however acquired, where not acquired for purposes of resale, upon which any taxable services described in paragraphs (1) and (2) of subsection (b) of section 3 of P.L.1966, c.30 (C.54:32B-3) have been performed, (D) of interstate or intrastate telecommunications described in subsection (f) of section 3 of P.L.1966, c.30, (E) (Deleted by amendment, P.L.1995, c.184), and (F) of utility service provided to persons in this State for use in this State, provided however, that utility service used by the facility that provides the service shall not be subject to tax. For purposes of clause (A) of this section, the tax shall be at the applicable rate, as set forth hereinabove, of the consideration given or contracted to be given for such property or for the use of such property, but excluding any credit for property of the same kind accepted in part payment and intended for resale, plus the cost of transportation, except where such cost is separately stated in the written contract, if any, and on the bill rendered to the purchaser, provided however, that there shall be no exclusion for the cost of the utility service. For the purposes of clause (B) of this section, the tax shall be at the applicable rate, as set forth hereinabove, of the price at which items of the same kind of tangible personal property are offered for sale by the user, or if items of the same kind of tangible personal property are not offered for sale by the user in the regular course of business and are used as such or incorporated into a structure, building or real property the tax shall be at the applicable rate, as set forth hereinabove, of the consideration given or contracted to be given for the tangible personal property manufactured, processed or assembled by the user into the tangible personal property the use of which is subject to use tax pursuant to this section, and the mere storage, keeping, retention or withdrawal from storage of tangible personal property by the person who manufactured, processed or assembled such property shall not be deemed a taxable use by him. For purposes of clause (C) of this section, the tax shall be at the applicable rate, as set forth hereinabove, of the consideration given or contracted to be given for the service, including the consideration for any tangible personal property transferred in conjunction with the performance of the service, plus the cost of transportation, except where such cost is separately stated in the written contract, if any, and on the bill rendered to the purchaser. For the purposes of clause (D) of this section, the tax shall be at the applicable rate on the charge made by the telecommunications service provider. For purposes of clause (F) of this section, the tax shall be at the applicable rate on the charge made by the utility service provider.

20. Section 17 of P.L.1966, c.30 (C.54:32B-7) is amended to read as follows:

C.54:32B-7 Special rules for computing receipts and consideration.

17. (a) The retail sales tax imposed under subsection (a) of section 3 and the compensating use tax imposed under section 6, when computed in respect to tangible personal property wherever manufactured, processed or assembled and used by such manufacturer, processor or assembler in the regular course of business within this State, shall be based on the price at which items of the same kind of tangible personal property are offered for sale by him.

(b) Tangible personal property, which has been purchased by a resident of the State of New Jersey outside of this State for use outside of this State and subsequently becomes subject to the compensating use tax imposed under this act, shall be taxed on the basis of the purchase price of such property, provided, however:

(1) That where a taxpayer affirmatively shows that the property was used outside such State by him for more than six months prior to its use within this State, such property shall be taxed on the basis of current market value of the property at the time of its first use within this State. The value of such property, for compensating use tax purposes, may not exceed its cost.

(2) That the compensating use tax on such tangible personal property brought into this State (other than for complete consumption or for incorporation into real property located in this State) and used in the performance of a contract or subcontract within this State by a purchaser or user for a period of less than six months may be based, at the option of the taxpayer, on the fair rental value of such property for the period of use within this State.

(c) Leased tangible personal property which has been purchased outside this State for lease outside of this State and subsequently becomes subject to the compensating use tax imposed under this act shall be taxed on the basis of the purchase price of such property, provided however, that the compensating use tax on such property brought into and used within this State may be based, at the option of the lessor, on the total of the lease payments attributable to the lease of that property attributable to the period of the lease remaining after first use in this State.

(d) Unless tangible personal property purchased for lease has already been subject to the sales tax imposed under subsection (a) of section 3 or the compensating use tax imposed under section 6, the use tax computed with respect to such property, in the discretion of the director, may be assessed against the lessee or sub-lessee and shall be based on the total of the periodic payments required under the lease. The fact that the lessee has accepted in good faith the certificate of the lessor, in the form prescribed by the director, and the fact that the tax imposed on property purchased for lease in this act

has been paid may be considered by the director, but shall not be deemed conclusive if good faith issuance or acceptance of such certificate is in question.

(e) The purchase of energy shall be subject to the compensating use tax imposed under section 6 on the basis of the purchase price of the energy, including any charges for utility service.

21. Section 19 of P.L.1980, c.105 (C.54:32B-8.7) is amended to read as follows:

C.54:32B-8.7 Utilities.

19. Receipts from the following are exempt from the tax imposed under the Sales and Use Tax Act: sales of gas other than natural gas, water, steam, or fuel delivered to consumers through mains, lines, pipe, or in containers or bulk.

22. Section 23 of P.L.1980, c.105 (C.54:32B-8.11) is amended to read as follows:

C.54:32B-8.11 Transportation charges, exception.

23. Receipts from charges for the transportation of persons or property, except of energy, are exempt from the tax imposed under the Sales and Use Tax Act.

23. Section 25 of P.L.1980, c.105 (C.54:32B-8.13) is amended to read as follows:

C.54:32B-8.13 Sales, use tax exempt, machinery, apparatus, etc.

25. Receipts from the following are exempt from the tax imposed under the Sales and Use Tax Act:

a. Sales of machinery, apparatus or equipment for use or consumption directly and primarily in the production of tangible personal property by manufacturing, processing, assembling or refining;

b. Sales of machinery, apparatus or equipment for use or consumption directly and primarily in the production, generation, transmission or distribution of gas, electricity, refrigeration, steam or water for sale or in the operation of sewerage systems;

c. Sales of telephones, telephone lines, cables, central office equipment or station apparatus, or other machinery, equipment or apparatus, or comparable telegraph equipment to a service provider subject to the jurisdiction of the Board of Public Utilities or the Federal Communications Commission, for use directly and primarily in receiving at destination or

initiating, transmitting and switching telephone, telegraph or interactive telecommunications service for sale to the general public;

d. Sales of machinery, apparatus, equipment, building materials, or structures or portions thereof, used directly and primarily for cogeneration in a cogeneration facility. As used in this subsection, "cogeneration facility" means a facility the primary purpose of which is the sequential production of electricity and steam or other forms of useful energy which are used for industrial or commercial heating or cooling purposes and which is designated by the Federal Energy Regulatory Commission, or its successor, as a "qualifying facility" pursuant to the provisions of the "Public Utility Regulatory Policies Act of 1978," Pub.L.95-617. The Director of the Office of Energy in the Department of Environmental Protection, in consultation with the Director of the Division of Taxation, shall adopt, pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), rules and regulations establishing technical specifications for eligibility for the exemption provided in this subsection;

e. Sales of machinery, apparatus or equipment, including transponders, earth stations, microwave dishes, transmitters and receivers which have a useful life exceeding one year, other than that used in the construction or operation of towers, to a commercial broadcaster operating under a broadcasting license issued by the Federal Communications Commission or to a provider of cable/satellite television program services who may or may not operate under a broadcasting license issued by the Federal Communications Commission for use or consumption directly and primarily in the production or transmission of radio or television information transmitted, delivered or archived through any medium or method.

The exemptions granted under this section shall not be construed to apply to sales, otherwise taxable, of machinery, equipment or apparatus whose use is incidental to the activities described in subsections a., b., c., d. and e. of this section.

The exemptions granted in this section shall not apply to energy, motor vehicles, or to parts with a useful life of one year or less or tools or supplies used in connection with the machinery, equipment or apparatus described in this section.

24. Section 26 of P.L.1980, c.105 (C.54:32B-8.14) is amended to read as follows:

C.54:32B-8.14 Sales of tangible personal property for use in R&D exempt; exceptions.

26. Receipts from sales of tangible personal property, except energy, purchased for use or consumption directly and exclusively in research and development in the experimental or laboratory sense are exempt from the

tax imposed under the Sales and Use Tax Act. Such research and development shall not be deemed to include the ordinary testing or inspection of materials or products for quality control, efficiency surveys, management studies, consumer surveys, advertising, promotions or research in connection with literary, historical or similar projects.

25. Section 28 of P.L.1980, c.105 (C.54:32B-8.16) is amended to read as follows:

C.54:32B-8.16 Tangible personal property for use on farms, exceptions.

28. Receipts from sales of tangible personal property except automobiles, except property incorporated in a building or structure, and except energy, for use and consumption directly and exclusively in the production for sale of tangible personal property on farms, including stock, dairy, poultry, fruit, fur-bearing animals, and truck farms, ranches, nurseries, greenhouses or other similar structures used primarily for the raising of agricultural or horticultural commodities, and orchards are exempt from the tax imposed under the Sales and Use Tax Act.

C.54:32B-8.46 Receipts from sale, exchange, delivery, use of electricity; purchase or use of natural gas or utility service.

26. a. Receipts from the sale, exchange, delivery or use of electricity are exempt from the tax imposed under the Sales and Use Tax Act if the electricity:

(1) Is sold by a municipal electric utility in existence as of December 31, 1995 and exempt from the provisions of P.L.1940, c.5 (C.54:30A-49 et seq.), within its municipal boundaries except if the customer is located within a franchise area served by an electric public utility other than the municipal electric utility;

(2) Was generated by a facility located on the user's property or property purchased or leased from the user by the person owning the co-generator and such property is contiguous to the user's property, and the electricity was consumed by the one on-site end user on the user's property, and was not transported to the user over wires that cross a property line or public thoroughfare unless the property line or public thoroughfare merely bifurcated the user's or co-generator owner's otherwise contiguous property or the electricity was consumed by an affiliated user on the same site, or by a non-affiliated user on the same site with an electric distribution system which is integrated and interconnected with the user on or before March 10, 1997; the director may promulgate rules and regulations and issue guidance with respect to all issues related to affiliated users; or

(3) Is sold for resale.

b. Receipts from the purchase or use of the following are exempt from the tax imposed under the Sales and Use Tax Act:

(1) Natural gas or utility service that is used to generate electricity that is sold for resale or to an end user other than the end user upon whose property is located a co-generation facility or self-generation unit that generated the electricity or upon the property purchased or leased from the end user by the person owning the co-generation facility or self-generation unit if such property is contiguous to the user's property and is the property upon which is located a co-generation facility or self-generation unit that generated the electricity; and

(2) Natural gas and utility service that is used for co-generation at any site at which a co-generation facility was in operation on or before March 10, 1997, or for which an application for an operating permit or a construction permit and a certificate of operation in order to comply with air quality standards under P.L.1954, c.212 (C.26:2C-1 et seq.) has been filed with the Department of Environmental Protection on or before March 10, 1997, to produce electricity for use on that site.

27. Section 9 of P.L.1966, c.30 (C.54:32B-9) is amended to read as follows:

C.54:32B-9 Exempt organizations.

9. (a) Except as to motor vehicles sold by any of the following, any sale, service or amusement charge by or to any of the following or any use or occupancy by any of the following shall not be subject to the sales and use taxes imposed under this act:

(1) The State of New Jersey, or any of its agencies, instrumentalities, public authorities, public corporations (including a public corporation created pursuant to agreement or compact with another State) or political subdivisions where it is the purchaser, user or consumer, or where it is a vendor of services or property of a kind not ordinarily sold by private persons;

(2) The United States of America, and any of its agencies and instrumentalities, insofar as it is immune from taxation where it is the purchaser, user or consumer, or where it sells services or property of a kind not ordinarily sold by private persons;

(3) The United Nations or any international organization of which the United States of America is a member where it is the purchaser, user or consumer, or where it sells services or property of a kind not ordinarily sold by private persons.

(b) Except as otherwise provided in this section any sale or amusement charge by or to any of the following or any use or occupancy by any of the

following, where such sale, charge, use or occupancy is directly related to the purposes for which the following have been organized, shall not be subject to the sales and use taxes imposed under this act:

(1) Any corporation, association, trust, or community chest, fund or foundation, organized and operated exclusively for religious, charitable, scientific, testing for public safety, literary or educational purposes, or for the prevention of cruelty to children or animals, or as a volunteer fire company, rescue squad, ambulance, first aid or emergency company or squad, and an association of parents and teachers of an elementary or secondary public or private school exempt under the provisions of section 9, no part of the net earnings of which inures to the benefit of any private shareholder or individual, no substantial part of the activities of which is carrying on propaganda, or otherwise attempting to influence legislation, and which does not participate in, or intervene in (including the publishing or distributing of statements), any political campaign on behalf of any candidate for public office.

(c) (1) Nothing in this section shall exempt the sale of a motor vehicle by an organization described in subsection (b)(1) of this section or retail sales of tangible personal property by any shop or store operated by such organization from the taxes imposed hereunder, unless the purchaser is an organization exempt under this section.

(2) Nothing in this section shall exempt the sale or use of energy or utility service to or by an organization described in subsection (a)(1) or (b)(1) of this section.

(d) Any organization enumerated in subsection (b)(1) hereof shall not be entitled to the exemption herein granted unless it has complied with such requirements for obtaining a tax immunity authorization as may be provided in this act.

(e) Where any organization described in subsection (b)(1) hereof carries on its activities in furtherance of the purposes for which it was organized, in premises in which, as part of said activities, it operates a hotel, occupancy of rooms in the premises and rents therefrom received by such corporation or association shall not be subject to tax hereunder.

(f)(1) Except as provided in paragraph (2) of this subsection, any admissions all of the proceeds of which inure exclusively to the benefit of the following organizations shall not be subject to any of the taxes imposed under subsection (e) of section 3:

(A) an organization described in subsection (a)(1) or (b) of this section;

(B) a society or organization conducted for the sole purpose of maintaining symphony orchestras or operas and receiving substantial support from voluntary contributions;

(C) national guard organizations, posts or organizations of war veterans, or auxiliary units or societies of any such posts or organizations, if such posts, organizations, units or societies are organized in this State, and if no part of their net earnings inures to the benefit of any private stockholder or individual; or

(D) a police or fire department of a political subdivision of the State, or a volunteer fire company, ambulance, first aid, or emergency company or squad, or exclusively to a retirement, pension or disability fund for the sole benefit of members of a police or fire department or to a fund for the heirs of such members.

(2) The exemption provided under paragraph (1) of this subsection shall not apply in the case of admissions to:

(A) Any athletic game or exhibition unless the proceeds shall inure exclusively to the benefit of elementary or secondary schools or unless in the case of an athletic game between two elementary or secondary schools, the entire gross proceeds from such game shall inure to the benefit of one or more organizations described in subsection (b)(1) of this section;

(B) Carnivals, rodeos, or circuses in which any professional performer or operator participates for compensation;

(3) Admission charges for admission to the following places or events shall not be subject to any of the taxes imposed under subsection (e) of section 3:

(A) Any admission to agricultural fairs if no part of the net earnings thereof inures to the benefit of any stockholders or members of the association conducting the same; provided the proceeds therefrom are used exclusively for the improvement, maintenance and operation of such agricultural fairs.

(B) Any admission to a home or garden which is temporarily open to the general public as a part of a program conducted by a society or organization to permit the inspection of historical homes and gardens; provided no part of the net earnings thereof inures to the benefit of any private stockholder or individual.

(C) Any admissions to historic sites, houses and shrines, and museums conducted in connection therewith, maintained and operated by a society or organization devoted to the preservation and maintenance of such historic sites, houses, shrines and museums; provided no part of the net earnings thereof inures to the benefit of any private stockholder or individual.

28. Section 11 of P.L.1966, c.30 (C.54:32B-11) is amended to read as follows:

C.54:32B-11 Exemptions from use tax.

11. Exemptions from use tax. The following uses of property shall not be subject to the compensating use tax imposed under this act:

(1) In respect to the use of property used by the purchaser in this State prior to July 1, 1966.

(2) In respect to the use of property purchased by the user while a nonresident of this State, except in the case of tangible personal property which the user, in the performance of a contract, incorporates into real property located in the State or except in the case of tangible personal property purchased for lease. A person while engaged in any manner in carrying on in this State any employment, trade, business or profession, not entirely in interstate or foreign commerce, shall not be deemed a nonresident with respect to the use in this State of property in such employment, trade, business or profession.

(3) In respect to the use of property or services upon the sale of which the purchaser would be expressly exempt from the taxes imposed under subsection (a) or (b) of section 3.

(4) In respect to the use of property which is converted into or becomes a component part of a product produced for sale or for market sampling by the purchaser.

(5) In respect to the use of paper in the application of newspapers and periodicals.

(6) In respect to the use of property or services to the extent that a retail sales or use tax was legally due and paid thereon, without any right to a refund or credit thereof, to any other State or jurisdiction within any other state but only when it is shown that such other State or jurisdiction allows a corresponding exemption with respect to the sale or use of tangible personal property or services upon which such a sales tax or compensating use tax was paid to this State. To the extent that the tax imposed by this act is at a higher rate than the rate of tax in the first taxing jurisdiction, this exemption shall be inapplicable and the tax imposed by section 6 of this act shall apply to the extent of the difference in such rates.

(7) In respect to the use of natural gas by an eligible person, other than a co-generation facility, as defined in section 34 of P.L.1997, c.162 (C.54:32B-14.1), up to the base level of volume as defined in section 34 of P.L.1997, c.162, but only as long as the eligible person remains at the same physical site that was occupied on December 31, 1995.

29. Section 12 of P.L.1966, c.30 (C.54:32B-12) is amended to read as follows:

C.54:32B-12 Collection of tax from customer.

12. (a) Every person required to collect the tax shall collect the tax from the customer when collecting the price, service charge, amusement charge

or rent to which it applies. If the customer is given any sales slip, invoice, receipt or other statement or memorandum of the price, service charge, amusement charge or rent paid or payable, the tax shall be stated, charged and shown separately on the first of such documents given to him. The tax shall be paid to the person required to collect it as trustee for and on account of the State.

(b) For the purpose of the proper administration of this act and to prevent evasion of the tax hereby imposed, it shall be presumed that all receipts for property or services of any type mentioned in subsections (a), (b) and (c) of section 3, all rents for occupancy of the type mentioned in subsection (d) of said section, and all amusement charges of any type mentioned in subsection (e) of said section, are subject to tax until the contrary is established, and the burden of proving that any such receipt, amusement charge or rent is not taxable hereunder shall be upon the person required to collect tax or the customer. Unless a vendor shall have taken from the purchaser a certificate, signed by the purchaser and bearing his name and address and the number of his registration certificate, to the effect that the property or service was purchased for resale or the purchaser prior to taking delivery, furnishes to the vendor any affidavit, statement or additional evidence, documentary or otherwise, which the director may require demonstrating that the purchaser is an exempt organization described in section 9(b)(1), the sale shall be deemed a taxable sale at retail. Provided however, the director may, in his discretion, authorize a purchaser, who acquires tangible personal property or services under circumstances which make it impossible at the time of acquisition to determine the manner in which the tangible personal property or services will be used, to pay the tax directly to the director and waive the collection of the tax by the vendor. Provided, further, the director shall authorize any contractor, subcontractor or repairman who acquires tangible personal property consisting of materials and supplies for use by him in erecting structures for others, or building on, or otherwise improving, altering, or repairing real property of others, to pay the tax directly to the director and waive the collection of the tax by the vendor. Provided further, the director shall authorize any eligible person, as defined in section 34 of P.L.1997, c.162 (C.54:32B-14.1), who purchases natural gas from a non-utility on and after January 1, 1998 through December 31, 2002, to pay the tax on the commodity directly to the director and waive the collection of the tax by the vendor. No such authority shall be granted or exercised except upon application to the director, and the issuance by the director of a direct payment permit. If a direct payment permit is granted, its use shall be subject to conditions specified by the director, and the payment of tax on all acquisitions

pursuant to the permit shall be made directly to the director by the permit holder.

(c) The director may provide by regulation that the tax upon receipts from sales on the installment plan may be paid on the amount of each installment and upon the date when such installment is due. He may also provide by regulation for the exclusion from taxable receipts, amusement charges or rents of amounts representing sales where the contract of sale has been canceled, the property returned or the receipt, charge or rent has been ascertained to be uncollectible or, in the case the tax has been paid upon such receipt, charge or rent, for refund or credit of the tax so paid.

30. Section 14 of P.L.1966, c.30 (C.54:32B-14) is amended to read as follows:

C.54:32B-14 Liability for tax.

14. (a) Every person required to collect any tax imposed by this act shall be personally liable for the tax imposed, collected or required to be collected under this act. Any such person shall have the same right in respect to collecting the tax from his customer or in respect to non-payment of the tax by the customer as if the tax were a part of the purchase price of the property or service, amusement charge or rent, as the case may be, and payable at the same time; provided, however, that the director shall be joined as a party in any action or proceeding brought to collect the tax.

(b) Where any customer has failed to pay a tax imposed by this act to the person required to collect the same, then in addition to all other rights, obligations and remedies provided, such tax shall be payable by the customer directly to the director and it shall be the duty of the customer to file a return with the director and to pay the tax to him within 20 days of the date the tax was required to be paid.

(c) The director may, whenever he deems it necessary for the proper enforcement of this act, provide by regulation that customers shall file returns and pay directly to the director any tax herein imposed, at such times as returns are required to be filed and payment over made by persons required to collect the tax.

(d) No person required to collect any tax imposed by this act shall advertise or hold out to any person or to the public in general, in any manner, directly or indirectly, that the tax is not considered as an element in the price, amusement charge or rent payable by the customer, or 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. Upon written application duly made and proof duly presented to the satisfaction of the director showing that in his particular business it would be impractical for

the vendor to separately charge the tax to the customer, the director may waive the application of the requirement herein as to such vendor.

(e) All vendors of energy or utility service shall include the tax imposed by the "Sales and Use Tax Act" within the purchase price of the tangible personal property or service.

31. Section 20 of P.L.1983, c.303 (C.52:27H-79) is amended to read as follows:

C.52:27H-79 Sales to enterprise zone business tax-exempt.

20. 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.).

32. Section 21 of P.L.1983, c.303 (C.52:27H-80) is amended to read as follows:

C.52:27H-80 Sales tax exemption for retail sales.

21. Receipts of retail sales, except retail sales of motor vehicles, of alcoholic beverages as defined in the "Alcoholic Beverage Tax Law," R.S.54:41-1 et seq., of cigarettes as defined in the "Cigarette Tax Act," P.L.1948, c.65 (C.54:40A-1 et seq.), of manufacturing machinery, equipment or apparatus, and of energy, made by a certified vendor from a place of business owned or leased and regularly operated by the vendor for the purpose of making retail sales, and located in a designated enterprise zone established pursuant to the "New Jersey Urban Enterprise Zones Act," P.L.1983, c.303 (C.52:27H-60 et al.), are exempt to the extent of 50% of the tax imposed under the "Sales and Use Tax Act," P.L.1966, c.30 (C.54:32B-1 et seq.).

Any vendor, which is a qualified business having a place of business located in a designated enterprise zone, may apply to the Director of the Division of Taxation in the Department of the Treasury for certification pursuant to this section. The director shall certify a vendor if he shall find that the vendor owns or leases and regularly operates a place of business located in the designated enterprise zone for the purpose of making retail sales, that items are regularly exhibited and offered for retail sale at that location, and that the place of business is not utilized primarily for the purpose of catalogue or mail order sales. The certification under this section shall remain in effect during the time the business retains its status as a qualified business meeting the eligibility criteria of section 27 of P.L.1983, c.303 (C.52:27H-86). However, the director may at any time

revoke a certification granted pursuant to this section if he shall determine that the vendor no longer complies with the provisions of this section.

Notwithstanding the provisions of this act to the contrary, except as may otherwise be provided by section 7 of P.L.1983, c.303 (C.52:27H-66), the authority may, in its discretion, determine whether or not the provisions of this section shall apply to any enterprise zone designated after the effective date of P.L.1985, c.142 (C.52:27H-66 et al.); provided, however, that the authority may make such a determination only where the authority finds that the award of an exemption of 50 percent of the tax imposed under the "Sales and Use Tax Act," P.L.1966, c.30 (C.54:32B-1 et seq.) will not have any adverse economic impact upon any other urban enterprise zone.

Notwithstanding any other provisions of law to the contrary, except as provided in subsection b. of section 6 of P.L.1996, c.124 (C.13:1E-116.6), after first depositing 10 percent of the gross amount of all revenues received from the taxation of retail sales made by certified vendors from business locations in designated enterprise zones to which this exemption shall apply into the account created in the name of the authority in the enterprise zone assistance fund pursuant to section 29 of P.L.1983, c.303 (C.52:27H-88), the remaining 90 percent shall be deposited immediately upon collection by the Department of the Treasury, as follows:

a. In the first five-year period during which the State shall have collected reduced rate revenues within an enterprise zone, all such revenues shall be deposited in the enterprise zone assistance fund created pursuant to section 29 of P.L.1983, c.303 (C.52:27H-88);

b. In the second five-year period during which the State shall have collected reduced rate revenues within an enterprise zone, 66 2/3% of all those revenues shall be deposited in the enterprise zone assistance fund, and 33 1/3% shall be deposited in the General Fund;

c. In the third five-year period during which the State shall have collected reduced rate revenues within an enterprise zone, 33 1/3% of all those revenues shall be deposited in the enterprise zone assistance fund, and 66 2/3% shall be deposited in the General Fund;

d. In the final five-year period during which the State shall have collected reduced rate revenues within an enterprise zone, but not to exceed the life of the enterprise zone, all those revenues shall be deposited in the General Fund.

Commencing on the effective date of P.L.1993, c.144, all revenues in any enterprise zone to which the provisions of this section have been extended prior to the enactment of P.L.1993, c.144 shall be deposited into the enterprise zone assistance fund until there shall have been deposited all revenues into that fund for a total of five full years, as set forth in subsection a. of this section. The State Treasurer then shall proceed to deposit funds

into the enterprise zone assistance fund according to the schedule set forth in subsections b. through d. of this section, beginning at the point where the enterprise zone was located on that schedule on the effective date of P.L.1993, c.144. No enterprise zone shall receive the deposit benefit granted by any one subsection of this section for more than five cumulative years.

The revenues required to be deposited in the enterprise zone assistance fund under this section shall be used for the purposes of that fund and for the uses prescribed in section 29 of P.L.1983, c.303 (C.52:27H-88), subject to annual appropriations being made for those purposes and uses.

C.54:32B-8.47 Energy and utility service, certain, exempt sales.

33. a. Receipts from the sale or use of energy and utility service to or by a utility corporation or person that was subject to the provisions of P.L.1940, c.4 (C.54:30A-16 et seq.), as of April 1, 1997, or currently or formerly subject to taxation pursuant to P.L.1940, c.5 (C.54:30A-49 et seq.), for their own use and consumption, are exempt from the tax imposed under the "Sales and Use Tax Act," P.L.1966, c.30 (C.54:32B-1 et seq.).

b. Receipts from the sale or use of energy and utility service made pursuant to a contract described in section 59 of P.L.1997, c.162 (C.48:2-21.31) shall be exempt from the tax imposed under the "Sales and Use Tax Act."

C.54:32B-14.1 Tax treatment of certain purchases of natural gas, "eligible person" defined.

34. a. As used in this act, "eligible person" means any person other than a co-generation facility as defined in this act whose last purchase and delivery of natural gas on or before December 31, 1995 was from a non-utility, or a cogeneration facility which ceased operation in 1996 and subsequently began to purchase non-utility natural gas, and who satisfactorily documents such purchase to the director.

b. An eligible person shall determine and certify to the director, and satisfactorily document to the director, a base level of volume as of December 31, 1995 or December 31, 1996 in the case of a co-generation facility which ceased operation in 1996 and subsequently began to purchase non-utility natural gas, which shall be equal to the average annual volume of natural gas units purchased by the eligible person from any non-utility and delivered, but such computation shall not include any purchases delivered prior to January 1, 1992, provided however, that the base level of volume of an eligible person other than a co-generation facility shall be reduced on an annual basis beginning in 1999 by multiplying the base level of volume as of December 31, 1995 by the following reduction ratios: 0.8 in 1999, 0.6 in 2000, 0.4 in 2001 and 0.2 in 2002. In 2003 and thereafter

there shall be no exemption for purchases of natural gas by an eligible person other than a co-generation facility.

c. For purchases of natural gas from a non-utility on and after January 1, 1998 through December 31, 2002, an eligible person shall issue a direct payment certificate to the non-utility and shall pay any sales or use tax due pursuant to the method prescribed by this section. Unless specifically exempt from the tax imposed under the Sales and Use Tax Act pursuant to subsection b. of section 26 of P.L.1997, c.162 (C.54:32B-8.46), utility service is subject to the tax imposed pursuant to section 3 of P.L.1966, c.30 (C.54:32B-3).

d. On an annual basis, each eligible person, other than a co-generation facility, shall be required to file with the director:

(1) An energy volume report, which shall contain a certification as to the gross annual volume of gas (in units) purchased and delivered in the previous 12-month period from any non-utility and utility, the purchase price per unit, and any additional information that the director deems necessary to effectuate the provisions herein; and

(2) An energy use tax return, wherein any tax due on natural gas purchased from a utility or non-utility shall be reported and remitted as follows:

(a) If the certified gross annual volume (in units) was purchased solely from a non-utility, and does not exceed the base level of volume, no sales and use tax shall be due on purchases of natural gas in that calendar year;

(b) If the certified gross annual volume (in units) was purchased solely from a non-utility, and exceeds the base level of volume, the sales and use tax shall be remitted on the purchases of natural gas that exceed the base level of volume, based on the purchase price of the gas; and

(c) If the certified gross annual volume in units was purchased from both a utility and non-utility vendor or solely from a utility vendor, the director shall refund to the eligible person all sales taxes paid on purchases not in excess of the base level of volume. The eligible person shall remit to the director all unpaid sales taxes on the purchases of natural gas that exceed the base level of volume, based on the purchase price.

C.54:32B-20.1 Credits for certain payments by remitters; no credit for certain tax payments.

35. a. A corporation that was subject to tax pursuant to the provisions of P.L.1940, c.5 (C.54:30A-49 et seq.) prior to January 1, 1998 shall be entitled to claim a credit against remittances of sales and use tax after July 1, 1998 and after August 1 in each year thereafter pursuant to the provisions of section 53 of P.L.1997, c.162 (C.54:30A-117).

b. Any gas, electric, or telecommunications public utility taxpayer that has made any advance credit payment pursuant to P.L.1940, c.4 (C.54:30A-16 et seq.) or P.L.1940, c.5 (C. 54:30A-49 et seq.) shall not be eligible for a credit for such amount or any part thereof to offset any liability under the "Sales and Use Tax Act," P.L.1966, c.30 (C.54:32B-1 et seq.).

C.54:30A-100 Short title; purpose of act.

36. a. Sections 36 through 49 of this act shall be known and may be cited as the "Transitional Energy Facility Assessment Act."

b. The purpose of the Transitional Energy Facility Assessment Act is to provide a complete framework and method for the assessment of a transitional energy facility assessment on gas and electric light, heat and power corporations, municipal or otherwise, that were subject to tax pursuant to the provisions of P.L.1940, c.5 (C.54:30A-49 et seq.) prior to January 1, 1998, or the corporate or non-corporate legal successor or assignee whether through any reorganization, sale, bankruptcy, consolidation, merger or other transaction or occurrence of any kind without limitation, and on municipal electric corporations or utilities that were in existence as of January 1, 1995 but only those corporations' or utilities' sales of electricity that are not exempt from sales tax under paragraph (1) of subsection a. of section 26 of P.L.1997, c.162 (C.54:32B-8.46).

C.54:30A-101 Definitions relative to Transitional Energy Facility Assessment Act.

37. As used in this act, unless the context requires otherwise:

"Base year" means, for the purpose of determining the assessments to be made under this act, calendar year 1996 for those gas and electric light, heat and power corporations that were subject to tax pursuant to P.L.1940, c.5 (C.54:30A-49 et seq.) prior to January 1, 1998, and for those remitters identified subsequent to 1998 the first year of subjectivity to this act shall be the base year;

"Base year liability" means each remitter's unit energy tax liability in the base year pursuant to the provisions of P.L.1940, c.5 (C.54:30A-49 et seq.) adjusted to reflect the remitter's total unit energy tax rates in effect on January 1, 1997 and local energy utility franchise taxes paid;

"Base year transitional energy facility assessment" means an amount equal to the base year liability less:

a. The pro forma corporation business tax that would have been booked by the remitter in the base year if the changes in the remitter's rates implemented pursuant to section 67 of P.L.1997, c.162 (C.48:2-21.34) had been in effect in that year. This amount shall reflect adjustments to the determination of the corporation business tax, if any, filed in accordance with section 67 of P.L.1997, c.162 (C.48:2-21.34);

b. The pro forma sales and use tax that would have been collected by the remitter in the base year if the changes in the remitter's rates implemented pursuant to section 67 of P.L.1997, c.162 (C.48:2-21.34) had been in effect in that year. The amount shall reflect adjustments to the sales and use tax, if any, filed in accordance with section 67 of P.L.1997, c.162 (C.48:2-21.34); and

c. The amount of tax derived pursuant to the customer-specific tax classifications described in section 59 of P.L.1997, c.162 (C.48:2-21.31);

"Board" means the Board of Public Utilities of the State of New Jersey;

"First year" means the year immediately following the initial year;

"Initial year" means the year immediately following the base year;

"Remitter" means any corporation subject to assessment under this act; and

"Sales and use tax" means the sales and use tax liability computed on sales and use of energy and utility service as defined in section 2 of P.L.1966, c.30 (C.54:32B-2).

C.54:30A-102 Establishment of remitter's transition energy facility assessment.

38. Each remitter's transitional energy facility assessment shall be established pursuant to section 67 of P.L.1997, c.162 (C.48:2-21.34). Under no circumstances shall an assessment be made under this act for any year commencing after December 31, 2002.

C.54:30A-103 Payment of assessment by corporation.

39. Every gas and electric light, heat and power corporation subject to tax pursuant to the provisions of P.L.1940, c.5 (C.54:30A-49 et seq.) prior to January 1, 1998, or the corporate or non-corporate legal successor or assignee whether through any reorganization, sale, bankruptcy, consolidation, merger or other occurrence of any kind without limitation, and every corporation otherwise assessable set forth hereinbelow, shall annually pay the transitional energy facility assessment set forth in section 67 of P.L.1997, c.162 (C.48:2-21.34).

C.54:30A-104 Statement of sales from remitter due February 1.

40. a. On or before February 1, 1999, and on or before February 1 of each year thereafter until the year after the final year in which there is imposed a transitional energy facility assessment, every remitter shall return to the Director of the Division of Taxation in the Department of the Treasury a statement in such form, manner and detail as the director shall require showing:

a. The therms of natural gas and kilowatthours of electricity sold or transported for sale to ultimate consumers in New Jersey during the prior calendar year; and

b. The transitional energy facility assessment unit rate surcharges (exclusive of the provision for corporation business taxes included therein) as calculated pursuant to section 67 of P.L.1997, c.162 (C.48:2-21.34) applicable to the prior calendar year.

C.54:30A-105 Statements of taxes, collections from remitters; due dates.

41. a. Every remitter shall on or before October 15, 1998, and on or before October 15, in each year thereafter for years in which the transitional energy facility assessment is imposed, return to the Director of the Division of Taxation in the Department of the Treasury and the Board of Public Utilities a statement in such form, manner and detail as the director shall require showing the following:

(1) Sales and use tax collected and use tax liability through September 30 of the current calendar year;

(2) Estimated sales tax collections and use tax liability for the period from October 1 through December 31 of the current calendar year;

(3) Estimated corporation business tax, including negative and positive deferred corporation business taxes shown separately, for the current privilege period based upon actual taxable income from January 1 through September 30 and estimated taxable income from October 1 through December 31; and

(4) Actual transitional energy facility assessment liability from January 1 through September 30 and estimated liability from October 1 through December 31 for the current calendar year.

b. On or before November 15, 1998, and on or before November 15 of each year thereafter for years in which the transitional energy facility assessment is imposed, the State Treasurer shall, with the cooperation of the Board of Public Utilities, calculate the percentage reduction in the initial TEFA unit rate surcharges based upon the formula set forth in section 67 of P.L.1997, c.162 (C.48:2-21.34) and the board shall report the amount of such reduction to the remitters subject to the transitional energy facility assessment.

c. Every remitter shall on or before February 1, 1998 file with the director a statement showing:

(1) The total public utility tax advance payments paid in the initial year pursuant to P.L.1940, c.5 (C.54:30A-49 et seq.); and

(2) The remitter's base year liability and each of the amounts described in subsections (a), (b) and (c) in the definition of "base year transitional energy facility assessment" in section 37 of P.L.1997, c.162 (C.54:30A-101).

d. For any remitter owning or holding both gas and electric facilities and conducting both gas and electric business in this State each of the

amounts reported on the return required to be filed pursuant to subsection c. shall be allocated by the director between those operations in the proportion that the sum of the unit-based taxes bore to the whole of the unit-based taxes in the base year or such other allocation methodology as the director shall prescribe.

e. The statements required pursuant to this section shall be subscribed and sworn to by the president, a vice-president or chief officer of the corporation preparing each statement. Any remitter refusing or neglecting to make the statements herein provided for shall forfeit and pay to the State of New Jersey the sum of $100 per day for each day of such refusal or neglect, to be recovered in an action at law in the name of the State and which, when recovered, shall be paid into the State Treasury. It shall be the duty of the director to certify any such default to the Attorney General of the State who, thereupon, shall prosecute an action at law for each penalty.

f. The Director of the Division of Taxation shall audit and verify the statements filed by remitters whenever and in such respects the director shall deem necessary or advisable. The director may require any remitter to supply additional data and information in such form, manner, and detail as the director shall request, whenever the director may deem it necessary or helpful, for the proper performance of the director's duties under this act.

g. The director may, by regulation, additionally require that all filings required for the calculation and certification of assessment to be paid by remitters established pursuant to this act shall be made in an electronic form. The form and content of the electronic filing message, the circumstances under which the electronic filing message shall serve as a substitute for the filing of another return and the means by which remitters shall be determined to be subject to this electronic filing requirement shall be prescribed by the director.

For the purpose of this act "electronic filing" or "electronic filings" means any message that is initiated through an electronic terminal, telecommunication device, or computer for the purpose of fulfilling the reporting responsibilities set forth hereinabove.

C.54:30A-106 TEFA statement to remitter.

42. a. On or before April 1, 1999, and on or before April 1 of each year thereafter until the year after the final year in which the transitional energy facility assessment is imposed, the Director of the Division of Taxation shall send to each remitter a statement showing the transitional energy facility assessment liability for the prior calendar year, estimated payment received for the prior calendar year and any overpayment or underpayment of the tax liability for that calendar year.

b. Remitters shall make a payment of the underpayment as determined in subsection a. of this section, if any, to the director on or before May 15 of the current year.

c. Remitters shall treat any overpayment as determined in subsection a. of this section, if any, as an estimated payment as set forth in subsection d. of section 43 of P.L.1997, c.162 (C.54:30A-107).

C.54:30A-107 Liability for TEFA assessment.

43. a. (1) The liability for the transitional energy facility assessment made against any remitter in the first year of assessment shall be an amount equal to TEFA unit rate surcharges (excluding the provision for corporation business taxes included therein) determined in section 67 of P.L.1997, c.162 (C.48:2-21.34) multiplied by the associated therms of natural gas and kilowatthours of electricity sold or transported for sale to ultimate consumers in New Jersey in the first year plus any advances paid in the initial year pursuant to P.L.1940, c.5 (C.54:30A-49 et seq.) by that remitter.

(2) The liability for the transitional energy facility assessment made against any remitter for each year subsequent to the first year shall be an amount equal to the TEFA unit rate surcharges (excluding the provision for corporation business taxes included therein) calculated in section 67 of P.L.1997, c.162 (C.48:2-21.34) for that year multiplied by the associated therms of natural gas and kilowatthours of electricity sold or transported for sale to ultimate consumers in New Jersey in that year.

b. A credit against the liability determined pursuant to paragraph (1) of subsection a. of this section shall be taken in the first year by the remitter in the amount of all advances paid in the initial year pursuant to P.L.1940, c.5 (C.54:30A-49 et seq.).

c. (1) Each remitter shall make an estimated payment on May 15 of the first assessment year in the amount of the base year transitional energy facility assessment.

(2) Subsequent to the first year, each remitter shall make an estimated payment on May 15 of each assessment year in which the transitional energy facility assessment is in effect, in an amount equal to the transitional energy facility assessment liability described in subsection a. of this section for the immediately preceding assessment year, excluding advances paid in the initial year pursuant to P.L.1940, c.5 (C.54:30A-49 et seq.), reduced by the reduction percentage for the current assessment year determined pursuant to paragraphs (2), (3) and (4) of subsection d. of section 67 of P.L.1997, c.162 (C.48:2-21.34) less credits described in subsection d. of this section, if any.

d. Any excess of the estimated payment made pursuant to paragraph (1) or (2) of subsection c. of this section over the liability determined pursuant

to subsection a. of this section shall be treated as a credit against the estimated payment for the subsequent assessment year and reduce the amount of the estimated payment required to be made for that subsequent year. Any excess of the estimated payment made pursuant to paragraph (2) of subsection c. of this section over the liability for the final year of the transitional energy facility assessment shall be utilized as a nonrefundable credit with an unlimited carryforward against that remitter's corporation business tax liability in the subsequent privilege period year. Such credit shall be applied in full to each estimated corporation business tax payment beginning in the subsequent privilege period until fully utilized.

C.54:30A-108 Payments due May 15.

44. All payments shall be made in full on an annual basis to the State on or before May 15, 1998, and on or before May 15 of each year thereafter as long as this assessment shall remain in effect.

C.54:30A-109 Certification of amount of assessments.

45. a. Within 30 days after making the computation of the assessments under this act, the Director of the Division of Taxation shall certify the amount of such assessments. Within five days after making the computation of the assessments, the director shall issue directly to each remitter statements of amounts due, and payments with respect thereto shall be made by each taxpayer to the director in the following manner: all assessments due shall be remitted to the director on or before May 15, for calendar year 1998, and for each calendar year thereafter. If for any reason the making and delivering of a certificate of assessments shall be delayed until after April 15 in any year, then all of the assessments for such year affected by such certificate of assessment shall become due and payable 30 days after the date of such certification of assessment. The administration, collection and enforcement of the assessments payable by each remitter under this act shall be subject to the provisions of the State Tax Uniform Procedure Law, R.S.54:48-1 et seq., to the extent that the provisions of that law are not inconsistent with the provisions of this act.

b. The director may, by regulation, require that any payment of assessment made on or before the date established therefor pursuant to this act shall be by electronic funds transfer to such depositories as the State Treasurer shall designate pursuant to section 1 of P.L.1956, c.174 (C.52:18-16.1). A payment by electronic funds transfer shall be deemed to be made on the date the payment is received by the designated depository. The manner, form, and content of the electronic funds transfer message, the circumstances under which an electronic funds transfer shall serve as a substitute for the filing of another form of return, the means by which taxpayers will be provided with acknowledgments of payments, and the

classes of taxpayers subject to the electronic funds transfer requirement shall be as prescribed by the director.

c. For the purposes of this section "electronic funds transfer" means any transfer of funds, other than a transaction originated by check, draft, or similar paper instrument, that is initiated through an electronic terminal, telecommunication device, or computer for the purpose of ordering, instructing or authorizing a financial institution to debit or credit an account.

C.54:30A-110 Municipal electric sales, certain; additional assessment.

46. a. No municipal electric corporation or utility, not previously subject to assessment under P.L.1940, c.5 (C.54:30A-49 et seq.),shall be deemed a remitter for the purposes of enforcing the provisions of this act.

Notwithstanding the provisions of subsection a. of this section, sections 36 through 45, sections 47 through 49 and section 67 of P.L.1997, c.162 (C.54:30A-100 through C.54:30A-109, C.54:30A-111 through C.54:30A-113 and C.48:2-21.34) to the contrary, a municipal electric utility that collects sales tax for electricity sales that are not exempt from sales tax pursuant to the provisions of paragraph (1) of subsection a. of section 26 of P.L.1997, c.162 (C.54:32B-8.46), shall also collect on each such nonexempt sale during any year in which the transitional energy facility assessment is imposed, an additional assessment, in place of the transitional energy facility assessment otherwise determined pursuant to those sections, equal to the "TEFA unit rate surcharge" that would have been applicable to that sale if the sale had been made by the electric public utility, other than a municipal electric utility, within whose franchise area the customer is located.

C.54:30A-111 Remitter, certain, subject to assessment.

47. A corporation or utility determined to be a remitter pursuant to this act shall be subject to the transitional energy facility assessment. The amount of the transitional energy facility assessment liability and estimated payment shall be determined in accordance with this act and regulations as shall be promulgated by the Director of the Division of Taxation in the Department of the Treasury.

C.54:30A-112 Prior year's adjustment to assessment.

48. The Director of the Division of Taxation in making the assessment imposed by this act on any remitter for any year shall deduct from or add to the assessment for the year any deduction or addition to the extent and in the manner which may heretofore have been or may hereafter be ordered or decreed by any judgment of the Tax Court or any court by reason of any error or omission in connection with the assessment of the remitter in any prior year.

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C.54:30A-113 Rules, regulations applicable to remitters.

49. The Director of the Division of Taxation in the Department of the Treasury shall promulgate such rules and regulations applicable to remitters subject to this act as may be necessary to effectuate the purposes and provisions of this act.

C.54:30A-114 Short title; purpose of act.

50. a. Sections 50 through 58 of this act shall be known and may be cited as the "Uniform Transitional Utility Assessment Act."

b. The purpose of the Uniform Transitional Utility Assessment Act is to provide a complete framework and method for the making of a uniform transitional utility assessment on telephone companies that were subject to the provisions of P.L.1940, c.4 (C.54:30A-16 et seq.) as of April 1, 1997, and gas and electric light, heat and power corporations that were subject to the provisions of P.L.1940, c.5 (C.54:30A-49 et seq.), municipal or otherwise, prior to January 1, 1998 or their corporate or non-corporate legal successor or assignee whether through any reorganization, sale, bankruptcy, consolidation, merger or other transaction or occurrence of any kind without limitation.

C.54:30A-115 Definitions relative to uniform transitional utility assessment.

51. As used in this act, unless the context requires otherwise:

"Annual assessment" means the assessment made against each remitter in any year;

"Base year" means calendar year 1996;

"Remitter" means any corporation subject to assessment under this act; and

"Sales and use tax" means the sales and use tax liability computed on sales and use of energy and utility service as defined in section 2 of P.L.1966, c.30 (C.54:32B-2).

C.54:30A-116 Annual assessment.

52. a. Every gas and electric light, heat and power corporation, municipal or otherwise, that was subject to the provisions of P.L.1940, c.5 (C.54:30A-49 et seq.) prior to January 1, 1998 and every telephone company that was subject to the provisions of P.L.1940, c.4 (C.54:30A-16 et seq.) as of April 1, 1997 shall annually pay an annual assessment annually determined by the Director of the Division of Taxation as provided in this section.

b. (1) For energy remitters, the uniform transitional utility assessment in the first year of assessment shall be equal to the remitters unit energy tax liability paid in the base year pursuant to the provisions of P.L.1940, c.5

(C.54:30A-49 et seq.) adjusted to reflect the remitters unit energy tax rates in effect on January 1, 1997 less

(a) The sales and use tax remitted pursuant to P.L.1966, c.30 (C.54:32B-1 et seq.) as of June 20 in the first year;

(b) The amount of estimated corporation business tax remitted pursuant to section 15 of P.L.1945, c.162 (C.54:10A-15) as of June 20 in the first year;

(c) the payment of base year transitional energy facility assessment as defined in section 37 of P.L.1997, c.162 (C.54:30A-101) made on May 15 of that year; and

(d) the tax remitted pursuant to customer specific tax classifications described in section 59 of this act.

Each remitter shall allocate a portion of the uniform transitional utility assessment to its liability for first year sales and use tax remittance and first year corporation business tax liability and notify the director of such allocation.

(2) For telecommunications remitters, the uniform transitional utility assessment in the first year of assessment shall be equal to the remitter's liability paid in the base year pursuant to the provisions of P.L.1940, c.4 (C.54:30A-16 et seq.) less the amount of estimated corporation business tax remitted pursuant to section 15 of P.L.1945, c.162 (C.54:10A-15) as of June 20 in the first year.

c. (1) For energy remitters, the uniform transitional utility assessment in each year after the first year of assessment shall be equal to 50% of the total of the remitter's estimate of sales and use tax remittance for that year and corporation business tax liability for that year.

(2) For telecommunications remitters, the uniform transitional utility assessment in each year after the first year of assessment shall be equal to 50% of the remitter's estimate of its corporation business tax liability for that year.

(3) The estimates described in paragraphs (1) and (2) of this subsection, as applicable, shall be certified by the State Treasurer. The State Treasurer may, based upon each remitter's immediate prior year's sales tax remittances, immediate prior year's estimated corporation business tax liability and/or payments, current year sales tax remittances and current year estimated corporation business tax payments, as well as the economic conditions of the State, consideration of the State's revenues and expenditures and anticipated revenues and expenditures for the fiscal year and any other factor or factors which the State Treasurer deems relevant, reject the estimation and not certify the same. The remitter shall within five business days of the rejection recalculate the estimate and provide the recalculated estimate to the State Treasurer or provide the State Treasurer with sufficient

justification of its original estimate. If the State Treasurer fails to certify the original, recalculated or other agreed estimate within five business days after the previous five business day period set forth herein, the dispute shall be resolved pursuant to a procedure to be established by regulations as shall be promulgated by the director. Prior to such resolution, the remitter shall pay as its uniform transitional utility assessment for that year an amount determined by the State Treasurer which (a) for energy remitters shall not exceed the greater of (i) 50% of the sum of the remitter's sales and use tax remittances for the preceding year and the tax shown on the remitter's corporation business tax return, or tentative return filed with an application for extension of time to file, for the preceding year, or (ii) 50% of the net of the remitter's base year liability less the base year transitional energy facility assessment both as defined in section 37 of P.L.1997, c.162 (C.54:30A-101), and (b) for telecommunications remitters shall not exceed the greater of (i) 50% of the tax shown on the remitter's corporation business tax return, or tentative return filed with an application for extension of time to file, for the preceding year, or (ii) 50% of the remitter's base year gross receipts and franchise tax liability pursuant to P.L.1940, c.4 (C.54:30A-16 et seq.).

d. Nothing in this section shall be construed to relieve an energy remitter of the requirement to collect and pay its current year transitional energy facility assessment.

C.54:30A-117 Amount paid available as nonrefundable credit.

53. Any amount paid by a remitter pursuant to this act shall be available as a nonrefundable credit. Credits established pursuant to payments made under the "Uniform Transitional Utility Assessment Act" shall be granted only on the basis of the remitters estimation as certified by the State Treasurer pursuant to section 52 of this act, only against the tax in which the estimation is made, and shall not be claimed until after July 1 for the first year of assessment and after August 1st of each subsequent calendar year in which the uniform transitional utility assessment is paid. If, in any calendar year, the credits available against payments in any tax exceed the total amount due in that tax, the remitter may elect to have the excess credits for that year applied to the amounts due in that tax in subsequent years or, if applicable, as a credit to the transitional energy facility assessment payments to be made in the next year. Such credit shall be applied in full to each estimated tax payment beginning in the subsequent year until fully utilized. These credits may not be applied against any other liability except as set forth hereinabove.

C.54:30A-118 Statements from remitter.

54. a. Every remitter that was subject to the provisions of P.L.1940, c.5 (C.54:30A-49 et seq.) prior to January 1, 1998 shall on or before June 20,

1998, return to the Director of the Division of Taxation a statement showing, as shall apply:

(1) The sales and use tax remitted pursuant to P.L.1966, c.30 (C.54:32B-1 et seq.) as of June 20, 1998.

(2) The amount of estimated corporation business tax remitted pursuant to section 15 of P.L.1945, c.162 (C.54:10A-15) as of June 20, 1998.

(3) The percentage of the uniform transitional utility assessment the director shall allocate to the sales and use tax and to the corporation business tax.

b. Every remitter that was subject to the provisions of P.L.1940, c.5 (C.54:30A-49 et seq.) prior to January 1, 1998 shall on April 20, 1999, and on or before April 20 of each year thereafter, return to the director a statement showing, as shall apply:

(1) The estimated sales and use tax to be remitted for that year and the assumptions upon which that estimate is based; and

(2) The estimated corporation business tax liability for that year and the assumptions upon which that estimate is based.

c. (1) Every remitter that was subject to the provisions of P.L.1940, c.4 (C.54:30A-16 et seq.) on April 1, 1997 shall on or before June 20, 1998 return to the director a statement showing the amount of estimated corporation business tax remitted pursuant to section 15 of P.L.1945, c.162 (C.54:10A-15) as of June 20, 1998.

(2) Every remitter that was subject to the provisions of P.L.1940, c.4 (C.54:30A-16 et seq.) on April 1, 1997 shall on or before April 20, 1999 and on or before April 20 of each year thereafter return to the director a statement showing the estimated corporation business tax liability for that year and the assumptions upon which that estimate is based.

d. The statements herein provided for shall be subscribed and sworn to by the president, a vice-president or chief officer of the corporation making such return. Any remitter refusing or neglecting to make the statements herein provided for shall forfeit and pay to the State of New Jersey the sum of $100 per day for each day of such refusal or neglect, to be recovered in an action at law in the name of the State and which, when recovered, shall be paid into the State Treasury. It shall be the duty of the director to certify any such default to the Attorney General of the State who, thereupon, shall prosecute an action at law for such penalty.

e. The director shall audit and verify the statements filed by remitters whenever and in such respects as the director shall deem necessary or advisable. The director may require any remitter to supply additional data and information in such form and detail as the director shall request, whenever the director may deem it necessary or helpful, for the proper performance of the director's duties under this act.

f. The director may, by regulation, additionally require that all filings required for the calculation and certification of assessments to be paid by remitters established pursuant to this act shall be made in an electronic form. The form and content of the electronic filing message, the circumstances under which an electronic filing shall serve as a substitute for the filing of another return, and the means by which remitters shall be determined to be subject to this electronic filing requirement shall be prescribed by the director.

For the purpose of this act "electronic filing" or "electronic filings" means any message that is initiated through an electronic terminal, telecommunication device, or computer for the purpose of fulfilling the reporting responsibilities set forth hereinabove.

C.54:30A-119 Calculation, certification of assessment.

55. The Director of the Division of Taxation shall annually on or before June 23, 1998, and on or before May 10 of each year thereafter, calculate and certify to each remitter of the assessment the uniform transitional utility assessment to be paid by each remitter. All payments shall be made in full on an annual basis to the State on June 25, 1998 and on May 15 of each year thereafter as long as this tax shall remain in effect.

C.54:30A-120 Certification of amount of assessments.

56. a. Upon making the computation of the assessments under this act, the Director of the Division of Taxation shall certify the amount of such assessments. If for any reason the making and delivering of a certificate of assessments shall be delayed until after May 15, 1999 and after May 15 in any year thereafter, then all of the assessments for such year affected by such certificate of assessment shall become due and payable 10 days after the date of such certification of assessment. The administration, collection and enforcement of the assessments payable by each remitter under this act shall be subject to the provisions of the State Tax Uniform Procedure Law, R.S.54:48-1 et seq., to the extent that the provisions of that law are not inconsistent with the provisions of this act.

b. The director may, by regulation, require that any payment of assessment made on or before the date established therefor pursuant to this act shall be by electronic funds transfer to such depositories as the State Treasurer shall designate pursuant to section 1 of P.L.1956, c.174 (C.52:18-16.1). A payment by electronic funds transfer shall be deemed to be made on the date the payment is received by the designated depository. The manner, form, and content of the electronic funds transfer message, the circumstances under which an electronic funds transfer shall serve as a substitute for the filing of another form of return, the means by which taxpayers will be provided with acknowledgments of payments, and the

classes of taxpayers subject to the electronic funds transfer requirement shall be as prescribed by the director.

c. For the purposes of this section "electronic funds transfer" means any transfer of funds, other than a transaction originated by check, draft, or similar paper instrument, that is initiated through an electronic terminal, telecommunication device, or computer for the purpose of ordering, instructing or authorizing a financial institution to debit or credit an account.

C.54:30A-121 Prior year's adjustment to assessment.

57. The Director of the Division of Taxation in making the assessment imposed by this act on any remitter for any year shall deduct from or add to the assessment for that year any deduction or addition to the extent and in the manner which may heretofore have been or may hereafter be ordered or decreed by any judgment of the Tax court or any court by reason of any error or omission in connection with the assessment such remitter in any prior year.

C.54:30A-122 Rules, regulations applicable to remitters.

58. The Director of the Division of Taxation in the Department of the Treasury shall promulgate such rules and regulations applicable to remitters subject to this act as may be necessary to effectuate the purposes and provisions of this act.

C.48:2-21.31 Terms, conditions unaltered for retail sales, certain.

59. a. Nothing in P.L.1997, c.162 (C.54:10A-5.25 et al.) shall be construed to alter any terms or conditions of any contract for the duration of the contract, for the retail sale of electricity or natural gas to an end user that establishes a customer-specific tax classification and that was approved by separate written order of the Board of Public Utilities prior to January 1, 1998, notwithstanding any changes in the laws under which those contracts were established.

b. Amounts billed by a utility pursuant to subsection a. of this section shall be remitted to the Division of Taxation in the Department of the Treasury on or before April 1, 1998 and on or before April 1 of each year thereafter.

c. On and after January 1, 1998, no off-tariff rate agreement or alternate regulation plan pursuant to P.L.1995, c.180 (C.48:2-21.24 et seq.) or pursuant to any other order of the board shall allow for any reduction or exemption from any tax or surcharge imposed pursuant to P.L.1997, c.162 (C.54:10A-5.25 et al.) and not otherwise allowed by the provisions of P.L.1997, c.162 (C.54:10A-5.25 et al.).

60. R.S.54:4-1 is amended to read as follows:

Property subject to taxation.

54:4-1. All property real and personal within the jurisdiction of this State not expressly exempted from taxation or expressly excluded from the operation of this chapter shall be subject to taxation annually under this chapter. Such property shall be valued and assessed at the taxable value prescribed by law. Land in agricultural or horticultural use which is being taxed under the "Farmland Assessment Act of 1964," P.L.1964, c.48 (C.54:4-23.1 et seq.), shall be valued and assessed as provided by that act. An executory contract for the sale of land, under which the vendee is entitled to or does take possession thereof, shall be deemed, for the purpose of this act, a mortgage of said land for the unpaid balance of purchase price. Personal property taxable under this chapter shall include, however, only the machinery, apparatus or equipment of a petroleum refinery that is directly used to manufacture petroleum products from crude oil in any of the series of petroleum refining processes commencing with the introduction of crude oil and ending with refined petroleum products, but shall exclude items of machinery, apparatus or equipment which are located on the grounds of a petroleum refinery but which are not directly used to refine crude oil into petroleum products and the tangible goods and chattels, exclusive of inventories, used in business of local exchange telephone, telegraph and messenger systems, companies, corporations or associations that were subject to tax as of April 1, 1997 under P.L.1940, c.4 (C.54:30A-16 et seq.) as amended, and shall not include any intangible personal property whatsoever whether or not such personalty is evidenced by a tangible or intangible chose in action except as otherwise provided by R.S.54:4-20. As used in this section, "local exchange telephone company" means a telecommunications carrier providing dial tone and access to 51% of a local telephone exchange. Property omitted from any assessment may be assessed by the county board of taxation, or otherwise, within such time and in such manner as shall be provided by law. Real property taxable under this chapter means all land and improvements thereon and includes personal property affixed to the real property or an appurtenance thereto, unless:

a. (1) The personal property so affixed can be removed or severed without material injury to the real property;

(2) The personal property so affixed can be removed or severed without material injury to the personal property itself; and

(3) The personal property so affixed is not ordinarily intended to be affixed permanently to real property; or

b. The personal property so affixed is machinery, apparatus, or equipment used or held for use in business and is neither a structure nor

machinery, apparatus or equipment the primary purpose of which is to enable a structure to support, shelter, contain, enclose or house persons or property. For purposes of this subsection, real property shall include pipe racks, and piping and electrical wiring up to the point of connections with the machinery, apparatus, or equipment of a production process as defined in this section.

Real property, as defined herein, shall not be construed to affect any transaction or security interest provided for under the provisions of chapter 9 of Title 12A of the New Jersey Statutes (N.J.S.12A:9-101 et seq.). The provisions of this section shall not be construed to repeal or in any way alter any exemption from, or any exception to, real property taxation or any definition of personal property otherwise provided by statutory law.

The Director of the Division of Taxation in the Department of the Treasury may adopt rules and regulations pursuant to the provisions of the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.) as may be deemed necessary to implement and administer the provisions of this act.

61. R.S.48:3-7.8 is amended to read as follows:

Regulations applicable to public utilities.

48:3-7.8. a. Every public utility shall at all times keep within this State all records, books, accounts, documents and other writings relating to contracts entered into, transactions had, services rendered, business done and property within this State, and shall at no time remove any of such records, books, accounts, documents or writings from this State without the consent in writing of the board first had and obtained.

b. The board may by order in writing grant consent and permission under such regulations and conditions as it may see fit to impose for the keeping of any such records, books, accounts, documents and other writings outside of the State in such cases as the board may determine that such consent or permission so granted may be of financial advantage to the customers of the public utility within this State. Such consent or permission so granted may be revoked by the board at any time without notice. A public utility granted such consent or permission shall on the notice in writing of the board produce such records, books, accounts, documents and other writings at such time and place within this State as the board may designate.

c. A natural gas or electric vendor shall maintain an office within the State and shall keep such records pertaining to the sale as the board determines by order in writing to be necessary to protect the interest of consumers in the State.

d. A public utility as defined in R.S.48:2-13 shall not enter into a contract with a natural gas or electric vendor unless it first certifies to the board that the vendor is in compliance with subsection c. of this section and with R.S.48:3-7.9.

e. For the purpose of this section and R.S.48:3-7.9, "vendor" means and includes an individual, firm, joint venture, partnership, corporation, association, state, county, municipality, public agency or authority, cooperation association, or joint stock association, or any trustee, receiver, assignee, or personal representative thereof that is not a public utility as defined in R.S.48:2-13, but sells natural gas or electric power not for resale to a customer within this State.

62. R.S.48:3-7.9 is amended to read as follows:

Designation of agent.

48:3-7.9. Every public utility and every natural gas vendor and electric vendor subject to subsection c. of R.S.48:3-7.8, shall file with the board a designation in writing of an agent, resident of this State who shall have custody of such records, books, accounts, documents and other writings, and upon whom process for the production of the same may be served. Such designation shall set out the name of such agent, his place of residence within this State and his place of business. A public utility or vendor filing such designation may at any time revoke such designation, provided, that simultaneously with the revocation of such designation, a substituted designation be filed by it with the board.

C.48:2-21.32 Rules.

63. The Board of Public Utilities may adopt, pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), such rules as it deems necessary to implement the provisions of this act.

64. On or before January 1, 2002, the State Treasurer shall review and evaluate the administration and revenue impact of the imposition of the sales and use tax on energy and utility services pursuant to this act and shall advise the Legislature accordingly.

C.48:2-21.33 Tax and related savings to consumers.

65. The Board of Public Utilities shall have authority and shall pass along the tax and related savings realized under P.L.1997, c.162 (C.54:10A-5.25 et al.) to consumers when making rate calculations.

C.54:30A-123 Deposit of tax monies, certain.

66. a. For State budgetary purposes, the State Treasurer shall direct that all tax monies collected pursuant to contracts executed pursuant to tariff rate

schedules and associated gross receipts and franchise unit tax classes approved by separate written orders of the Board of Public Utilities prior to the effective date of this act shall be deposited in the State General Fund.

b. For State budgetary purposes, the collection of billings from customers of a utility for natural gas, electricity and utility service provided on and after January 1, 1998 and before the issuance by the Board of Public Utilities of a written order approving, upon either an interim or final basis, the rate filing of that utility required pursuant to section 67 of P.L.1997, c.162 (C.48:2-21.34), except for sales exempt as of December 31, 1997 from gross receipts and franchise taxes imposed pursuant to P.L.1940, c.5 (C.54:30A-49 et seq.) and sales to which section 59 of this act (C.48:2-21.31) shall apply, shall be deemed to include the collection of the full amount of sales and use tax that otherwise would have been due and owing for the billing as if the sales and use tax was imposed pursuant to P.L.1966, c.30 (C.54:32B-1 et seq.) and P.L.1997, c.162 (C.54:10A-5.25 et al.) at the time that the natural gas, electricity or utility service was actually provided.

C.48:2-21.34 Definitions relative to 1997 tax changes; filings required; formulas; adjustments to rates.

67. a. As used in this section:

"Base rates" means the rates, including minimum bills, charged for utility commodities or service subject to the board's jurisdiction, other than the rates charged under a utility's levelized energy adjustment clause, hereinafter "LEAC," or levelized gas adjustment clause, hereinafter "LGAC," or equivalent rate provision;

"Base year" means the calendar year 1996;

"Board" means the Board of Public Utilities;

"Sales and use tax" means the sales and use tax liability computed on sales and use of energy and utility service as defined in section 2 of P.L.1966, c.30 (C.54:32B-2);

"Utility" means a public utility subject to regulation by the board pursuant to Title 48 of the Revised Statutes; and

"Utility service" means the supply, transmission, distribution or transportation of electricity, natural gas or telecommunications services or any combination of such commodities, processes or services.

b. No later than 60 days after the date this act is enacted, each electric, gas and telecommunications utility subject to the provisions of this act shall file with the board, and shall simultaneously provide copies to the Director of the Division of the Ratepayer Advocate, revised tariffs and such other supporting schedules, narrative and documentation required by this act, as set forth in this section, to reflect in the utility's rates the changes in tax liability effected pursuant to this act. No later than 90 days after the date of

the utility's filing, and after determining that the filing and the rate changes provided for therein are in compliance with the provisions of this act, the board shall approve the utility's filing and associated rates for billing to the utility's customers, effective for utility service rendered on and after January 1, 1998. If the board determines that the utility's filing and the associated rate changes provided for therein are not in compliance with the provisions of this act, the board shall require the utility to amend or otherwise modify its filing to render it in compliance. The board may also permit the rates provided for in the utility's filing to be implemented on an interim basis pending the board's final determination in the event the board, in its discretion, determines that due to the filing's complexity, or for other valid reasons, including but not limited to the enactment of this act after June 30, 1997, additional time is needed for the board to complete its review of the filing. If the rates approved by the board upon its final determination are less than the rates implemented on an interim basis, the difference shall be refunded to the utility's customers with interest computed in accordance with N.J.A.C.14:3-7.5(c). The rate adjustments implemented pursuant to this act shall not constitute a fixing of rates pursuant to R.S.48:2-21 and shall not be subject to the hearing requirements set forth in that section.

c. As of the effective date of the rate changes implemented pursuant to this act, and except for rates applicable to sales that were or are currently exempt from the unit-based energy taxes formerly imposed pursuant to P.L.1940, c.5 (C.54:30A-49 et seq.) and rates applicable to sales to which section 59 of P.L.1997, c.162 (C.48:2-21.31) applies, the board shall remove from the base rates of each electric public utility and gas public utility the unit tax rates included therein for the recovery of those unit-based energy taxes, and include therein provision for the recovery of corporation business tax imposed pursuant to P.L.1945, c.162 (C.54:10A-1 et seq.), and additionally shall authorize the collection of the sales and use tax imposed pursuant to P.L.1966, c.30 (C.54:32B-1 et seq.), as follows:

(1) The base rates of each gas and electric utility shall be reduced by the amount of the unit-based energy taxes per kilowatthour or per therm included therein.

(2) The provision for corporation business tax initially included in the base rates of each gas and electric utility shall be based on the utility's after-tax net income earned in the base year as booked, unless the board determines, in its discretion, that such income as booked is unusually high or low or otherwise unrepresentative of the utility's prospective net income, in which case the utility's base year net income shall be adjusted as determined by the board.

To permit the board to make this determination, in addition to including in its filing schedules showing its net income earned in the base year as

booked, the utility shall include adjustments to such booked income to eliminate the effect of revenues, expenses and extraordinary or other charges that are non-recurring, atypical, or both, including, but not limited to an adjustment to eliminate the effect of unusually hot or cold weather, and that would otherwise make the utility's base year net income unusually high or low or otherwise unrepresentative of the utility's prospective net income. If the adjustment is being made to eliminate the effect of unusually hot or cold weather, associated revenue and expense adjustments shall also be made. Subject to the board's approval, such adjusted income shall be the basis for the calculation of the initial provision for corporation business tax to be included in the utility's base rates.

The utility shall also include a calculation of its rate of return on common equity achieved in the base year, both as booked and as adjusted in accordance with the foregoing. The calculation shall be made employing the methodology set forth in N.J.A.C.14:12-4.2(b)1, and shall separately show the effect of reflecting adjustments to the calculation, if any, that may have been employed historically in establishing the utility's rate of return on common equity allowed for ratemaking purposes. The utility's filing shall also include copies of its audited financial statements for the base year and associated quarterly and other reports filed with the Securities and Exchange Commission.

To reflect the provision for corporation business tax in base rates, the demand charges, or charges per kilowatt, decatherm or million cubic feet; the energy charges, or charges per kilowatthour or per therm; and the customer charges, or charges other than demand and energy charges, set forth in each base rate schedule, and the floor price employed in parity rate schedules, included in the utility's tariff filed with and approved by the board shall be increased by amounts determined by multiplying such charges by the adjustment factor, "A e, g" derived below:

$$A\,e,g = \frac{((I\,e,g) \times [Rs/(1-Re)])}{(Br\,e,g)}$$

where:

"A e, g" means the adjustment factor applicable to electric base rates (e), gas base rates (g), or both, other than rates applicable to sales that were exempt from unit-based energy taxes formerly imposed pursuant to P.L.1940, c.5 (C.54:30A-49 et seq.) or to which section 59 of P.L.1997, c.162 (C.48:2-21.31) applies;

"I e, g" means the utility's base year after-tax net income from electric or gas sales, or both, and transportation service subject to the board's

jurisdiction and other operating revenue if such revenue is reflected in the utility's cost of service for ratemaking purposes, adjusted as approved by the board;

"Br e, g" means the utility's base year revenue from base rates applicable to electric or gas sales, or both, and transportation service subject to the board's jurisdiction, but excluding sales that were exempt from unit-based energy taxes formerly imposed pursuant to P.L.1940, c.5 (C.54:30A-49 et seq.) or to which section 59 of P.L.1997, c.162 (C.48:2-21.31) applies;

"Rs" means the corporation business tax rate, expressed as a decimal;

"Rf" means the applicable federal corporation income tax rate expressed as a decimal; and

"Re" equals Rs + Rf(1-Rs).

The utility shall account for the changes in tax liability provided for by this act effective January 1, 1998. Such accounting shall include the recording on the utility's income statement and balance sheet of deferred corporation business tax defined, for book accounting purposes, as differences in corporation business tax expense arising from timing differences in the recognition of revenue and expenses for book and tax purposes.

(3) When billed to the utility's customers, the adjusted base rate charges determined pursuant to paragraphs (1), (2), and (4) of this subsection, and the charges determined pursuant to the utility's levelized energy adjustment clause, levelized gas adjustment clause, or both, as determined both upon the effective date of the rate changes authorized by this act and as revised prospectively in accordance with the utility's tariff filed with and approved by the board, and the transitional energy facility assessment unit rate surcharges, hereinafter, "TEFA unit rate surcharges," determined in accordance with subsection d. of this section, shall be increased by an amount determined by multiplying such charges by the sales and use tax rate imposed under P.L.1966, c.30 (C.54:32B-1 et seq.). In addition to the utility's rates for service included in its tariff, for informational purposes the tariff shall include such rates after application of the sales and use tax authorized by this section.

(4) The utility's filing with the board to implement the rate changes provided for by this act shall include an analysis, description, and quantification of the effect of the changes in rates and tax payments implemented pursuant to this act on the utility's requirement for cash working capital, and if such requirement is less than the cash working capital allowed for the collection and payment of unit-based energy taxes formerly imposed pursuant to P.L.1940, c.5 (C.54:30A-49 et seq.) in determining the utility's base rates in effect prior to the rate changes implemented pursuant to this act, and to the extent the working capital reduction is not offset by a

reduction in net deferred taxes as provided for below, such base rates shall be reduced by the reduction in the utility's revenue requirement associated with the remaining reduction in the working capital requirement not so offset, if any. The reduction in working capital shall be determined by using the same methodology employed in establishing the working capital allowance related to unit-based energy taxes reflected in the utility's base rates in effect prior to the rate changes implemented pursuant to this act. The reduction in the utility's revenue requirement associated with the reduced working capital requirement shall be calculated using the utility's last overall rate of return allowed by the board, including provision for federal income taxes and the corporation business tax implemented pursuant to this act payable on the equity portion of the return, and shall be implemented on the effective date of the rate changes provided for, and in the manner set forth in paragraph (2) of this subsection.

If the utility's requirement for cash working capital is increased as a result of the changes in rates and tax payments implemented pursuant to this act, the utility may accrue carrying costs, calculated at its last overall rate of return allowed by the board and applied on a simple annual interest basis without compounding, on the increased working capital requirement and request recovery of such carrying costs in a rate proceeding before the board.

The working capital-related base rate changes and carrying cost accruals shall be subject to the board's approval, and shall not be included in the determination of the TEFA unit tax surcharges provided for in subsection d. of this section.

The utility's filing with the board to implement the rate changes provided for by this act shall also include an analysis, description and quantification of net deferred taxes. For the purposes of this section, "net deferred taxes" means deferred corporation business taxes, net of federal deferred income taxes, associated with the tax and rate changes implemented pursuant to this act, including deferred corporation business tax recorded in accordance with section 4 of P.L.1945, c.162 (C.54:10A-4), projected for the calendar year in which this act takes effect and for each year of the tax life of the asset giving rise to the deferred corporation business taxes pursuant to section 4 of P.L.1945, c.162 (C.54:10A-4).

If the change in such net deferred taxes projected for the calendar year in which the rate changes implemented pursuant to this act takes effect is negative and if the utility's requirement for working capital is reduced as a result of the changes in rates and tax payments implemented pursuant to this act, the working capital-related rate reduction that otherwise would have been implemented pursuant to this subsection shall be treated as set forth in subparagraph (a) or (b) of this paragraph. For the purposes of this act, a

change in net deferred taxes is considered negative when it reduces an existing deferred tax liability or creates a deferred tax asset on the utility's balance sheet. An appropriate rate adjustment for the working capital impacts of this act, reflecting all relevant facts and circumstances at the time of the adjustment, shall be made in the year when the earlier of the following events occur:

(a) The year in which the reduction in carrying costs assumed for the rate reduction for working capital that would have been made but for this paragraph is no longer required to offset, on a present value basis, the annual carrying costs calculated on the accumulated balance of negative net deferred taxes projected to be recorded by the utility, its successors and assigns, over the tax life of the single asset account giving rise to such net deferred taxes pursuant to section 4 of P.L.1945, c.162 (C.54:10A-4). For the purposes of this subparagraph (a):

(i) Carrying costs and present values are to be computed using the weighted average after-tax rate of return approved by the board in the utility's last base rate proceeding.

(ii) The accumulated balance of such negative net deferred taxes shall include net deferred taxes associated with all assets and liabilities originally placed in service by the utility and held by the utility or a company affiliated with the utility regardless of whether or not such assets continue to be subject to regulation by the New Jersey Board of Public Utilities.

(b) The year in which both an appropriate working capital adjustment and the accumulated balance of negative deferred taxes, as described in (ii) of subparagraph (a) of this paragraph (4), are reflected in the utility's rate base in a rate proceeding before the board. It is the intent of this section to fully compensate utilities on a present value basis, for the carrying costs associated with negative net deferred taxes arising as a result of this act, and to remit to ratepayers any credit due them as a result of any overcompensation as may have occurred due to the treatment of working capital and deferred taxes as set forth herein or in subparagraph (a) of this paragraph (4). At the time the above base rate adjustment is made, an analysis shall be made to determine if such carrying costs have been or will be fully recovered pursuant to the intent of this provision and any additional credit or charge to ratepayers to adjust for ratepayer overpayments or underpayments, if any shall be addressed.

If the change in net deferred taxes is positive, the increase shall be added to, or increase, the reduction in the utility's requirement for working capital if the requirement is reduced as a result of the rate and tax payment changes implemented pursuant to this act, or subtracted from the working capital requirement if it is increased, and the resultant net working capital requirement shall be reflected in rates or accrue carrying costs in the same

manner as prescribed for changes in the utility's requirement for working capital above.

The deferred tax-related rate changes or carrying cost accruals shall be subject to the board's approval and shall not be included in the determination of the TEFA unit rate surcharges provided for in subsection d. of this section.

d. (1) Electric and gas utilities shall file, for the board's review and approval, initial TEFA unit rate surcharges determined by deducting from each unit-based energy tax unit tax rate effective January 1, 1997 the following: (a) An amount per kilowatthour or per therm determined by multiplying the total revenue received in the base year from sales to which that unit tax rate would have been applicable by the factor Ru/(1 + Ru), where Ru is the sales and use tax rate imposed under P.L.1966, c.30 (C.54:32B-1 et seq.) expressed as a decimal, and dividing the result by the kilowatthours or therms billed in that unit tax rate class in the base year; and (b) An amount per kilowatthour or per therm determined by dividing the revenue that would have been received in the base year from the inclusion, in the manner prescribed in paragraph (2) of subsection c. of this section, of the corporation business tax in the rates applicable to sales billed in that unit tax rate class by the kilowatthours or therms billed in that rate class. In each case, the determination shall reflect the effect of adjustments that affect the level of sales and revenue, if any, as provided in subsection c. of this section. Of the resultant rate per kilowatthour or per therm, the portion for recovery of the utility's transitional energy facilities assessment liability shall be determined by multiplying such rate by the factor (1 - Rs), where Rs is the corporation business tax rate expressed as a decimal. The TEFA unit rate surcharges shall constitute non-bypassable wires and/or mains charges of the utility, and shall be applied to all sales within the customer classes to which they apply, regardless of whether such customers are purchasing bundled or unbundled services from the utility, but shall not be applied to sales that were or are currently exempt from unit-based energy taxes formerly imposed pursuant to P.L.1940, c.5 (C.54:30A-49 et seq.) or to which section 59 of P.L.1997, c.162 (C.48:2-21.31) applies.

If, following the effective date of this act, a customer taking bundled service from the utility shall elect to obtain its requirements from another supplier and take transportation or wheeling service from the utility, the TEFA unit rate surcharge applicable to the bundled service shall continue to apply to the transportation or wheeling service. The TEFA components of the unit rate surcharges determined pursuant to this subsection (the components of the surcharges remaining after deducting the provision for corporation business tax included therein) shall be used to determine the

transitional energy facility assessment liability pursuant to sections 36 through 49 of P.L.1997, c.162 (C.54:30A-100 through C.54:30A-113).

(2) Unless reduced pursuant to paragraphs (3) and (4) of this subsection, the initial TEFA unit rate surcharges are to be reduced annually on January 1, 1999 through January 1, 2003 by the following percentages:

January 1, 2001	60%
January 1, 1999	20%
January 1, 2000	40%
January 1, 2002	80%
January 1, 2003	100%

(3) For each year beginning with calendar year 1998 and ending with calendar year 2002, the TEFA surcharge adjustment shall be determined as the difference between:

(a) The sum of the estimated, or actual when known, (i) TEFA liabilities, as defined in section 43 of P.L.1997, c.162 (C.54:30A-107), and sales and use taxes collected and corporation business taxes booked for the year 1998 by the gas and electric utilities and other entities subject to the TEFA provisions of this act (the year 1998 liability), and (ii) the TEFA liabilities of those utilities and entities in all years following the year 1998 through the year in which a determination is being made pursuant to this subsection (the determination year); and

(b) The sum of (i) the total of each remitter's base year liability, as defined in section 37 of P.L.1997, c.162 (C.54:30A-101), and (ii) the cumulative TEFA obligation, defined as the sum through the determination year of the amounts calculated by multiplying, for the applicable year, the percentage in the second column of the following table:

Determination Year	% of Year 1998 TEFA
1999	80%
2000	60%
2001	40%
2002	20%

by the Year 1998 TEFA,
where the Year 1998 TEFA is calculated as the total of each remitter's base year liability less the sales and use taxes collected and the corporation business taxes booked for the privilege period ending in calendar year 1998 by the gas and electric utilities and other entities subject to the TEFA provisions of this act. For purposes of this subsection, the amounts assumed for the determination year, including the year 1998 liability when first determined for the purposes of this subsection, shall be estimates based on nine months of actual data through and including the month of September, and three months of data forecast for the months of October through December.

(4) If the TEFA surcharge adjustment determined for the determination year is positive (that is, if the amount determined pursuant to subparagraph (a) of paragraph (3) of this subsection is greater than the amount determined pursuant to subparagraph (b) of paragraph (3) of this subsection), no reduction shall be made in the reduction in the TEFA unit rate surcharges provided for in paragraph (2) of this subsection for the year following the determination year. If the TEFA surcharge adjustment is negative, the reduction in the TEFA unit rate surcharges that otherwise would have been implemented on January 1 of the year following the determination year pursuant to paragraph (2) of this subsection shall be reduced by an amount (by percentage points) equal to the percentage the TEFA surcharge adjustment is of the total of the base year transitional energy facility assessment of all remitters, as defined in section 37 of P.L.1997, c.162 (C.54:30A-101), provided however, that such reduction in the reduction in the TEFA unit rate surcharges shall not exceed the percentage shown in paragraph (2) of this subsection for that year; and provided further that in the first two years, that such reduction shall not exceed 10 percentage points for each year.

e. The utility's filing with the board to implement the rate changes provided for by this act shall include proof of revenue schedules that show for each rate schedule included in the utility's tariff, aggregated by unit-based energy tax unit tax classes, the number of customers billed under the rate schedule, the billing determinants of such customers (i.e. the kilowatts of billing demand and kilowatthours of electric energy consumed, and the million cubic feet/decatherm subject to gas capacity-related charges and decatherm of gas consumed) and the associated revenue, both as booked in the base year and on a pro forma basis reflecting the rate changes implemented pursuant to this act. The proof of revenue shall additionally show the amount of unit-based energy taxes included in the base year revenue as booked, the unit-based energy taxes that would have been collected at the unit-based energy tax unit tax rates effective January 1, 1997, if different, as

well as the corporation business tax, sales and use tax and transitional energy facility assessment revenue that would have been collected or received on a pro forma basis if the rates implemented pursuant to this act had been in effect in the base year.

f. The board may, in its discretion, permit the rate changes provided for this act to be implemented as part of a pending base rate case or other proceeding in which the utility's rates are to be changed, provided that the effective date of the changes is not delayed beyond the date on which the changes would have been implemented under subsection c. of this section. The board may also, pursuant to its powers provided by law, permit or require further modifications in the implementation of this section to address unforeseen consequences arising out of the implementation of this act.

g. Customers of the utility who are exempt from the sales and use tax imposed on sales of gas and/or electricity or as a result of rate changes occurring prior to the effective date of this act or for other valid reasons are due a refund of sales or use tax inadvertently imposed on such customers as a result of implementing the rate changes provided for by this act shall file with the State Treasurer to obtain such refunds. The State Treasurer shall promptly notify the utility of customers granted refunds under this provision in order to prevent additional collections of the sales and use tax from such customers.

h. Public utilities providing telecommunications service regulated by the board shall file for the board's review and approval revised tariffs that eliminate from the rates applicable to such service the excise tax liability included therein pursuant to P.L.1940, c.4 (C.54:30A-16 et seq.), and shall include therein the corporation business tax calculated using the methodology used in calculating the adjustment factor set forth in paragraph (2) of subsection c. of this section. Subsection d. of this section shall not apply to telecommunication utilities, and telecommunication utilities subject to a plan of regulation other than rate base/rate of return shall additionally not be required to file the rate of return information required by paragraph (2) of subsection c. Such utilities shall, however, include a narrative and/or other documentation as required by the board to support the reasonableness of the after-tax income, which may be adjusted to eliminate the effect of non-recurring or other atypical events, on which the corporate business tax inclusion in rates is based. Telecommunications utilities shall comply with all other applicable provisions of this section.

i. (1) The board shall not adjust the rates of a public utility, as provided in subsections c. and d. of this section, for a purchase by a cogenerator of natural gas and the transportation of that gas, that is exempt from sales and use tax pursuant to paragraph (2) of subsection b. of section 26 of P.L.1997,

c.162 (C.54:32B-8.46). The board shall not allocate, in any future rate case, any sales and use tax, corporation business tax, or transitional energy facility assessment to rates for this purpose.

(2) The board shall adjust the rates, as provided in subsection c. of this section, for a purchase by a cogenerator of any quantity of natural gas and the transportation of that gas that is not exempt from sales and use tax pursuant to paragraph (2) of subsection b. of section 26 of P.L.1997, c.162 (C.54:32B-8.46).

(3) For the purposes of this section, "cogenerator" means a person or business entity that owns or operates a cogeneration facility in the State of New Jersey, which facility is a plant, installation or other structure whose primary purpose is the sequential production of electricity and steam or other forms of useful energy which are used for industrial, commercial, heating or cooling purposes, and which is designated by the Federal Energy Regulatory Commission, or its successor, as a "qualifying facility" pursuant to the provisions of the "Public Utility Regulatory Policies Act of 1978," Pub.L. 95-617.

C.54:10A-4.1 TEFA as State tax.

68. Notwithstanding the use of the term assessment, the transitional energy facility assessment tax is a State tax within the meaning of section 164 of the federal Internal Revenue Code of 1986, 26 U.S.C. s.164, pursuant to which a deduction is allowed in arriving at federal taxable income for the taxable year within which it is paid or accrued and such amount shall be added back to entire net income pursuant to subparagraph (c) of paragraph (2) of subsection (k) of section 4 of P.L.1945, c.162 (C.54:10A-4).

C.54:30A-124 Imposition of fees, taxes, levies, assessments by certain local units prohibited.

69. a. No municipal, regional, or county governmental agency may impose any fees, taxes, levies or assessments in the nature of a local franchise, right of way, or gross receipts fee, tax, levy or assessment against energy companies subject to the provisions of P.L.1940, c.5 (C.54:30A-49 et seq.) prior to January 1, 1998 or telecommunication companies . Nothing in this section shall be construed as a bar to reasonable fees for actual services made by any municipal, regional or county governmental agency. Nothing in this section shall be construed to affect the franchising process or the assessment of franchise fees with respect to the provision of cable television service in accordance with the provisions of P.L.1972, c.186 (C.48:5A-1 et seq.).

b. Nothing in this section shall be construed to limit municipal taxation of real or personal property pursuant to R.S.54:4-1 of local exchange telephone, telegraph and messenger systems, companies, corporations or

associations that were subject to tax under P.L.1940, c.4 (C.54:30A-16 et seq.) as of April 1, 1997.

C.54:4-1.17 Construction of 1997 utility tax act.

70. a. Nothing in this act shall be construed to limit municipal taxation of real estate pursuant to R.S.54:4-1 of current or former remitters of the transitional energy facility assessment, or of a corporate or non-corporate legal successor or assignee of a current or former remitter of the transitional energy facility assessment whether through any reorganization, sale, bankruptcy, consolidation, merger or other transaction or occurrence of any kind without limitation. As used in this section, "real estate" means lands and buildings, but shall not include items of the type as set forth in the list of scheduled property for gas systems and electric light, heat and power systems in section 10 of P.L.1940, c.5 (C.54:30A-58) prior to January 1, 1998. As provided in that list, railways, tracks, ties, lines, wires, cables, poles, pipes, conduits, bridges, viaducts, dams and reservoirs (except that the lands upon which dams and reservoirs are situated shall be included as real estate), machinery, apparatus or equipment, notwithstanding any attachment thereof to lands or buildings owned by current or former remitters of the transitional energy facility assessment, or of a corporate or non-corporate legal successor or assignee of a current or former remitter of the transitional energy facility assessment whether through any reorganization, sale, bankruptcy, consolidation, merger or other transaction or occurrence of any kind without limitation, are not real estate.

b. No municipality, regional or county governmental agency shall directly or indirectly tax as real property, or include within the assessment of real property, the public utility owned electrical interconnect, water lines or gas lines, or any value thereof, which were set forth in the list of scheduled property for gas systems and electric light, heat and power systems in section 10 of P.L.1940, c.5 (C.54:30A-58), prior to enactment of this act whether or not on the real estate of current or former remitters of the transitional energy facility assessment.

71. Notwithstanding any other provision of law to the contrary, for the period from January 1, 1998 through the date the utility rate changes provided for in this act are implemented as set forth in section 67 of P.L.1997, c.162 (C.48:2-21.34), the sales and use tax imposed pursuant to P.L.1966, c.30 (C.54:32B-1 et seq.) as amended and supplemented by P.L.1997, c.162 (C.54:10A-5.25 et al.), upon sales and use of energy and utility service that were subject to regulated rates that included unit-based energy taxes imposed pursuant to P.L.1940, c.5 (C.54:30A-49 et seq.) during that period, shall be imposed upon the utility vendors of energy and

utility service in this State and shall not be imposed upon the purchasers thereof. The amount of tax due under this section shall be payable by a utility vendor to satisfy the utility vendor's tax liability on those sales and use of energy and utility service under this section.

C.54:30A-125 Telecommunication assessment.

72. Every telephone company that was subject to the provisions of P.L.1940, c.4 (C.54:30A-16 et seq.) as of April 1,1997, that makes an advance payment of its applicable gross receipts and franchise tax to the State in the final year of the existence of such tax and treated such advance payment as an expense on its books and records for that year, or its corporate or non-corporate legal successor or assignee whether through any reorganization, sale, bankruptcy, consolidation, merger or other occurrence of any kind without limitation, shall on May 15, 1998, pay a telecommunication assessment. The telecommunication assessment shall be equal to the amount of the advances paid in 1997 pursuant to P.L.1940, c.4 (C.54:30A-16 et seq.) by that remitter. A credit against the liability for the telecommunication assessment set forth in this section shall be taken by the remitter in the amount of the advances it paid in 1997 pursuant to P.L.1940, c.4 (C.54:30A-16 et seq.).

C.54:30A-126 Submission of final tax form by energy utilities.

73. The repeal of and amendments to various provisions of law pursuant to P.L.1997, c.162 (C.54:10A-5.25 et al.), prospectively eliminating the imposition of unit-based energy taxes on gas, electric and gas and electric public utilities pursuant to P.L.1940, c.5 (C.54:30A-49 et seq.) and amendatory and supplementary acts thereto shall not affect the obligation of each such public utility taxpayer, on or before April 1, 1998, to file a final tax form with the director pursuant to subsection c. of section 10 of P.L.1991, c.184 (C.54:30A-54.6). Any remaining tax liability due by the taxpayer on the final tax form shall be submitted with the final tax form. However, any overpayment shown on the final tax form shall be taken as a credit against the uniform transitional utility assessment to be paid June 25, 1998 pursuant to sections 50 through 58 of P.L.1997, c.162 (C.54:30A-114 through C.54:30A-122).

C.48:2-21.35 Cooperation on development of statement to energy user bills.

74. The State Treasurer and the Board of Public Utilities shall cooperate to develop a statement to be included on energy users' billings from their vendors that a portion of the charges in the billing are dedicated to property tax relief.

C.40:50-16 Host community benefit agreements.

75. Host community benefit agreements between a municipality and an electric generating facility within the municipality shall be of full force and effect under law and shall be binding upon the parties to the agreement.

76. The Board of Public Utilities shall conduct a review of all telecommunications taxes, including an analysis of alternative taxes, and evaluate their potential for providing property tax relief and their impact under the on-going transition to a more competitive and technologically diverse market and submit its findings and recommendations in a written report to the Governor and the Legislature on or before December 31, 1997.

Repealer.

77. The following are repealed:

Section 2 of P.L.1983, c.95 (C.48:2-29.37);

P.L.1940, c.4 (C.54:30A-16 through 54:30A-29);

Sections 6 and 8 of P.L.1963, c.41 (C.54:30A-18.1 and 54:30A-18.2);

Section 2 of P.L.1971, c.109 (C.54:30A-18.1a);

Sections 1 and 2 of P.L.1979, c.35 (C.54:30A-18.4 and 54:30A-18.5);

Sections 2, 10, 11, 12 and 24 of P.L.1991, c.184 (C.54:30A-18.6, 54:30A-54.6, 54:30A-54.7, 54:30A-54.8 and 54:30A-18.7);

Section 2 of P.L.1980, c.10 (C.54:30A-24.1);

Section 5 of P.L.1989, c.2 (C.54:30A-24.2);

Sections 25 and 27 of P.L.1991, c.184 (C.54:30A-24.3 and 54:30A-24.4);

P.L.1961, c.91 (C.54:30A-51.1 through 54:30A-51.5);

Section 5 of P.L.1940, c.5 (C.54:30A-53);

Sections 8 through 13 of P.L.1940, c.5 (C.54:30A-56 through 54:30A-61);

Section 4 of P.L.1980, c.11 (C.54:30A-61.1);

Sections 19, 26 and 28 of P.L.1991, c.184 (C.54:30A-61.2 through 54:30A-61.4);

Sections 16, 17, 19 and 20 of P.L.1940, c.5 (C.54:30A-64 through 54:30A-67); and

Section 30 of P.L.1991, c.184 (C.54:30A-68).

78. This act shall take effect January 1, 1998, except that this section and sections 49, 58, 63 and 67 shall take effect immediately.

Approved July 14, 1997.

CHAPTER 163

AN ACT appropriating $21,610,000 from the "Green Acres, Farmland and Historic Preservation, and Blue Acres Bond Act of 1995," P.L.1995, c.204, for the development 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 to the Department of Environmental Protection from 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, the sum of $21,610,000 for the development of lands by the State for recreation and conservation purposes. This sum shall include administrative costs and shall be allocated for various State park and wildlife management area renovation, rehabilitation and development projects as follows:

LIBERTY STATE PARK

ESTIMATED COST	*PROJECT*	*COUNTY*
$10,000,000	Jersey City	Hudson
$10,000,000		

PALISADES INTERSTATE PARK

ESTIMATED COST	*PROJECT*	*COUNTY*
$800,000	Ross Dock Englewood Cliffs Boro	Bergen
$800,000		

HACKENSACK MEADOWLANDS DEVELOPMENT COMMISSION

ESTIMATED COST	*PROJECT*	*COUNTY*
$500,000	Various	Bergen Hudson
$500,000		

FISH, GAME AND WILDLIFE

ESTIMATED COST	*PROJECT*	*COUNTY*
$1,700,000	Assunpink	
	East Windsor Twp.	Mercer
	Washington Twp.	Mercer
	Millstone Twp.	Monmouth
	Roosevelt Boro	Monmouth
	Upper Freehold Twp.	Monmouth
60,000	Capoolong Creek Br.	
	Franklin Twp.	Hunterdon
12,000	Clinton	
	Bethlehem Twp.	Hunterdon
	Union Twp.	Hunterdon
70,000	Colliers Mills	
	Jackson Twp.	Ocean
	Plumsted Twp.	Ocean
100,000	Columbia Lake	
	Knowlton Twp.	Warren
2,000,000	Hackettstown	
	Hackettstown	Warren
	Mansfield Twp.	Warren
50,000	Manahawkin	
	Stafford Twp.	Ocean
50,000	Manasquan	
	Wall Twp.	Monmouth
	Brick Twp.	Ocean
10,000	Paulins Kill Lake	
	Hampton Twp.	Sussex
25,000	Pemberton Lake	
	Pemberton Twp.	Burlington

ESTIMATED COST	*PROJECT*	*COUNTY*
25,000	Penns Grove	
	Carneys Point Twp.	Salem
	Oldmans Twp.	Salem
500,000	Pequest	
	Liberty Twp.	Warren
	Mansfield Twp.	Warren
	Oxford Twp.	Warren
	White Twp.	Warren
250,000	Rockport Game Farm	
	Mansfield Twp.	Warren
80,000	Round Valley	
	Clinton Twp.	Hunterdon
25,000	Silver Lake	
	Hardyston Twp.	Sussex
19,000	Wildcat Ridge	
	Rockway Twp.	Morris
100,000	Absecon Boat Ramp Improvements	
	Absecon City	Atlantic
600,000	Cedar Creek Boat Ramp	
	Lawrence Twp.	Cumberland
150,000	Pennsville Boat Ramp Improvements	
	Pennsville Twp.	Salem
250,000	Salem Canal Boat Ramp	
	Mannington Twp.	Salem
200,000	Turnpike Bridge Area Fishing Access	
	Burlington Twp.	Burlington

ESTIMATED COST	*PROJECT*	*COUNTY*
1,000,000	Delaware Estuary Nat. Res. Ctr.	
	Maurice River Twp.	Cumberland
1,000,000	Demolition (fish factory)	
	Little Egg Harbor Twp.	Ocean
1,160,000	Field Station Consolidation	
	Bethlehem Twp.	Hunterdon
	Union Twp.	Hunterdon
100,000	Handicap Ranges	
	Corbin City	Atlantic
	Estell Manor City	Atlantic
	Hamilton Twp.	Atlantic
	Mullica Twp.	Atlantic
	Winslow Twp.	Camden
	Upper Twp.	Cape May
	Commercial Twp.	Cumberland
	Downe Twp.	Cumberland
	Monroe Twp.	Gloucester
	Union Twp.	Hunterdon
	Freehold Twp.	Monmouth
	Upper Freehold Twp.	Monmouth
	Chester Twp.	Morris
	Eagleswood Twp.	Ocean
	Jackson Twp.	Ocean
	Little Egg Harbor Twp.	Ocean
	Plumsted Twp.	Ocean
	Stafford Twp.	Ocean
	Sandyston Twp.	Sussex
	Mansfield Twp.	Warren
	Oxford Twp.	Warren
90,000	Sedge House	
	Ocean Twp.	Ocean

ESTIMATED COST	*PROJECT*	*COUNTY*
30,000	Southern Regional Shop	
	Winslow Twp.	Camden
154,000	Statewide Env./ Health/	
	Life-Safety	All
500,000	Wildlife Diversity	
	Corbin City	Atlantic
	Estell Manor City	Atlantic
	Dennis Twp.	Cape May
	Lower Twp.	Cape May
	Middle Twp.	Cape May
	Upper Twp.	Cape May
	Downe Twp.	Cumberland
	Maurice River Twp.	Cumberland
	Stow Creek Twp.	Cumberland
	Vineland City	Cumberland
	Washington Twp.	Mercer
	Millstone Twp.	Monmouth
	Roosevelt Boro	Monmouth
	Upper Freehold Twp.	Monmouth
	Chester Boro	Morris
	Chester Twp.	Morris
	Rockaway Twp.	Morris
	Barnegat Twp.	Ocean
	Eagleswood Twp.	Ocean
	Lacey Twp.	Ocean
	Little Egg Harbor Twp.	Ocean
	Manchester Twp.	Ocean
	Ocean Twp.	Ocean
	Stafford Twp.	Ocean
	Elsinboro Twp.	Salem
	Mannington Twp.	Salem
	Pennsville Twp.	Salem
	Andover Twp.	Sussex
	Fredon Twp.	Sussex
	Green Twp.	Sussex
	Liberty Twp.	Warren
	Mansfield Twp.	Warren

ESTIMATED COST	*PROJECT*	*COUNTY*
	Oxford Twp.	Warren
	White Twp.	Warren
$10,310,000		

b. Any transfer of funds, change in project sponsor, or change in project site or type listed in subsection a. of this section shall require the approval of the Joint Budget Oversight Committee or its successor.

c. To the extent that moneys remain available after the projects listed in subsection a. of this section are offered funding pursuant thereto, the projects listed in P.L.1997, c.160 shall be eligible for additional funding, including administrative costs, utilizing those remaining moneys, in a sequence consistent with the priority system established by the Department of Environmental Protection, and with the approval of the Joint Budget Oversight Committee or its successor.

2. The expenditure of the sums appropriated by this act is subject to the provisions and conditions of P.L.1995, c.204.

3. This act shall take effect immediately.

Approved July 18, 1997.

CHAPTER 164

AN ACT appropriating $47,687,000 from the "Green Acres, Farmland and Historic Preservation, and Blue Acres Bond Act of 1995," P.L.1995, c.204, reappropriating $2,460,000 from the "Green Acres, Clean Water, Farmland and Historic Preservation Bond Act of 1992," P.L.1992, c.88, reappropriating $3,000,000 from the "Open Space Preservation Bond Act of 1989," P.L.1989, c.183, and reappropriating $3,941,000 from the "New Jersey Green Acres Bond Act of 1983," P.L.1983, c.354, and authorizing the use of unexpended balances, interest earnings, and loan repayments from certain Green Acres bond acts, to assist local government units to acquire and develop lands for recreation and conservation purposes; and approving projects of certain local government units in southern New Jersey as eligible for funding with moneys made available from certain Green Acres bond acts.

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

1. There is appropriated to the Department of Environmental Protection from the "1995 New Jersey Green Trust Fund" established pursuant to section 23 of the "Green Acres, Farmland and Historic Preservation, and Blue Acres Bond Act of 1995," P.L.1995, c.204, the sum of $47,687,000, and there is reappropriated to the department from the "1992 New Jersey Green Trust Fund" established pursuant to section 22 of the "Green Acres, Clean Water, Farmland and Historic Preservation Bond Act of 1992," P.L.1992, c.88, the sum of $2,460,000, from the "1989 New Jersey Green Trust Fund" established pursuant to section 19 of the "Open Space Preservation Bond Act of 1989," P.L.1989, c.183, the sum of $3,000,000, and from the "Green Trust Fund" established pursuant to section 16 of the "New Jersey Green Acres Bond Act of 1983," P.L.1983, c.354, the sum of $3,941,000, to provide loans or grants, or both, to assist local government units to acquire and develop lands for recreation and conservation purposes, which sums shall include administrative costs, for projects approved as eligible for such funding pursuant to section 5 of this act, section 1 of P.L.1997, c.165, and section 1 of P.L.1997, c.166.

2. a. There is reappropriated to the Department of Environmental Protection the unexpended balances of the amounts appropriated or reappropriated pursuant to P.L.1984, c.224, P.L.1985, c.479, P.L.1986, c.208, P.L.1988, c.23, P.L.1989, c.194, P.L.1991, c.13, P.L.1991, c.14, P.L.1991, c.15, P.L.1991, c.16, P.L.1991, c.522, P.L.1993, c.200, P.L.1993, c.201, P.L.1993, c.266, P.L.1993, c.267, P.L.1994, c.37, P.L.1994, c.45, P.L.1994, c.51, P.L.1994, c.52, P.L.1995, c.199, P.L.1995, c.200, P.L.1995, c.201, P.L.1995, c.202, P.L.1995, c.203, P.L.1996, c.107, P.L.1996, c.108, P.L.1996, c.109, and P.L.1996, c.110 from the "Green Trust Fund" established pursuant to the "New Jersey Green Acres Bond Act of 1983," P.L.1983, c.354, from the "Green Trust Fund" established pursuant to the "New Jersey Green Acres, Cultural Centers and Historic Preservation Bond Act of 1987," P.L.1987, c.265, from the "1989 New Jersey Green Trust Fund" established pursuant to the "Open Space Preservation Bond Act of 1989," P.L.1989, c.183, from the "1992 New Jersey Green Trust Fund" established pursuant to the "Green Acres, Clean Water, Farmland and Historic Preservation Bond Act of 1992," P.L.1992, c.88, and from the "1995 New Jersey Green Trust Fund" established pursuant to the "Green Acres, Farmland and Historic Preservation, and Blue Acres Bond Act of 1995," P.L.1995, c.204, for the purpose of making loans or grants, or both, to local government units for the projects listed in P.L.1984, c.224,

P.L.1985, c.479, P.L.1986, c.208, P.L.1988, c.23, P.L.1989, c.194, P.L.1991, c.13, P.L.1991, c.14, P.L.1991, c.15, P.L.1991, c.16, P.L.1991, c.522, P.L.1993, c.200, P.L.1993, c.201, P.L.1993, c.266, P.L.1993, c.267, P.L.1994, c.37, P.L.1994, c.45, P.L.1994, c.51, P.L.1994, c.52, P.L.1995, c.199, P.L.1995, c.200, P.L.1995, c.201, P.L.1995, c.202, P.L.1995, c.203, P.L.1996, c.107, P.L.1996, c.108, P.L.1996, c.109, P.L.1996, c.110, section 5 of this act, section 1 of P.L.1997, c.165, section 1 of P.L.1997, c.166, and section 5 of P.L.1997, c.251, and for the purpose of administrative costs associated with any such projects, to the extent such funds are available as a result of project withdrawals or cost savings.

b. There is appropriated to the Department of Environmental Protection such sums as may be or become available on or before June 30, 1998, due to interest earnings or loan repayments, in (1) the "Green Trust Fund" established pursuant to the "New Jersey Green Acres Bond Act of 1983," P.L.1983, c.354, (2) the "Green Trust Fund" established pursuant to the "New Jersey Green Acres, Cultural Centers and Historic Preservation Bond Act of 1987," P.L.1987, c.265, (3) the "1989 New Jersey Green Trust Fund" established pursuant to the "Open Space Preservation Bond Act of 1989," P.L.1989, c.183, (4) the "1992 New Jersey Green Trust Fund" established pursuant to the "Green Acres, Clean Water, Farmland and Historic Preservation Bond Act of 1992," P.L.1992, c.88, and (5) the "1995 New Jersey Green Trust Fund" established pursuant to the "Green Acres, Farmland and Historic Preservation, and Blue Acres Bond Act of 1995," P.L.1995, c.204, for the purpose of making loans or grants, or both, to local government units for the projects listed in P.L.1984, c.224, P.L.1985, c.479, P.L.1986, c.208, P.L.1988, c.23, P.L.1989, c.194, P.L.1991, c.13, P.L.1991, c.14, P.L.1991, c.15, P.L.1991, c.16, P.L.1991, c.522, P.L.1993, c.200, P.L.1993, c.201, P.L.1993, c.266, P.L.1993, c.267, P.L.1994, c.37, P.L.1994, c.45, P.L.1994, c.51, P.L.1994, c.52, P.L.1995, c.199, P.L.1995, c.200, P.L.1995, c.201, P.L.1995, c.202, P.L.1995, c.203, P.L.1996, c.107, P.L.1996, c.108, P.L.1996, c.109, P.L.1996, c.110, section 5 of this act, section 1 of P.L.1997, c.165, section 1 of P.L.1997, c.166, and section 5 of P.L.1997, c.251, and for the purpose of administrative costs associated with any such projects.

3. Pursuant to the provisions of subsection c. of section 7 of the "Green Acres, Farmland and Historic Preservation, and Blue Acres Bond Act of 1995," P.L.1995, c.204, subsection c. of section 7 of the "Green Acres, Clean Water, Farmland and Historic Preservation Bond Act of 1992," P.L.1992, c.88, subsection c. of section 9 of the "Open Space Preservation Bond Act of 1989," P.L.1989, c.183, subsection c. of section 9 of the "New Jersey Green Acres, Cultural Centers and Historic Preservation Bond Act

of 1987," P.L.1987, c.265, and subsection d. of section 4 of the "New Jersey Green Acres Bond Act of 1983," P.L.1983, c.354, as appropriate, all loans made to local government units with moneys appropriated or reappropriated pursuant to this act shall bear interest of not more than 2% per year and shall be for a term of not more than 20 years. All principal and interest payments repaid by the local government units shall be deposited into the respective "Green Trust Fund" from which the moneys were appropriated or reappropriated in accordance with the terms of a written loan agreement. The terms of the loan agreement shall be completed and executed on a form approved by the State Treasurer or his designee.

4. The expenditure of the sums appropriated or reappropriated by this act is subject to the provisions and conditions of P.L.1995, c.204, P.L.1992, c.88, P.L.1989, c.183, P.L.1987, c.265, and P.L.1983, c.354, as appropriate.

5. a. The following projects are eligible for funding with the moneys appropriated or reappropriated pursuant to sections 1 and 2 of this act:

Local Government Unit	**County**	**Project**	**Approved Amount**
Galloway Twp.	Atlantic	Pinehurst Open Space Acq.	$ 600,000
Pleasantville City	Atlantic	Brighton Rec. Complex Acq.	350,000
Lumberton Twp.	Burlington	Lumberton Park Acq.	400,000
Pemberton Twp.	Burlington	Greenway Acq.	350,000
Camden City	Camden	Community Park Acq.	1,000,000
Middle Twp.	Cape May	Goshen Davies Acq.	240,000
Franklin Twp.	Gloucester	Malaga Lake Acq.	123,000
Brick Twp.	Ocean	Fortune Avenue Park Acq.	230,000
Brick Twp.	Ocean	Havens Farm Acq.	1,000,000
Manchester Twp.	Ocean	Pine Lake Rec. Annex Acq.	1,200,000

Point Pleasant Boro	Ocean	Preservation Purposes Acq.	35,000
Seaside Heights Boro	Ocean	Seaside Heights Marina Acq.	1,000,000
Stafford Twp.	Ocean	Manahawkin Lake Park Acq.	1,120,000

b. Any transfer of funds, or change in project sponsor, site, or type, listed in subsection a. of this section shall require the approval of the Joint Budget Oversight Committee or its successor.

c. To the extent that moneys remain available after the projects listed in subsection a. of this section are offered funding pursuant thereto, the local government unit projects listed in P.L.1984, c.224, P.L.1985, c.479, P.L.1986, c.208, P.L.1988, c.23, P.L.1989, c.194, P.L.1991, c.13, P.L.1991, c.14, P.L.1991, c.15, P.L.1991, c.16, P.L.1991, c.522, P.L.1993, c.200, P.L.1993, c.201, P.L.1993, c.266, P.L.1993, c.267, P.L.1994, c.37, P.L.1994, c.45, P.L.1994, c.51, P.L.1994, c.52, P.L.1995, c.199, P.L.1995, c.200, P.L.1995, c.201, P.L.1995, c.202, P.L.1995, c.203, P.L.1996, c.107, P.L.1996, c.108, P.L.1996, c.109, P.L.1996, c.110, section 1 of P.L.1997, c.165, section 1 of P.L.1997, c.166, and section 5 of P.L.1997, c.251, shall be eligible for funding or additional funding, including administrative costs, in a sequence consistent with the priority system established by the Department of Environmental Protection. Any such transfer of funds, or change in project sponsor, site, or type, shall require the approval of the Joint Budget Oversight Committee or its successor.

6. This act shall take effect immediately.

Approved July 18, 1997.

CHAPTER 165

AN ACT approving projects of certain local government units in central New Jersey as eligible for funding with moneys made available from the "Green Acres, Farmland and Historic Preservation, and Blue Acres Bond Act of 1995," P.L.1995, c.204, the "Green Acres, Clean Water, Farmland and Historic Preservation Bond Act of 1992," P.L.1992, c.88, the "Open Space Preservation Bond Act of 1989," P.L.1989, c.183, or the "New Jersey Green Acres Bond Act of 1983," P.L.1983, c.354.

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

1. a. The following projects are eligible for funding with moneys made available from the "Green Acres, Farmland and Historic Preservation, and Blue Acres Bond Act of 1995," P.L.1995, c.204, the "Green Acres, Clean Water, Farmland and Historic Preservation Bond Act of 1992," P.L.1992, c.88, the "Open Space Preservation Bond Act of 1989," P.L.1989, c.183, or the "New Jersey Green Acres Bond Act of 1983," P.L.1983, c.354, and which moneys are appropriated or reappropriated pursuant to sections 1 and 2 of P.L.1997, c.164:

Local Government Unit	**County**	**Project**	**Approved Amount**
East Windsor Twp.	Mercer	Bear Brook Park Acq.	$850,000
Hamilton Twp.	Mercer	Tyndale Farm Acq.	400,000
Hamilton Twp.	Mercer	Isaac Pearson House Acq.	170,000
Hamilton Twp.	Mercer	Veterans Park Acq.	525,000
Lawrence Twp.	Mercer	Drexel Woods Park Acq.	2,050,000
Mercer County	Mercer	Roebling Complex Acq.	400,000
Edison Twp.	Middlesex	Woodland Grove Acq.	375,000
Edison Twp.	Middlesex	Mill Road Park Acq.	1,070,000
Edison Twp.	Middlesex	Woodland Avenue Park Acq.	1,230,000
Middlesex County	Middlesex	County Open Space Program Acq.:	3,000,000
		Carteret Boro	
		Cranbury Twp.	
		Dunellen Boro	
		East Brunswick Twp.	
		Edison Twp.	
		Helmetta Boro	
		Highland Park Boro	
		Jamesburg Boro	
		Metuchen Boro	
		Middlesex Boro	
		Milltown Boro	
		Monroe Twp.	
		New Brunswick City	
		North Brunswick Twp.	
		Old Bridge Twp.	
		Perth Amboy City	
		Piscataway Twp.	
		Plainsboro Twp.	
		Sayreville Boro	
		South Amboy City	
		South Brunswick Twp.	
		South Plainfield Boro	
		South River Boro	
		Spotswood Boro	
		Woodbridge Twp.	

Freehold Twp.	Monmouth	Freehold Acq. Plan	3,000,000
Millstone Twp.	Monmouth	Top Step Farm Acq.	1,740,000
Union Beach Boro	Monmouth	Bayfront Acq.	100,000
Upper Freehold Twp.	Monmouth	Upper Freehold Park Acq.	3,000,000

b. Any transfer of funds, or change in project sponsor, site, or type, listed in subsection a. of this section shall require the approval of the Joint Budget Oversight Committee or its successor.

c. To the extent that moneys remain available after the projects listed in subsection a. of this section are offered funding pursuant thereto, the local government unit projects listed in P.L.1984, c.224, P.L.1985, c.479, P.L.1986, c.208, P.L.1988, c.23, P.L.1989, c.194, P.L.1991, c.13, P.L.1991, c.14, P.L.1991, c.15, P.L.1991, c.16, P.L.1991, c.522, P.L.1993, c.200, P.L.1993, c.201, P.L.1993, c.266, P.L.1993, c.267, P.L.1994, c.37, P.L.1994, c.45, P.L.1994, c.51, P.L.1994, c.52, P.L.1995, c.199, P.L.1995, c.200, P.L.1995, c.201, P.L.1995, c.202, P.L.1995, c.203, P.L.1996, c.107, P.L.1996, c.108, P.L.1996, c.109, P.L.1996, c.110, section 5 of P.L.1997, c.164, section 1 of P.L.1997, c.166, and section 5 of P.L.1997, c.251, shall be eligible for funding or additional funding, including administrative costs, in a sequence consistent with the priority system established by the Department of Environmental Protection. Any such transfer of funds, or change in project sponsor, site, or type, shall require the approval of the Joint Budget Oversight Committee or its successor.

2. This act shall take effect immediately.

Approved July 18, 1997.

CHAPTER 166

AN ACT approving projects of certain local government units in northern New Jersey as eligible for funding with moneys made available from the "Green Acres, Farmland and Historic Preservation, and Blue Acres Bond Act of 1995," P.L.1995, c.204, the "Green Acres, Clean Water, Farmland and Historic Preservation Bond Act of 1992," P.L.1992, c.88, the "Open Space Preservation Bond Act of 1989," P.L.1989, c.183, or the "New Jersey Green Acres Bond Act of 1983," P.L.1983, c.354.

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

1. a. The following projects are eligible for funding with moneys made available from the "Green Acres, Farmland and Historic Preservation, and Blue Acres Bond Act of 1995," P.L.1995, c.204, the "Green Acres, Clean Water, Farmland and Historic Preservation Bond Act of 1992," P.L.1992, c.88, the "Open Space Preservation Bond Act of 1989," P.L.1989, c.183, or the "New Jersey Green Acres Bond Act of 1983," P.L.1983, c.354, and which moneys are appropriated or reappropriated pursuant to sections 1 and 2 of P.L.1997, c.166:

Local Government Unit	**County**	**Project**	**Approved Amount**
East Rutherford Boro	Bergen	Sesselmann Park Acq.	$ 185,000
Harrington Park Boro	Bergen	Parkland Additions Acq.	210,000
North Arlington Boro	Bergen	Passaic River Greenway Acq.	150,000
Oakland Boro	Bergen	Mirror Lake Acq.	100,000
Oakland Boro	Bergen	Conservation Area Acq.	775,000
Old Tappan Boro	Bergen	Park Addition Acq.	485,000
Upper Saddle River Boro	Bergen	Mettowee Farm Acq.	1,600,000
Belleville Twp.	Essex	Reservoir Acq.	260,000
Belleville Twp.	Essex	Senior Park Acq.	110,000
Califon Boro	Hunterdon	Park Addition Acq.	60,000
Clinton Twp.	Hunterdon	Clinton Open Space Acq.	3,000,000
Delaware Twp.	Hunterdon	Sergeantsville Green Acq.	300,000
High Bridge Boro	Hunterdon	Lake Solitude Acq.	1,800,000
Lambertville City	Hunterdon	Lambertville Open Space Acq.	2,025,000
Raritan Twp.	Hunterdon	Raritan Land Acq. Plan	3,000,000
Readington Twp.	Hunterdon	Greenway Incentive Acq.	3,000,000

Morris County	Morris	Cooper Mill Addition Acq.	255,000
Morris Plains Boro	Morris	Central Avenue Tract Acq.	160,000
Netcong Boro	Morris	Scenic Vista Acq.	1,500,000
Randolph Twp.	Morris	Randolph Acq. Program	3,000,000
Bedminster Twp.	Somerset	Bedminster Village Acq.	220,000
Bedminster Twp.	Somerset	Pluckemin Village Acq.	920,000
Hillsborough Twp.	Somerset	Hillsborough Land Acq.	3,000,000
Montgomery Twp.	Somerset	Open Space 4 Acq.	1,500,000
Somerset County	Somerset	County Open Space Plan Acq.: Bedminster Twp. Bernards Twp. Bernardsville Boro Bound Brook Boro Branchburg Twp. Bridgewater Twp. Far Hills Boro Franklin Twp. Green Brook Twp. Hillsborough Twp. Manville Boro Millstone Boro Montgomery Twp. North Plainfield Boro Peapack-Gladstone Boro Raritan Boro Rocky Hill Boro Somerville Boro South Bound Brook Boro Warren Twp. Watchung Boro	3,000,000
Green Twp.	Sussex	Green Twp. Park Acq.	560,000
Washington Twp.	Warren	Meadow Breeze Acq.	355,000

b. Any transfer of funds, or change in project sponsor, site, or type, listed in subsection a. of this section shall require the approval of the Joint Budget Oversight Committee or its successor.

c. To the extent that moneys remain available after the projects listed in subsection a. of this section are offered funding pursuant thereto, the local government unit projects listed in P.L.1984, c.224, P.L.1985, c.479, P.L.1986, c.208, P.L.1988, c.23, P.L.1989, c.194, P.L.1991, c.13, P.L.1991, c.14, P.L.1991, c.15, P.L.1991, c.16, P.L.1991, c.522, P.L.1993, c.200, P.L.1993, c.201, P.L.1993, c.266, P.L.1993, c.267, P.L.1994, c.37, P.L.1994, c.45, P.L.1994, c.51, P.L.1994, c.52, P.L.1995, c.199, P.L.1995, c.200, P.L.1995, c.201, P.L.1995, c.202, P.L.1995, c.203, P.L.1996, c.107, P.L.1996, c.108, P.L.1996, c.109, P.L.1996, c.110, section 5 of P.L.1997, c.164, section 1 of P.L.1997, c.165, and section 5 of P.L.1997, c.251, shall be eligible for funding or additional funding, including administrative costs, in a sequence consistent with the priority system established by the Department of Environmental Protection. Any such transfer of funds, or change in project sponsor, site, or type, shall require the approval of the Joint Budget Oversight Committee or its successor.

2. This act shall take effect immediately.

Approved July 18, 1997.

CHAPTER 167

AN ACT replacing the method of distributing certain funds to municipalities from the taxation by the State of gas and electric public utilities and certain telecommunications companies, and of sales of electricity, natural gas and energy transportation service, establishing the "Energy Tax Receipts Property Tax Relief Fund," and supplementing P.L.1945, c.162 (C.54:10A-1 et seq.) and Title 52 of the Revised Statutes.

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

C.52:27D-438 Short title.

1. This act shall be known and may be cited as the "Energy Tax Receipts Property Tax Relief Act."

C.52:27D-439 "Energy Tax Receipts Property Tax Relief Fund."

2. a. Commencing July 1, 1997 there is established the "Energy Tax Receipts Property Tax Relief Fund" as a special dedicated fund in the State Treasury into which there shall be credited annually, commencing in State fiscal year 1998, the sum of $740,000,000 or the amount determined pursuant to subsection e. of this section from the following: net payments

under the "Sales and Use Tax Act," P.L.1966, c.30 (C.54:32B-1 et seq.) from sales and use of energy or utility services, net payments under the Corporation Business Tax Act (1945), P.L.1945, c.162 (C.54:10A-1 et seq.) from gas, electric, and gas and electric public utilities, whether municipal or otherwise, that were subject to tax pursuant to the provisions of P.L.1940, c.5 (C.54:30A-49 et seq.) prior to January 1, 1998, net payments under the Corporation Business Tax Act (1945), P.L.1945, c.162 (C.54:10A-1 et seq.) from telecommunications public utilities that were subject to tax pursuant to the provisions of P.L.1940, c.4 (C.54:30A-16 et seq.) as of April 1, 1997, net payments under P.L.1940, c.5 (C.54:30A-49 et seq.) from sewerage and water corporations, net payments under the "Transitional Energy Facility Assessment Act," P.L.1997, c.162 (C.54:30A-100 through C.54:30A-113), and such sums from the General Fund as may be necessary to provide that the annual amount credited to the fund shall equal $740,000,000 or the amount determined pursuant to subsection e. of this section.

b. Notwithstanding the provisions of P.L.1940, c.4 (C.54:30A-16 et seq.), P.L.1940, c.5 (C.54:30A-49 et seq.) and any other provision of law concerning the apportionment and distribution by the State of taxes paid by public utilities,

(1) There shall be paid during the State fiscal year 1998 and during each fiscal year thereafter from the "Energy Tax Receipts Property Tax Relief Fund" to the municipalities of the State the sum of $740,000,000 or the amount determined pursuant to subsection e. of this section.

(2) A portion of the $740,000,000 or the amount determined pursuant to subsection e. of this section shall be allocated in a manner that provides that each municipality shall receive an amount not less than the largest annual amount received or to be received by the municipality from:

(a) the distribution of $685,000,000 from the proceeds of the public utilities franchise and gross receipts taxes under P.L.1940, c.4 (C.54:30A-16 et seq.) and P.L.1940, c.5 (C.54:30A-49 et seq.) in calendar year 1994, 1995 or 1996; or

(b) the distribution of $685,000,000 from the proceeds of the public utilities franchise and gross receipts taxes under P.L.1940, c.4 (C.54:30A-16 et seq.) and P.L.1940, c.5 (C.54:30A-49 et seq.) or from taxes and assessments collected in replacement of such taxes as released by the Division of Local Government Services in the Department of Community Affairs as fiscal year 1998 estimated franchise and gross receipts taxes State aid distributions by municipality prior to the certification of apportionment of such funds by the Director of the Division of Taxation and the amounts required pursuant to subsection d. of this section.

(3) A portion of the $740,000,000 or the amount determined pursuant to subsection e. of this section shall be allocated in a manner that provides

that each municipality shall receive an amount equal to the difference, if any, between the amount it received pursuant to paragraph (2) of this subsection and the sum of the amounts that the municipality received pursuant to the certification made in the 1997 calendar year released by the Division of Local Government Services in the Department of Community Affairs as the fiscal year 1998 estimated franchise and gross receipts taxes State aid distribution of $685,000,000 and the certification of the 1997 fiscal year distribution of $45,000,000.

(4) The portion of the $740,000,000 or the amount determined pursuant to subsection e. of this section remaining after the allocations pursuant to paragraphs (2) and (3) of this subsection shall be distributed in proportion to the amounts distributed pursuant to paragraph (2) of this subsection.

c. (1) The funds distributed pursuant to paragraphs (2) and (4) of subsection b. of this section shall be distributed annually to municipalities on the following schedule: July 15, 35% of the total amount due; August 1, 10% of the total amount due; September 1, 30% of the total amount due; October 1, 15% of the total amount due; November 1, 5% of the total amount due; and December 1, 5% of the total amount due.

(2) The funds distributed pursuant to paragraph (3) of subsection b. of this section shall be distributed annually to municipalities on or before June 30.

d. The allocation set forth in paragraph (2) of subsection b. of this section shall be adjusted to increase each appropriate municipal distribution by the amount necessary to:

(1) make corrections to apportionment valuations or distribution values made by the Director of the Division of Taxation in the Department of the Treasury pursuant to R.S.54:30-2; and

(2) correct equitable distortions, as determined by the State Treasurer, resulting from the application of section 2 of P.L.1980, c.10 (C.54:30A-24.1) and section 4 of P.L.1980, c.11 (C.54:30A-61.1).

The director shall report to the Legislature, on or before July 15, 1997, the amount and distribution of the corrections pursuant to paragraphs (1) and (2) of this subsection.

e. The amount credited to the "Energy Tax Receipts Property Tax Relief Fund" shall be $745,000,000 for State fiscal year 1999, $750,000,000 for each of State fiscal years 2000 and 2001, and $755,000,000 for State fiscal year 2002 and each fiscal year thereafter.

f. Notwithstanding any other provision of this section or any other provision of law to the contrary, if any municipality paid a county for an amount for county purposes from the amount it received from its apportionment of taxes according to the limitations on the municipalities apportionment under section 4 of P.L.1980, c.11 (C.54:30A-61.1), the highest amount

of that payment during calendar year 1994, 1995, and 1996 shall be paid annually directly to that county by the State Treasurer and be deducted from that municipality's distribution otherwise determined pursuant to paragraph (2) of subsection b. of this section.

C.52:27D-440 Excess of net tax payments credited to fund, additional aid.

3. If, in any State fiscal year, net payments under the "Sales and Use Tax Act," P.L.1966, c.30 (C.54:32B-1 et seq.) from sales and use of energy or utility services, net payments under the Corporation Business Tax Act (1945), P.L.1945, c.162 (C.54:10A-1 et seq.) from gas, electric, and gas and electric public utilities, whether municipal or otherwise, that were subject to tax pursuant to the provisions of P.L.1940, c.5 (C.54:30A-49 et seq.) prior to January 1, 1998, net payments under the Corporation Business Tax Act (1945), P.L.1945, c.162 (C.54:10A-1 et seq.) from telecommunications public utilities that were subject to tax pursuant to the provisions of P.L.1940, c.4 (C.54:30A-16 et seq.) as of April 1, 1997, net payments under P.L.1940, c.5 (C.54:30A-49 et seq.) from sewerage and water corporations, net payments under the "Transitional Energy Facility Assessment Act," P.L.1997, c.162 (C.54:30A-100 through C.54:30A-113) exceed $1,425,000,000, 75% of that amount of net payments in excess of $1,425,000,000 shall be credited to the "Energy Tax Receipts Property Tax Relief Fund" in addition to the amount credited pursuant to section 2 of P.L.1997, c.167 (C.52:27D-439), for distribution to municipalities as additional aid.

C.52:27D-441 Appropriation, distribution of amounts from fund, requirement; consequences of failure.

4. a. The annual appropriations act for each State fiscal year commencing with fiscal year 1998 shall appropriate and distribute during the fiscal year an amount not less than $740,000,000 or the amount determined pursuant to subsection e. of section 2 of P.L.1997, c.167 (C.52:27D-439) from the "Energy Tax Receipts Property Tax Relief Fund" pursuant to the provisions of section 2 of P.L.1997, c.167 (C.52:27D-439), for the purposes of that fund.

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 provisions 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 the provisions 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.

c. The Director of the Division of Taxation shall, no later than five days after certification by the Director of the Division of Budget and Accounting in the Department of the Treasury pursuant to subsection b. of this section that the provisions of subsection a. of this section have not been met or have been violated by an amendment or supplement to the annual appropriations act, notify all taxpayers that have filed a return under the Corporation Business Tax (1946), P.L.1945, c.162 (C.54:10A-1 et seq.) during the previous calendar year, other than taxpayers that are gas, electric, and gas and electric, or telecommunications public utilities as defined pursuant to subsection (q) of section 4 of P.L.1945, c.162 (C.54:10A-4) pursuant to the amendment to that section 4 made in section 2 of P.L.1997, c.162, that the taxpayer shall have no liability pursuant to the provisions of P.L.1945, c.162 for any corporation business tax for the taxpayer's current privilege period, notwithstanding any other provision of law to the contrary.

C.54:10A-5.27 Consequences of failure to distribute required Energy Tax Receipts Property Tax Relief.

5. Notwithstanding the provisions of P.L.1945, c.162 (C.54:10A-1 et seq.) or any other law to the contrary, for a privilege period of a taxpayer, other than a taxpayer that is a gas, electric, and gas and electric, or telecommunications public utility as defined pursuant to subsection (q) of section 4 of P.L.1945, c.162 (C.54:10A-4) pursuant to the amendment to that section 4 made in section 2 of P.L.1997, c.162, in which the taxpayer would otherwise have had a tax liability or minimum tax due under P.L.1945, c.162, during which privilege period the Director of the Division of Budget and Accounting in the Department of the Treasury makes a certification that the provisions of subsection a. of section 4 of P.L.1997, c.167 (C.52:27D-441) have not been met or have been violated by an amendment or supplement to the annual appropriations act, there shall be no liability pursuant to the provisions of P.L.1945, c.162 for any such taxpayer's current privilege period.

6. This act shall take effect immediately but shall remain inoperative until July 1, 1997.

Approved July 22, 1997.

CHAPTER 168

AN ACT concerning the sale of certain real property owned by the Department of Military and Veterans' Affairs and repealing P.L.1991, c.88.

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

1. a. The Department of Military and Veterans' Affairs is authorized to sell and convey all of the State's interest in 1.17± acres of surplus real property located in the Borough of Red Bank, Monmouth County. The property is designated as Block 62, Lot 17, on the Borough of Red Bank tax map, and known as the Red Bank Armory.

b. The sale shall be a direct sale to the municipality in which the property is situated upon terms and conditions approved by the State House Commission.

2. P.L.1991, c.88 is repealed.

3. This act shall take effect immediately.

Approved July 25, 1997.

CHAPTER 169

AN ACT concerning motorized wheelchairs and amending P.L.1995, c.233.

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

1. Section 9 of P.L.1995, c.233 (C.56:12-83) is amended to read as follows:

C.56:12-83 Dispute resolution; application, hearing, procedure.

9. a. After a reasonable attempt to repair, a consumer shall have the option of submitting any dispute arising under section 4 of this act to the director for resolution. The director may establish a filing fee, to be paid by the consumer, fixed at a level not to exceed the cost for the proper administration and enforcement of this act. Upon application by the consumer and payment of any filing fee, the manufacturer shall submit to the hearing procedure established in this section.

b. The director shall review a consumer's application for dispute resolution and accept eligible disputes for referral to the Office of Administrative Law for a summary hearing to be conducted in accordance with special rules adopted pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), by the Office of Administrative Law

in consultation with the director. Immediately upon acceptance of a consumer's application for dispute resolution, the director shall contact the parties and arrange for a hearing date with the Office of Administrative Law. The hearing date shall, to the greatest extent possible, be convenient to all parties, but shall be no later than 20 days from the date the consumer's application is accepted, unless a later date is agreed upon by the consumer. The Office of Administrative Law shall render a decision, in writing, to the director within 20 days of the conclusion of the summary hearing. The decision shall provide a brief summary of the findings of fact, appropriate remedies pursuant to this act, and a specific date for completion of all awarded remedies. The director, upon a review of the proposed decision submitted by the administrative law judge, shall adopt, reject, or modify the decision no later than 15 days after receipt of the decision. Unless the director modifies or rejects the decision within the 15-day period, the decision of the administrative law judge shall be deemed adopted as the final decision of the director. If a final decision from the Office of Administrative Law results in a refund to the consumer, recovery by the consumer shall include attorney's fees, fees for expert witnesses and costs of suit, and reimbursement for actual expenses incurred by the consumer for the rental of a motorized wheelchair equivalent to the consumer's motorized wheelchair and limited to the period of time after which the consumer's motorized wheelchair was offered to the manufacturer for return under P.L.1995, c.233 (C.56:12-75 et seq.) except in those cases in which the manufacturer made a comparable motorized wheelchair available to the consumer free of charge during that period. If the manufacturer unreasonably fails to comply with the decision within the specified time period, the manufacturer shall be liable for penalties in the amount of $5,000 for each day the manufacturer unreasonably fails to comply, commencing on the day after the specified date for completion of all awarded remedies.

c. The Office of Administrative Law is authorized to issue subpoenas to compel the attendance of witnesses and the production of documents, papers and records relevant to the dispute.

d. A manufacturer or consumer may appeal a final decision to the Appellate Division of the Superior Court. An appeal by a manufacturer shall not be heard unless the petition for the appeal is accompanied by a bond in a principal sum equal to the money award made by the administrative law judge plus $2,500 for anticipated attorney's fees and other costs, secured by cash or its equivalent, payable to the consumer. The liability of the surety of any bond filed pursuant to this section shall be limited to the indemnification of the consumer in the action. The bond shall not limit or impair any right of recovery otherwise available pursuant to law, nor shall the amount of the bond be relevant in determining the amount of recovery

to which the consumer shall be entitled. If a final decision resulting in a refund to the consumer is upheld by the court, recovery by the consumer shall include attorney's fees, fees for expert witnesses and costs of suit, and reimbursement for actual expenses incurred by the consumer for the rental of a motorized wheelchair equivalent to the consumer's motorized wheelchair and limited to the period of time after which the consumer's motorized wheelchair was offered to the manufacturer for return under this act, except in those cases in which the manufacturer made a comparable motorized wheelchair available to the consumer free of charge during that period. If the court finds that the manufacturer had no reasonable basis for its appeal or that the appeal was frivolous, the court shall award treble damages to the consumer. Failure of the Office of Administrative Law to render a written decision within 20 days of the conclusion of the summary hearing as required by subsection b. of this section shall not be a basis for appeal.

e. The Attorney General shall monitor the implementation and effectiveness of this act and report to the Legislature after three years of operation, at which time a recommendation shall be made either to continue under the procedures set forth in this act or to make such modifications as may be necessary to effectuate the purposes of this act.

2. This act shall take effect immediately.

Approved July 25, 1997.

CHAPTER 170

AN ACT appropriating funds from the "Correctional Facilities Construction Fund of 1987" to the Department of Corrections for the renovation of certain correctional facilities.

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

1. There is appropriated to the Department of Corrections from the "Correctional Facilities Construction Fund of 1987" created pursuant to the "Correctional Facilities Construction Bond Act of 1987," P.L.1987, c.178, the sum of $10,470,832 for the following renovation projects:

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Vroom Building	
Infrastructure/Security Repairs	$4,940,000
Albert C. Wagner Youth Correctional Facility	
Roof Repair/Replacement; A, B, C and D Wings; and Water Tower Repairs	$2,130,832
Northern State Prison	
Replace Kitchen Floor	$3,400,000
Total Appropriation	$10,470,832

2. There is also appropriated from the "Correctional Facilities Construction Fund," such items as may be necessary to meet any expense incurred by the issuing officials under P.L.1987, c.178 for advertising, engraving, printing, clerical, legal or other services necessary to carry out the duties imposed upon them by the provisions of that act.

3. In order to provide flexibility in administering the provisions of this act, the Commissioner of the Department of Corrections may apply to the Director of the Division of Budget and Accounting in the Department of the Treasury for permission to transfer a part of any item to any other item within the respective department accounts in the "Correctional Facilities Construction Fund" account. The transfers shall be made in a manner consistent with section 29 of P.L.1987, c.178.

4. This act shall take effect immediately.

Approved July 25, 1997.

CHAPTER 171

AN ACT appropriating funds from the Developmental Disabilities' Waiting List Reduction and Human Services Facilities Construction Fund established pursuant to P.L.1994, c.108.

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

1. a. There is appropriated to the Department of Human Services from the Developmental Disabilities' Waiting List Reduction and Human

Services Facilities Construction Fund created by the "Developmental Disabilities' Waiting List Reduction and Human Services Facilities Construction Bond Act of 1994," P.L.1994, c.108, the sum of $6,500,000 for the following community-based project:

Grants, including grants that create revolving funds,
for the Division of Developmental Disabilities..... $6,500,000

b. The funds appropriated in subsection a. of this section shall be used for projects to reduce the Division of Developmental Disabilities' community services waiting list. The $6,500,000 added to the sum of $10,000,000 appropriated under P.L.1995, c.248, represents a portion of the $80,000,000 to be expended on projects intended to reduce the community services waiting list.

c. Prior to the formal awarding of any funds appropriated pursuant to this section, the Commissioner of Human Services shall provide the Joint Budget Oversight Committee, or its successor, information as to the agency that will receive the funds, the amount of funds the agency is to receive, the manner in which the funds are to be used and the estimated amount of State funds required to operate the program. Unless the Joint Budget Oversight Committee, or its successor, formally notifies the Commissioner of Human Services within 10 working days that it does not approve of the specific project, the department may award the funds. The provisions of this subsection shall not apply to funds for renovations that do not increase the capacity of a facility, for emergency repairs and for life-safety and accreditation improvements to existing facilities.

2. The Commissioner of Human Services, consistent with the 1994 Bond Issue Master Plan, may provide grants to the New Jersey Housing and Mortgage Finance Agency, the New Jersey Health Care Facilities Financing Authority, the New Jersey Economic Development Authority and other similar agencies established by the State, or to private, nonprofit entities. These agencies or entities may leverage the grants, use equity contributions and take advantage of other financial mechanisms and create revolving funds for community capital projects. An applicant applying for funds from these agencies may be assessed an application fee consistent with the normal business practice of the agency. The plan for the establishment of the revolving fund shall be reviewed and approved by the Joint Budget Oversight Committee pursuant to the provisions of subsection c. of section 1 of this act.

a. The application fee and any equity contribution may be waived, with the approval of the Commissioner of Human Services, if an applicant is able

to document a financial inability to pay the fee or make an equity contribution.

b. An application fee or equity contribution that is required of an applicant shall be an unallowable item of cost for purposes of the most recent Department of Human Services' Contract Reimbursement Manual.

c. Grants provided to the New Jersey Housing and Mortgage Finance Agency, the New Jersey Health Care Facilities Financing Authority, the New Jersey Economic Development Authority and other similar agencies established by the State shall be exempt from the application fee and equity contribution.

d. As a condition of receiving monies from the Developmental Disabilities' Waiting List Reduction and Human Services Facilities Construction Fund, an applicant shall apply for all applicable grants, loans, mortgages and tax credits that may be available through governmental and non-governmental entities for financing the cost of the project or to reduce the total cost of the project. An applicant shall document to the department that it has or is in the process of applying for such grants, loans, mortgages and tax credits.

In the case of any loans or mortgages for which the applicant may apply, the department shall review the terms and conditions of the loan or mortgage recommended by the lending agency to determine if the total cost of the loan or mortgage exceeds direct State financing of the project if the applicant applies to the department for a contract to provide services and seeks to obtain reimbursement for such loans or mortgages. Costs in excess of what the State would incur shall be an unallowable cost for purposes of the most recent Department of Human Services' Contract Reimbursement Manual.

3. The Director of the Division of Budget and Accounting in the Department of the Treasury shall make those corrections in the title or text, or both, of any appropriation item authorized under this act necessary to make the appropriation available for the purposes for which it was intended. The corrections shall be made by a written ruling which shall set forth an explanation of the need for correction and which shall be signed by the Director of the Division of Budget and Accounting and shall be filed by the director in his office as an official record. Any action pursuant to that ruling, including disbursement and the audit thereof, shall be legally binding and of full effect. An official copy of each written ruling shall be transmitted to the Legislative Budget and Finance Officer upon the effective date of the ruling.

4. The Director of the Division of Budget and Accounting may approve expenditures for predesign program planning and other related costs for capital projects authorized under this act.

5. In order to provide flexibility in administering the provisions of this act, the Commissioner of Human Services may apply to the Director of the Division of Budget and Accounting for permission to transfer a part of any item or appropriation to any other item or appropriation within the respective department accounts. The transfer shall be made upon the written approval of the director and of the Joint Budget Oversight Committee, or its successor.

6. The Commissioner of Human Services shall report to the Joint Budget Oversight Committee or its successor on the status of the appropriation provided in this act six months from the effective date of this act and annually thereafter until all of the funds have been expended. The status report shall specify the projects that are funded and the amounts of funds appropriated, obligated and expended for each project. The status report shall also include information on the revolving fund established pursuant to section 2 of this act.

7. This act shall take effect immediately.

Approved July 29, 1997.

CHAPTER 172

AN ACT concerning consumer credit reports and supplementing Title 56 of the Revised Statutes.

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

C.56:11-28 Short title.

1. This act shall be known and may be cited as the "New Jersey Fair Credit Reporting Act."

C.56:11-29 Findings, declarations relative to consumer credit reports.

2. The Legislature finds and declares that:

a. Recent amendments to the federal "Fair Credit Reporting Act," enacted as the "Consumer Credit Reporting Reform Act of 1996," (Subtitle

D, Chapter 1, Pub.L.104-208), add important new substantive provisions, some of which strengthen the federal law and its enforcement.

b. Among these amendments is subsection (c) added to the enforcement section, 15 U.S.C. s.1681s, which specifically provides that a state can take action to enjoin a person from violating the provisions of the federal "Fair Credit Reporting Act" and to recover damages for residents of the state for such violations.

c. The designation of a specific agency of the State to have enforcement authority and to be a source of information for consumers about their rights under the federal law and this act will increase the confidence of consumers in the State that credit reporting problems will be vigorously investigated and that persons violating the federal law and the provisions of this act will be prosecuted;

d. While the amendments to the federal "Fair Credit Reporting Act" contained in the "Consumer Credit Reporting Reform Act of 1996" specifically preempt states from establishing requirements or prohibitions with respect to the provisions of certain sections of the federal "Fair Credit Reporting Act," the provisions of the other sections of that act are left subject to actions by states as long as the provisions enacted in state law are not inconsistent with federal law;

e. The purpose of this act therefore is to provide additional consumer protection with respect to consumer credit reports and credit reporting agencies consistent with the provisions of the"Federal Fair Credit Reporting Act."

C.56:11-30 Definitions relative to consumer credit reports.

3. As used in this act:

"Adverse action" has the same meaning as in subsection (k) of section 603 of the federal "Fair Credit Reporting Act," 15 U.S.C. s.1681a.

"Consumer" means an individual.

"Consumer report" (1) means any written, oral or other communication of any information by a consumer reporting agency bearing on a consumer's credit worthiness, credit standing, credit capacity, character, general reputation, personal characteristics or mode of living which is used or expected to be used or collected in whole or in part for the purpose of serving as a factor in establishing the consumer's eligibility for:

(a) credit or insurance to be used primarily for personal, family or household purposes;

(b) employment purposes; or

(c) any other purpose authorized under section 4 of this act.

(2) The term "consumer report" does not include:

(a) any:

(i) report containing information solely on transactions or experiences between the consumer and the person making the report;

(ii) communication of that information among persons related by common ownership or affiliated by corporate control; or

(iii) communication of other information among persons related by common ownership or affiliated by corporate control, if it is clearly and conspicuously disclosed to the consumer that the information may be communicated among those persons and the consumer is given the opportunity, before the time that the information is initially communicated, to direct that the information not be communicated among those persons;

(b) any authorization or approval of a specific extension of credit directly or indirectly by the issuer of a credit card or similar device;

(c) any report in which a person, who has been requested by a third party to make a specific extension of credit directly or indirectly to a consumer, conveys his decision with respect to that request, if the third party advises the consumer of the name and address of the person to whom the request was made, and the person makes the disclosures to the consumer required under 15 U.S.C. s.1681m; or

(d) communication excluded from the definition of consumer report pursuant to subsection (o) of section 603 of the federal "Fair Credit Reporting Act," 15 U.S.C. s.1681a.

"Consumer reporting agency" means any person which, for monetary fees, dues, or on a cooperative nonprofit basis, regularly engages, in whole or in part, in the practice of assembling or evaluating consumer credit information or other information on consumers for the purpose of furnishing consumer reports to third parties, and which uses any means or facility for the purpose of preparing or furnishing consumer reports.

"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.

"Employment purposes" means, when used in connection with a consumer report, a report used for the purpose of evaluating a consumer for employment, promotion, reassignment or retention as an employee.

"File" means, when used in connection with information on any consumer, all of the information on that consumer recorded and retained by a consumer reporting agency regardless of how the information is stored.

"Investigative consumer report" means a consumer report or a portion thereof in which information on a consumer's character, general reputation, personal characteristics or mode of living is obtained through personal interviews with neighbors, friends or associates of the consumer who is the subject of the report or with others with whom the consumer is acquainted

or who may have knowledge concerning any of those items of information. However, this information shall not include specific factual information on a consumer's credit record obtained directly from a creditor of the consumer or from a consumer reporting agency when the information was obtained directly from a creditor of the consumer or from the consumer.

"Medical information" means information or records obtained, with the consent of the individual to whom it relates, from licensed physicians or medical practitioners, hospitals, clinics, or other medical or medically related facilities.

C.56:11-31 Furnishing of consumer report; permissible circumstances.

4. a. A consumer reporting agency may furnish a consumer report under the following circumstances and no other:

(1) In response to the order of a court having jurisdiction to issue such an order, or a subpoena issued in connection with proceedings before a State or federal grand jury.

(2) In accordance with the written instructions of the consumer to whom it relates.

(3) To a person which it has reason to believe:

(a) intends to use the information in connection with a credit transaction involving the consumer on whom the information is to be furnished and involving the extension of credit to, or review or collection of an account of, the consumer;

(b) intends to use the information for employment purposes;

(c) intends to use the information in connection with the underwriting of insurance involving the consumer;

(d) intends to use the information in connection with a determination of the consumer's eligibility for a license or other benefit granted by a governmental instrumentality required by law to consider an applicant's financial responsibility or status;

(e) intends to use the information, as a potential investor or servicer, or current insurer, in connection with a valuation of, or an assessment of the credit or prepayment risks associated with, an existing credit obligation; or

(f) otherwise has a legitimate business need for the information:

(i) in connection with a business transaction that is initiated by the consumer; or

(ii) to review an account to determine whether the consumer continues to meet the terms of the account.

(4) In response to a request by the head of a State or local child support enforcement agency (or a State or local government official authorized by the head of such an agency), if the person making the request certifies to the consumer reporting agency that:

(a) the consumer report is needed for the purpose of establishing an individual's capacity to make child support payments or determining the appropriate level of those payments;

(b) the paternity of the consumer for the child to which the obligation relates has been established or acknowledged by the consumer in accordance with State laws under which the obligation arises (if required by those laws);

(c) the person has provided at least 10 days' prior notice to the consumer whose report is requested, by certified or registered mail to the last known address of the consumer, that the report will be requested; and

(d) the consumer report will be kept confidential, will be used solely for a purpose described in paragraph (1) of this subsection, and will not be used in connection with any other civil, administrative, or criminal proceeding, or for any other purpose.

(5) To an agency administering a state plan under 42 U.S.C. s.654 for use to set an initial or modified child support award.

b. A consumer reporting agency may furnish a consumer report for employment purposes only if:

(1) the person who obtains the report from the agency certifies to the agency that:

(a) the person has complied with subsection c. of this section with respect to the consumer report, and the person will comply with subsection d. of this section with respect to the consumer report if that subsection becomes applicable; and

(b) information from the consumer report will not be used in violation of any applicable federal or state equal employment opportunity law or regulation; and

(2) the consumer reporting agency provides with the report a summary of the consumer's rights under the federal "Fair Credit Reporting Act," 15 U.S.C. s.1681 et seq.

c. A person may not procure a consumer report, or cause a consumer report to be procured, for employment purposes with respect to any consumer, unless:

(1) a clear and conspicuous disclosure has been made in writing to the consumer at any time before the report is procured or caused to be procured, in a document that consists solely of the disclosure, that a consumer report may be obtained for employment purposes; and

(2) the consumer has authorized in writing the procurement of the report by that person.

d. A consumer reporting agency shall not furnish for employment purposes, or in connection with a credit or insurance transaction or a direct marketing transaction, a consumer report that contains medical information

about a consumer unless the consumer consents to the furnishing of the report in writing.

e. In using a consumer report for employment purposes, before taking any adverse action based in whole or in part on the report, the person intending to take an adverse action shall provide to the consumer to whom the report relates:

(1) a copy of the report; and

(2) a description in writing of the rights of the consumer under this act and the federal "Fair Credit Reporting Act," 15 U.S.C. s.1681 et seq.

f. Consumer reporting agencies may furnish a consumer report relating to any consumer pursuant to subparagraph (a) or (c) of paragraph (3) of subsection a. of this section in connection with any credit or insurance transaction that is not authorized by the consumer only if the consumer reporting agency complies with the requirements of subsections (c) and (e) of section 604 of the federal "Fair Credit Reporting Act," 15 U.S.C. s.1681b.

g. A person shall not use or obtain a consumer report for any purpose unless:

(1) the consumer report is obtained for a purpose for which the consumer report is authorized to be furnished under this section; and

(2) the purpose for its use is certified in accordance with section 5 of this act by a prospective user of the report.

C.56:11-32 Procedures designed to limit furnishing of consumer reports.

5. a. Every consumer reporting agency shall maintain reasonable procedures designed to limit the furnishing of consumer reports to the purposes listed under section 4 of this act. These procedures shall require that prospective users of the information identify themselves, certify each purpose for which the information is sought, and certify that the information will be used for no other purpose. Every consumer reporting agency shall make a reasonable effort to verify the identity of a new prospective user and each use certified by the prospective user prior to furnishing the user a consumer report. No consumer reporting agency may furnish a consumer report to any person if it has reasonable grounds for believing that the consumer report will not be used for a purpose listed in section 4 of this act.

b. Whenever a consumer reporting agency prepares a consumer report it shall follow reasonable procedures to assure maximum possible accuracy of the information concerning the individual about whom the report relates.

c. A consumer reporting agency may not prohibit the user of a consumer report furnished by the agency from disclosing the contents of the report to the consumer, if adverse action against the consumer has been taken by the user based in whole or in part on the report.

d. A person may not procure a consumer report for the purpose of reselling the report unless the person discloses to the consumer reporting agency that originally furnishes the report:

(1) the identity of the end-user of the report; and

(2) each permissible purpose under section 4 of this act for which the report is furnished to the end-user of the report.

e. A person who procures a consumer report for the purposes of reselling the report shall:

(1) establish and comply with reasonable procedures designed to ensure that the report is resold by the person only for a purpose for which the report may be furnished under section 4 of this act, including procedures designed to ensure that each person to which the report is resold and that resells or provides the report to any other person:

(a) identifies to the person from whom the report was purchased each end-user of the resold report;

(b) certifies to the person from whom the report was purchased each purpose for which the report will be used; and

(c) certifies to the person from whom the report was purchased that the report will be used for no other purpose; and

(2) before reselling the report, make reasonable efforts to verify the identifications and certifications made under paragraph (1) of this subsection.

f. For the purposes of subsections d. and e. of this section, "report" means the consumer report as furnished by a consumer reporting agency or any information contained in that consumer report.

C.56:11-33 Procurement, preparation of investigative consumer report.

6. a. A person may not procure or cause to be prepared an investigative consumer report on any consumer unless:

(1) It is clearly and accurately disclosed in writing to the consumer, prior to requesting the consumer reporting agency to prepare the report, that an investigative consumer report commonly includes information regarding the consumer's character, general reputation, personal characteristics, and mode of living, and the disclosure includes the precise nature and scope of the investigation requested and the right of the consumer to have a copy of the report upon request; and

(2) the consumer provides the person requesting the report written permission to obtain the investigative consumer report prior to the person making the request to the consumer reporting agency.

b. The consumer reporting agency shall, upon the request of the consumer, provide to the consumer a copy of the report upon its completion.

c. No person may be held liable for any violation of any provision of this section if that person proves by a preponderance of the evidence that at the time of the violation reasonable procedures to assure compliance with the provisions of this section were maintained.

C.56:11-34 Disclosure to consumer.

7. Every consumer reporting agency shall, upon request and proper identification of any consumer, clearly and accurately disclose to the consumer:

a. All information in the consumer's file at the time of the request.

b. The sources of the information; except that the sources of information acquired solely for use in preparing an investigative consumer report and actually used for no other purpose need not be disclosed: provided, that if an action is brought under this act or the federal "Fair Credit Reporting Act," such sources shall be available to the plaintiff under appropriate discovery procedures in the court in which the action is brought.

c. (1) The identification of each person, including each end-user identified under subsections d. and e. of section 5 of this act, who procured a consumer report:

(a) for employment purposes, during the two-year period preceding the date on which the request is made; or

(b) for any other purpose, during the one-year period preceding the date on which the request is made.

(2) An identification of a person under paragraph (1) shall include:

(a) the name of the person, or, if applicable, the trade name written in full under which the person conducts business; and

(b) upon request of the consumer, the address and telephone number of the person.

d. The dates, original payees, and amounts of any checks upon which is based any adverse characterization of the consumer, included in the file at the time of the disclosure.

e. A record of all inquiries received by the agency during the one-year period preceding the request that identified the consumer in connection with a credit or insurance transaction that was not initiated by the consumer.

C.56:11-35 Time, notice for making disclosures.

8. a. A consumer reporting agency shall make the disclosures required under section 7 of this act during normal business hours and on reasonable notice.

b. The disclosures required under section 7 of this act shall be made to the consumer:

(1) in person if the consumer appears in person and furnishes proper identification; or

(2) by telephone if the consumer has made a written request, with proper identification, for telephone disclosure and the toll charge, if any, for the telephone call is prepaid by or charged directly to the consumer.

c. Any consumer reporting agency shall provide trained personnel to explain to the consumer any information furnished to the consumer pursuant to section 7 of this act.

d. The consumer shall be permitted to be accompanied by one other person of the consumer's choosing, who shall furnish reasonable identification. A consumer reporting agency may require the consumer to furnish a written statement granting permission to the consumer reporting agency to discuss the consumer's file in that person's presence.

e. Except as provided in sections 11 and 12 of this act and sections 616 and 617 of the federal "Fair Credit Reporting Act," 15 U.S.C. s.1681n and 15 U.S.C. s.1681o, no consumer may bring any action or proceeding in the nature of defamation, invasion of privacy, or negligence with respect to the reporting of information against any consumer reporting agency, any user of information, or any person who furnishes information to a consumer reporting agency, based on information disclosed pursuant to section 7 of this act or this section or section 609, 610 or 615 of the federal "Fair Credit Reporting Act," 15 U.S.C. s.1681g, 15 U.S.C. s.1681h, or 15 U.S.C. s.1681m, or based on information disclosed by a user of a consumer report to or for a consumer against whom the user has taken adverse action, based in whole or in part on the report, except as to false information furnished with malice or willful intent to injure the consumer.

C.56:11-36 Dispute of information; reinvestigation.

9. a. (1) If the completeness or accuracy of any item of information contained in a consumer's file at a consumer reporting agency is disputed by a consumer and the consumer notifies the agency directly of the dispute, the agency shall reinvestigate free of charge and record the current status of the disputed information, or delete the item from the file in accordance with subsection e. of this section, before the end of the 30-day period beginning on the date on which the agency receives the notice of dispute from the consumer.

(2) Except as provided in paragraph (3) of this subsection, the 30-day period described in paragraph (1) of this subsection may be extended for not more than 15 additional days if the consumer reporting agency receives information from the consumer during that 30-day period that is relevant to the reinvestigation.

(3) Paragraph (2) of this subsection shall not apply to any reinvestigation in which, during the 30-day period described in paragraph (1) of this subsection, the information that is the subject of the reinvestigation is found

to be inaccurate or incomplete or the consumer reporting agency determines that the information cannot be verified.

b. (1) Before the expiration of the five-business-day period beginning on the date on which a consumer reporting agency receives notice of a dispute from any consumer in accordance with subsection a. of this section, the agency shall provide notification of the dispute to any person who provided any item of information in dispute, at the address and in the manner established with the person. The notice shall include all relevant information regarding the dispute that the agency has received from the consumer.

(2) The consumer reporting agency shall promptly provide to the person who provided the information in dispute all relevant information regarding the dispute that is received by the agency from the consumer after the period referred to in paragraph (1) of this subsection and before the end of the period referred to in subsection a. of this section.

c. (1) Notwithstanding the provisions of subsection a. of this section, a consumer reporting agency may terminate a reinvestigation of information disputed by a consumer under that subsection if the agency reasonably determines that the dispute by the consumer is frivolous or irrelevant, including by reason of a failure by a consumer to provide sufficient information to investigate the disputed information.

(2) Upon determining that a dispute is frivolous or irrelevant, a consumer reporting agency shall notify the consumer of that determination not later than five business days after making that determination, by mail or, if authorized by the consumer for that purpose, by any other means available to the agency.

(3) A notice under paragraph (2) of this subsection shall include:

(a) the reasons for the determination under paragraph (1) of this subsection; and

(b) the identification of any information required to investigate the disputed information, which may consist of a standardized form describing the general nature of the information.

d. In conducting any reinvestigation under subsection a. of this section with respect to disputed information in the file of any consumer, the consumer reporting agency shall review and consider all relevant information submitted by the consumer in the period described in paragraph (1) of subsection a. of this section with respect to the disputed information.

e. (1) If after any reinvestigation under subsection a. of this section of any information disputed by a consumer, an item of the information is found to be inaccurate or incomplete or cannot be verified, the consumer reporting agency shall promptly delete that item of information from the consumer's

file or modify that item of information, as appropriate, based on the results of the reinvestigation.

(2) (a) If any information is deleted from a consumer's file pursuant to paragraph (1) of this subsection, the information shall not be reinserted in the file by the consumer reporting agency unless the person who furnishes the information certifies that the information is complete and accurate.

(b) If any information that has been deleted from a consumer's file pursuant to paragraph (1) of this subsection is reinserted in the file, the consumer reporting agency shall notify the consumer of the reinsertion in writing not later than five business days after the reinsertion or, if authorized by the consumer for that purpose, by any other means available to the agency.

(c) As part of, or in addition to, the notice under subparagraph (b) of paragraph (2) of this subsection, a consumer reporting agency shall provide to the consumer in writing not later than five business days after the date of the reinsertion:

(i) a statement that the disputed information has been reinserted;

(ii) the business name and address of any furnisher of information contacted and the telephone number of the furnisher, if reasonably available, or of any furnisher of information that contacted the consumer reporting agency, in connection with the reinsertion of the disputed information; and

(iii) a notice that the consumer has the right to add a statement to the consumer's file disputing the accuracy or completeness of the disputed information.

(3) A consumer reporting agency shall maintain reasonable procedures designed to prevent the reappearance in a consumer's file, and in consumer reports on the consumer, of information that is deleted pursuant to this section, other than information that is reinserted in accordance with this section.

(4) Any consumer reporting agency that compiles and maintains files on consumers on a nationwide basis shall implement an automated system through which furnishers of information to a consumer reporting agency may report the results of a reinvestigation that finds incomplete or inaccurate information in a consumer's file to other consumer reporting agencies.

f. (1) A consumer reporting agency shall provide written notice to a consumer of the results of a reinvestigation under this subsection not later than five business days after the completion of the reinvestigation, by mail or, if authorized by the consumer for that purpose, by any other means available to the agency.

(2) As part of, or in addition to, the notice under paragraph (1) of this subsection, a consumer reporting agency shall provide to a consumer in

writing before the expiration of the five-day period referred to in paragraph (1) of this subsection:

(a) a statement that the reinvestigation is completed;

(b) a consumer report that is based on the consumer's file as that file is revised as a result of the reinvestigation;

(c) a notice that, if requested by the consumer, a description of the procedure used to determine the accuracy and completeness of the information shall be provided to the consumer by the agency, including the business name and address of any furnisher of information contacted in connection with that information and the telephone number of the furnisher, if reasonably available;

(d) a notice that the consumer has the right to add a statement to the consumer's file disputing the accuracy or completeness of the information; and

(e) a notice that the consumer has the right to request that the consumer reporting agency furnish notifications under subsection k. of this section.

g. A consumer reporting agency shall provide to a consumer a description referred to in subparagraph (c) of paragraph (2) of subsection f. of this section not later than 15 days after receiving a request from the consumer for that description.

h. If a dispute regarding an item of information in a consumer's file at a consumer reporting agency is resolved in accordance with paragraph (1) of subsection e. of this section by the deletion of the disputed information not later than three business days after the date on which the agency receives notice of the dispute from the consumer in accordance with paragraph (1) of subsection a. of this section, then the agency shall not be required to comply with subsections b., f. and g. of this section with respect to that dispute if the agency:

(1) provides prompt notice of the deletion to the consumer by telephone;

(2) includes in that notice, or in a written notice that accompanies a confirmation and consumer report provided in accordance with paragraph (3) of this subsection, a statement of the consumer's right to request that the agency furnish notifications under subsection k. of this section; and

(3) provides written confirmation of the deletion and a copy of a consumer report on the consumer that is based on the consumer's file after the deletion, not later than five business days after making the deletion.

i. If the reinvestigation does not resolve the dispute, the consumer may file a brief statement setting forth the nature of the dispute. The consumer reporting agency may limit a statement to not more than one hundred words if it provides the consumer with assistance in writing a clear summary of the dispute.

j. Whenever a statement of a dispute is filed, unless there is reasonable grounds to believe that it is frivolous or irrelevant, the consumer reporting agency shall, in any subsequent consumer report containing the information in question, clearly note that it is disputed by the consumer and provide either the consumer's statement or a clear and accurate codification or summary thereof.

k. Following any deletion of information which is found to be inaccurate or whose accuracy can no longer be verified or any notation as to disputed information, the consumer reporting agency shall, at the request of the consumer, furnish notification that the item has been deleted or if disputed, the statement, codification or summary filed or developed pursuant to subsection i. or j. of this section, to any person specifically designated by the consumer who has within two years prior thereto received a consumer report for employment purposes, or within one year prior thereto received a consumer report for any other purpose, which contained the deleted or disputed information.

C.56:11-37 Imposition of charge on consumer; exceptions.

10. a. Except as provided in subsections b., c., d. and e. of this section, a consumer reporting agency may impose a reasonable charge on a consumer for:

(1) making a disclosure to the consumer pursuant to section 7 of this act if the request is the second or subsequent request in a 12-month period of time and is not made pursuant to subsection b. of this section; the charge for this disclosure shall not exceed $8 and shall be indicated to the consumer before making the disclosure;

(2) furnishing to a person designated by the consumer pursuant to subsection k. of section 9 of this act a statement, codification, or summary filed or developed under subsection i. or j. of section 9 of this act, after notification of the consumer under subsection f. of section 9 of this act with respect to the reinvestigation; this charge shall not exceed the charge that the agency would impose on each designated recipient for a consumer report and shall be indicated to the consumer before furnishing this information.

b. Each consumer reporting agency that maintains a file on a consumer shall make all disclosures required pursuant to section 7 of this act without charge to the consumer if, not later than 60 days after receipt by the consumer of a notification of an adverse action or notification from a debt collection agency affiliated with the consumer reporting agency stating that the consumer's credit rating may be or has been adversely affected, the consumer makes a request under section 7 of this act.

c. Upon the request of the consumer, a consumer reporting agency shall make all disclosures required pursuant to section 7 of this act once during any 12-month period without charge to the consumer.

d. A consumer reporting agency shall not impose any charge on a consumer for providing any notification required by this act, including but not limited to, the notification required pursuant to subsection k. of section 9 of this act following deletion of information from a consumer's file pursuant to section 9 of this act, or making any disclosure required by this act, except as authorized by subsection a. of this section.

e. Upon request of the consumer, a consumer reporting agency shall make all disclosures required pursuant to section 7 of this act once during any 12-month period without charge to that consumer if the consumer certifies in writing that the consumer:

(1) is unemployed and intends to apply for employment in the 60-day period beginning on the date on which certification is made;

(2) is a recipient of assistance under the Work First New Jersey Program; or

(3) has reason to believe that the file on the consumer at the agency contains inaccurate information due to fraud.

C.56:11-38 Willful noncompliance; liability.

11. a. Any person who willfully fails to comply with any requirement imposed under this act with respect to any consumer is liable to that consumer in an amount equal to the sum of:

(1) (a) any actual damages sustained by the consumer as a result of the failure or damages of not less than $100 and not more than $1,000; or

(b) in the case of liability of a natural person for obtaining a consumer report under false pretenses or knowingly without a permissible purpose, actual damages sustained by the consumer as a result of the failure or $1,000, whichever is greater;

(2) such amount of punitive damages as the court may allow; and

(3) in the case of any successful action to enforce any liability under this section, the costs of the action together with reasonable attorneys' fees as determined by the court.

b. Any person who obtains a consumer report from a consumer reporting agency under false pretenses or knowingly without a permissible purpose shall be liable to the consumer reporting agency for actual damages sustained by the consumer reporting agency or $1,000, whichever is greater.

c. Upon a finding by the court that an unsuccessful pleading, motion, or other paper filed in connection with an action under this section was filed in bad faith or for purposes of harassment, the court shall award to the

prevailing party attorneys' fees reasonable in relation to the work expended in responding to the pleading, motion, or other paper.

C.56:11-39 Negligent noncompliance; liability.

12. a. Any person who is negligent in failing to comply with any requirement imposed under this act with respect to any consumer is liable to that consumer in an amount equal to the sum of:

(1) any actual damages sustained by the consumer as a result of the failure; and

(2) in the case of any successful action to enforce any liability under this section, the costs of the action together with reasonable attorneys' fees as determined by the court.

b. On a finding by the court that an unsuccessful pleading, motion, or other paper filed in connection with an action under this section was filed in bad faith or for purposes of harassment, the court shall award to the prevailing party attorneys' fees reasonable in relation to the work expended in responding to the pleading, motion, or other paper.

C.56:11-40 Obtaining information under false pretenses, fourth degree crime.

13. Any person who knowingly and willfully obtains information on a consumer from a consumer reporting agency under false pretenses shall be guilty of a crime of the fourth degree.

C.56:11-41 Enforcement agency.

14. a. Pursuant to subsection (c) of section 621 of the federal "Fair Credit Reporting Act," 15 U.S.C. s.1681s, the Division of Consumer Affairs in the Department of Law and Public Safety is designated as the agency in this State to enforce the provisions of the federal "Fair Credit Reporting Act," and this act.

b. The director shall make every effort to keep the residents of this State informed with respect to their rights under the federal "Fair Credit Reporting Act," and this act, including, but not limited to, press releases upon the establishment of toll-free telephone numbers by the major credit reporting agencies as required under federal law and the provision, on the division's web page, of the same information and other information on basic consumer rights and protections with respect to credit reports under the federal act and this act.

15. This act shall take effect on the 180th day after enactment.

Approved July 29, 1997.

CHAPTER 173

AN ACT appropriating funds from the Developmental Disabilities' Waiting List Reduction and Human Services Facilities Construction Fund established pursuant to P.L.1994, c.108.

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

1. a. There is appropriated to the Department of Human Services from the Developmental Disabilities' Waiting List Reduction and Human Services Facilities Construction Fund created by the "Developmental Disabilities' Waiting List Reduction and Human Services Facilities Construction Bond Act of 1994," P.L.1994, c.108, the sum of $31,555,000 for the following community-based projects:

Grants, including grants that create revolving funds, for the Division of Developmental Disabilities. . . .	$15,650,000
Grants, including grants that create revolving funds, for the Division of Mental Health Services.	7,550,000
Grants, including grants that create revolving funds, for the Division of Youth and Family Services	2,600,000
Grants, including grants that create revolving funds, for the Commission for the Blind and Visually Impaired	1,255,000
Grants, including grants that create revolving funds for the Department of Human Services housing innovation and other capital projects	4,500,000

b. Of the funds appropriated in subsection a. of this section for the Division of Developmental Disabilities, all funds shall be used for projects to reduce the division's community services waiting list. The $15,650,000 represents a portion of the $80,000,000 to be expended on projects intended to reduce the community services waiting list.

c. Prior to the formal awarding of any funds appropriated pursuant to this section, the Commissioner of Human Services shall provide the Joint Budget Oversight Committee, or its successor, information as to the agency that will receive the funds, the amount of funds the agency is to receive, the manner in which the funds are to be used and the estimated amount of State funds required to operate the program. Unless the Joint Budget Oversight Committee, or its successor, formally notifies the Commissioner of Human Services within 10 working days that it does not approve of the specific project, the department may award the funds. The provisions of this subsection shall not apply to funds for renovations that do not increase the

capacity of a facility, for emergency repairs and for life-safety and accreditation improvements to existing facilities.

2. The Commissioner of Human Services, consistent with the 1994 Bond Issue Master Plan, may provide grants to the New Jersey Housing and Mortgage Finance Agency, the New Jersey Health Care Facilities Financing Authority, the New Jersey Economic Development Authority and other similar agencies established by the State, or to private, nonprofit entities. These agencies or entities may leverage the grants, use equity contributions and take advantage of other financial mechanisms and create revolving funds for community capital projects. An applicant applying for funds from these agencies may be assessed an application fee consistent with the normal business practice of the agency. The plan for the establishment of the revolving fund shall be reviewed and approved by the Joint Budget Oversight Committee pursuant to the provisions of subsection c. of section 1 of this act.

a. An application fee or equity contribution shall not be required for renovations that do not increase the capacity of a facility, for emergency repairs or for life-safety and accreditation improvements to existing facilities. The application fee and any equity contribution may be waived, with the approval of the Commissioner of Human Services, if an applicant is able to document a financial inability to pay the fee or make an equity contribution.

b. An application fee or equity contribution that is required of an applicant shall be an unallowable item of cost for purposes of the most recent Department of Human Services' Contract Reimbursement Manual.

c. Grants provided to the New Jersey Housing and Mortgage Finance Agency, the New Jersey Health Care Facilities Financing Authority, the New Jersey Economic Development Authority and other similar agencies established by the State shall be exempt from the application fee and equity contribution.

d. As a condition of receiving monies from the Developmental Disabilities' Waiting List Reduction and Human Services Facilities Construction Fund, an applicant shall apply for grants, loans, mortgages and tax credits that may be available through governmental and non-governmental entities for financing the cost of the project or to reduce the total cost of the project. An applicant shall document to the department that it has or is in the process of applying for such grants, loans, mortgages and tax credits.

In the case of any loans or mortgages for which the applicant may apply, the department shall review the terms and conditions of the loan or mortgage recommended by the lending agency to determine if the total cost of the loan or mortgage exceeds direct State financing of the project if the

applicant applies to the department for a contract to provide services and seeks to obtain reimbursement for such loan or mortgages. Costs in excess of what the State would incur shall be an unallowable cost for purposes of the most recent Department of Human Services' Contract Reimbursement Manual.

3. The Director of the Division of Budget and Accounting in the Department of the Treasury shall make those corrections in the title or text, or both, of any appropriation item authorized under this act necessary to make the appropriation available for the purposes for which it was intended. The corrections shall be made by a written ruling which shall set forth an explanation of the need for correction and which shall be signed by the Director of the Division of Budget and Accounting and shall be filed by the director in his office as an official record. Any action pursuant to that ruling, including disbursement and the audit thereof, shall be legally binding and of full effect. An official copy of each written ruling shall be transmitted to the Legislative Budget and Finance Officer upon the effective date of the ruling.

4. The Director of the Division of Budget and Accounting may approve expenditures for predesign program planning and other related costs for capital projects authorized under this act.

5. In order to provide flexibility in administering the provisions of this act, the Commissioner of Human Services may apply to the Director of the Division of Budget and Accounting for permission to transfer a part of any item or appropriation to any other item or appropriation within the respective department accounts. The transfer shall be made upon the written approval of the director and of the Joint Budget Oversight Committee, or its successor.

6. The Commissioner of Human Services shall report to the Joint Budget Oversight Committee or its successor on the status of the appropriation provided in this act 12 months from the effective date of this act and annually thereafter until all of the funds have been expended. The status report shall specify the projects that are funded and the amount of funds appropriated, obligated and expended for each project. The status report shall also include information on the revolving funds established pursuant to section 2 of this act.

7. This act shall take effect immediately.

Approved July 29, 1997.

CHAPTER 174

AN ACT concerning drug and alcohol abuse, amending N.J.S.2C:35-15 and making an appropriation.

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.

a. 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:

(1) $3,000.00 in the case of a crime of the first degree;

(2) $2,000.00 in the case of a crime of the second degree;

(3) $1,000.00 in the case of a crime of the third degree;

(4) $750.00 in the case of a crime of the fourth degree;

(5) $500.00 in the case of a disorderly persons or petty disorderly persons offense.

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 regardless 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.316 (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 defendant agrees to enter a residential drug rehabilitation program approved by the court; and further provided that the defendant 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 defendant's participation in the approved rehabilitation program. Upon successful completion of the program, the defendant may apply to the court to reduce the penalty imposed pursuant to this section by any amount actually paid by the defendant for his participation in the program. The court shall not reduce the penalty pursuant to this subsection unless the defendant establishes to the satisfaction of the court that he has successfully completed the rehabilitation program. If the defendant'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.

2. There is appropriated $350,000 from the "Drug Enforcement and Demand Reduction Fund," established pursuant to N.J.S.2C:35-15, to the Department of Health and Senior Services for a grant to the "Partnership for

a Drug Free New Jersey," the State affiliate of the "Partnership for a Drug Free America."

3. This act shall take effect immediately.

Approved July 30, 1997.

CHAPTER 175

AN ACT concerning child abuse and neglect and revising parts of the statutory law.

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

C.9:6-8.83 Short title.

1. This act shall be known as and may be cited as the "Comprehensive Child Abuse Prevention and Treatment Act."

C.9:6-8.84 Definitions relative to child abuse, neglect.

2. As used in this act:

"Board" means the Child Fatality and Near Fatality Review Board established under P.L.1997, c.175 (C.9:6-8.83 et al.).

"Child" means any person under the age of 18.

"Commissioner" means the Commissioner of Human Services.

"Diligent efforts" means reasonable attempts by an agency authorized by the Division of Youth and Family Services to assist the parents in remedying the circumstances and conditions that led to the placement of the child and in reinforcing the family structure, as defined in section 7 of P.L.1991, c.275 (C.30:4C-15.1).

"Division" means the Division of Youth and Family Services in the Department of Human Services.

"Near fatality" means a case in which a child is in serious or critical condition, as certified by a physician.

"Panel" means a citizen review panel as established under P.L.1997, c.175 (C.9:6-8.83 et al.).

"Parent or guardian" means a person defined pursuant to section 1 of P.L.1974, c.119 (C.9:6-8.21) who has the responsibility for the care, custody or control of a child or upon whom there is a legal duty for such care.

"Sexual abuse" means contacts or actions between a child and a parent or caretaker for the purpose of sexual stimulation of either that person or another person. Sexual abuse includes:

a. the employment, use, persuasion, inducement, enticement or coercion of any child to engage in, or assist any other person to engage in, any sexually explicit conduct or simulation of such conduct;

b. sexual conduct including molestation, prostitution, other forms of sexual exploitation of children or incest; or

c. sexual penetration and sexual contact as defined in N.J.S.2C:14-1 and a prohibited sexual act as defined in N.J.S.2C:24-4.

"Significant bodily injury" means a temporary loss of the functioning of any bodily member or organ or temporary loss of any one of the five senses.

"Withholding of medically indicated treatment" means the failure to respond to a child's life-threatening conditions by providing treatment, including appropriate nutrition, hydration, and medication which, in the treating physician's reasonable judgment, will most likely be effective in ameliorating or correcting all such conditions. The term does not include the failure to provide treatment, other than appropriate nutrition, hydration, or medication to a child when, in the treating physician's reasonable medical judgment:

a. the child is chronically and irreversibly comatose;

b. the provision of such treatment would merely prolong dying, not be effective in ameliorating or correcting all of the child's life-threatening conditions, or otherwise be futile in terms of the survival of the child; or

c. the provision of such treatment would be virtually futile in terms of the survival of the child and the treatment itself under such circumstances would be inhumane.

C.9:6-8.85 Procedures for responding to reports of medical neglect.

3. The commissioner shall establish procedures for responding to the reporting of medical neglect, including instances of withholding of medically indicated treatment from disabled children with life-threatening conditions, to provide for: a. coordination and consultation with persons designated by and within appropriate health care facilities, and b. prompt notification by these persons of cases of suspected medical neglect, including withholding of medically indicated treatment from disabled children with life-threatening conditions.

C.9:6-8.86 Pursuit of legal remedies for medical care.

4. The division may pursue any legal remedies, including the initiation of legal proceedings in a court of competent jurisdiction, as may be necessary to: a. prevent the withholding of medically indicated treatment from disabled children with life-threatening conditions, or b. provide medical care or treatment for a child when such care or treatment is necessary to prevent or remedy serious harm to the child or to prevent the

withholding of medically indicated treatment from disabled children with life-threatening conditions.

C.9:6-8.87 Reunification with parent not required under certain circumstances.

5. In any case in which the division accepts a child in care or custody, including placement, the division shall not be required to provide diligent efforts to reunify the child with a parent who has been found by a court of competent jurisdiction to have committed murder, aggravated manslaughter or manslaughter of another child of the parent; to have aided or abetted, attempted, conspired or solicited to commit the murder, aggravated manslaughter or manslaughter of the child or another child of the parent; or to have committed, or attempted to commit, an assault that resulted, or could have resulted, in the significant bodily injury to the child or another child of the parent.

C.9:6-8.88 Child Fatality and Near Fatality Review Board.

6. There is established the Child Fatality and Near Fatality Review Board. For the purposes of complying with the provisions of Article V, Section IV, paragraph 1 of the New Jersey Constitution, the board is established within the Department of Human Services, but notwithstanding the establishment, the board shall be independent of any supervision or control by the department or any board or officer thereof.

The purpose of the board is to review fatalities and near fatalities of children in New Jersey in order to identify their causes, their relationship to governmental support systems, and methods of prevention. The board shall describe trends and patterns of child fatalities and near fatalities in New Jersey; identify risk factors and their prevalence in these populations of children; evaluate the responses of governmental systems to children in families who are considered to be at high risk and to offer recommendations for improvement in those responses; characterize high risk groups in terms that are compatible with the development of public policy; improve the sources of data collection by developing protocols for autopsies, death investigations, and complete recording of cause of death on the death certificate; and provide case consultation to individuals or agencies represented by the board.

C.9:6-8.89 Membership, terms of board members.

7. a. The board shall consist of 13 members as follows: the Commissioner of Human Services, the Commissioner of Health and Senior Services, the Director of the Division of Youth and Family Services in the Department of Human Services, the Attorney General, the Superintendent of the State Police, or their designees, the State Medical Examiner, and the Chairperson or Executive Director of the New Jersey Task Force on Child

Abuse and Neglect, who shall serve ex officio; and six public members appointed by the Governor, one of whom shall be a representative of the New Jersey Prosecutors' Association, one of whom shall be a Law Guardian, one of whom shall be a pediatrician with expertise in child abuse and neglect, one of whom shall be a psychologist with expertise in child abuse and neglect, one of whom shall be a social work educator with experience and expertise in the area of child abuse or a related field and one of whom shall have expertise in substance abuse.

b. The public members of the board shall serve for three-year terms. Of the public members first appointed, three shall serve for a period of two years, and three shall serve for a term of three years. They shall serve without compensation but shall be eligible for reimbursement for necessary and reasonable expenses incurred in the performance of their official duties and within the limits of funds appropriated for this purpose. Vacancies in the membership of the board shall be filled in the same manner as the original appointments were made.

c. The Governor shall appoint a public member to serve as chairperson of the board who shall be responsible for the coordination of all activities of the board and who shall provide the technical assistance needed to execute the duties of the board.

d. The board is entitled to call to its assistance and avail itself of the services of employees of any State, county or municipal department, board, bureau, commission or agency as it may require and as may be available for the purposes of reviewing a case pursuant to the provisions of P.L.1997, c.175 (C.9:6-8.83 et al.). The board may also seek the advice of experts, such as persons specializing in the fields of pediatric, radiological, neurological, psychiatric, orthopedic and forensic medicine; nursing; psychology; social work; education; law enforcement; family law; substance abuse; child advocacy or other related fields, if the facts of a case warrant additional expertise.

C.9:6-8.90 Duties of board.

8. The board shall:

a. Identify the fatalities of children due to unusual circumstances according to the following criteria:

(1) The cause of death is undetermined;

(2) Death where substance abuse may have been a contributing factor;

(3) Homicide, child abuse or neglect;

(4) Death where child abuse or neglect may have been a contributing factor;

(5) Malnutrition, dehydration, or medical neglect or failure to thrive;

(6) Sexual abuse;

(7) Head trauma, fractures or blunt force trauma without obvious innocent reason such as auto accidents;

(8) Suffocation or asphyxia;

(9) Burns without obvious innocent reason such as auto accident or house fire; and

(10) Suicide.

b. Identify fatalities and near fatalities among children whose family, currently or within the last 12 months, were receiving services from the division.

C.9:6-8.91 Determinations of board; composition of team; report.

9. a. The board shall determine which fatalities shall receive full review. The board may establish local or regional community-based teams to review information regarding children identified by the board. At least one team shall be designated to review information regarding child fatalities due to unusual circumstances. At least one team shall be designated to review child fatalities and near fatalities identified pursuant to subsection b. of section 8 of P.L.1997, c.175 (C.9:6-8.90) as well as child fatalities where information available to the board indicates that child abuse or neglect may have been a contributing factor.

b. Each team shall include, at a minimum, a person experienced in prosecution, a person experienced in local law enforcement investigation, a medical examiner, a public health advocate, a physician, preferably a pediatrician, and a casework supervisor from a division field office. As necessary to perform its functions, each team may add additional members or seek the advice of experts in other fields if the facts of a case warrant additional expertise.

c. Each team shall submit to the board chairperson a report of its findings and recommendations based upon its review of information regarding each child fatality or near fatality.

C.9:6-8.92 Confidential master file.

10. a. The board shall record the name, age, date of birth, place of death or pronouncement of death, date and time of death, and circumstances surrounding the death in a confidential master file. Similar information shall be recorded for each near fatality reviewed by the board. The file shall serve as the minimum record of the case and shall be the only file that contains the name of the child and shall not be subject to discovery, but may be used by the chairperson of the board to refer an individual case, including the board's deliberations and conclusions, to the extent necessary for an appropriate agency to investigate or to provide services.

b. Except as provided in subsection a. of this section, the deliberations and conclusions of the board and of its teams, related to a specific case, shall

be confidential. Summary records that are prepared by the board and the teams on each reported case shall be free of information that would identify the child.

c. The summary reports, deliberations and conclusions of the board or its teams shall not supersede or replace the conclusions or opinions of the agencies that contribute information from their own records.

d. The board shall review the reports submitted by each team and issue an annual report to the Governor and the Legislature which includes the number of cases reviewed and specific non-identifying information regarding cases of particular significance. The board shall also include in the report recommendations for achieving better coordination and collaboration among State and local agencies and recommendations for system-wide improvements in services to prevent fatalities and near fatalities among children.

C.9:6-8.93 Subpoena, review of records.

11. a. The board may subpoena and review records that pertain to the child, except as provided in any statute, regulation or Executive Order relating to the confidentiality of criminal investigations and criminal investigative files. The records subject to subpoena and review shall include, but are not limited to, private medical and hospital records, school records, mental health records, and other records which may be deemed pertinent to the review process and necessary for the formulation of a conclusion by the board.

b. Records obtained by the board pursuant to subsection a. of this section shall not be subject to subpoena.

c. If, at the time of initial notification or during the subsequent review, the board has reasonable cause to believe that the death is the result of child abuse or neglect, or has reasonable cause to believe that the death is the result of an on-going hazard to other members of the household, then the board shall notify or shall verify that notification has been made to the county prosecutor of the county wherein the death occurred or was pronounced, and to the division.

C.9:6-8.94 Immunity from liability for civil damages.

12. A member of the board shall not be liable for any civil damages as a result of providing in good faith any reports, records, opinions or recommendations pursuant to P.L.1997, c.175 (C.9:6-8.83 et al.).

C.9:6-8.95 Solicitation of grants, other funds.

13. The board may solicit and receive grants and other funds made available from a governmental, public, private, nonprofit, or for-profit

agency, including funds made available under any federal or State law, regulation or program.

C.9:6-8.96 Regulations by board.

14. The board shall adopt regulations pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.) concerning the operation of the board, procedures for conducting reviews of cases involving child fatalities and near fatalities, and other matters necessary to effectuate the purposes of this act.

C.9:6-8.97 Citizen review panels.

15. a. The commissioner shall designate three citizen review panels for the purpose of examining the policies and procedures of State and local agencies and, as appropriate, specific cases, and evaluating the extent to which the agencies are effectively discharging their child protection responsibilities.

b. The commissioner may designate as panels for the purposes of P.L.1997, c.175 (C.9:6-8.83 et al.), one or more existing entities established under federal or State law, if such entities have the capacity to satisfy the requirements of this act.

c. Each panel shall be composed of volunteer members who are broadly representative of the community in which the panel is established, including members who have expertise in the prevention and treatment of child abuse and neglect.

d. Each panel shall meet not less than once every three months.

e. The members of the panels:

(1) shall not disclose to any person or government official any identifying information about a specific child protection case with respect to which the panel is provided information; and

(2) shall not make public other information unless authorized by State statute.

f. Each panel shall have access to information as necessary to carry out its functions. Each panel is entitled to call to its assistance and avail itself of the services of employees of any State, county or municipal department, board, bureau, commission or agency as it may require and as may be available for the purposes of effectuating the provisions of P.L.1997, c.175 (C.9:6-8.83 et al.). This subsection shall not be construed to permit access to information which may compromise the integrity of a division investigation or a civil or criminal investigation or judicial proceeding.

g. Each panel shall prepare and make available to the public on an annual basis, a report containing a summary of its activities.

h. A member of the panel shall not be liable for any civil damages as a result of providing, in good faith, a report, record, opinion or recommendation pursuant to P.L.1997, c.175 (C.9:6-8.83 et al.).

i. A panel may receive grants and other funds made available from any governmental, public, private, nonprofit or for-profit agency, including funds made available under any federal or State law, regulation or program.

16. Section 1 of P.L.1977, c.102 (C.9:6-8.10a) is amended to read as follows:

C.9:6-8.10a Records of child abuse reports; confidentiality; disclosure.

1. a. All records of child abuse reports made pursuant to section 3 of P.L.1971, c.437 (C.9:6-8.10), all information obtained by the Division of Youth and Family Services in investigating such reports including reports received pursuant to section 20 of P.L.1974, c.119 (C.9:6-8.40), and all reports of findings forwarded to the central registry pursuant to section 4 of P.L.1971, c.437 (C.9:6-8.11) shall be kept confidential and may be disclosed only under the circumstances expressly authorized under subsections b., c., d. , e. and f. herein. The division shall disclose information only as authorized under subsections b., c., d.,e. and f. of this section that is relevant to the purpose for which the information is required, provided, however, that nothing may be disclosed which would likely endanger the life, safety, or physical or emotional well-being of a child or the life or safety of any other person or which may compromise the integrity of a division investigation or a civil or criminal investigation or judicial proceeding. If the division denies access to specific information on this basis, the requesting entity may seek disclosure through the Chancery Division of the Superior Court. This section shall not be construed to prohibit disclosure pursuant to paragraphs (2) and (7) of subsection b. of this section.

Nothing in this act shall be construed to permit the disclosure of any information deemed confidential by federal or State law.

b. The division may and upon written request, shall release the records and reports referred to in subsection a., or parts thereof, consistent with the provisions of P.L.1997, c.175 (C.9:6-8.83 et al.) to:

(1) A public or private child protective agency authorized to investigate a report of child abuse or neglect;

(2) A police or other law enforcement agency investigating a report of child abuse or neglect;

(3) A physician who has before him a child whom he reasonably suspects may be abused or neglected or an authorized member of the staff

of a duly designated regional child abuse diagnostic and treatment center which is involved with a particular child who is the subject of the request;

(4) A physician, a hospital director or his designate, a police officer or other person authorized to place a child in protective custody when such person has before him a child whom he reasonably suspects may be abused or neglected and requires the information in order to determine whether to place the child in protective custody;

(5) An agency, whether public or private, including any other division or unit in the Department of Human Services, authorized to care for, treat, or supervise a child who is the subject of a child abuse report, or a parent, guardian or other person who is responsible for the child's welfare, or both, when the information is needed in connection with the provision of care, treatment, or supervision to such child or such parent, guardian or other person;

(6) A court or the Office of Administrative Law, upon its finding that access to such records may be necessary for determination of an issue before it, and such records may be disclosed by the court or the Office of Administrative Law in whole or in part to the law guardian, attorney or other appropriate person upon a finding that such further disclosure is necessary for determination of an issue before the court or the Office of Administrative Law;

(7) A grand jury upon its determination that access to such records is necessary in the conduct of its official business;

(8) Any appropriate State legislative committee acting in the course of its official functions, provided, however, that no names or other information identifying persons named in the report shall be made available to the legislative committee unless it is absolutely essential to the legislative purpose;

(9) (Deleted by amendment, P.L.1997, c.175).

(10) A family day care sponsoring organization for the purpose of providing information on child abuse or neglect allegations involving prospective or current providers or household members pursuant to P.L.1993, c.350 (C.30:5B-25.1 et seq.) and as necessary, for use in administrative appeals related to information obtained through a central registry search;

(11) The Victims of Crime Compensation Board, for the purpose of providing services available pursuant to the "Criminal Injuries Compensation Act of 1971," P.L.1971, c.317 (C.52:4B-1 et seq.) to a child victim who is the subject of such report;

(12) Any person appealing a division service or status action or a substantiated finding of child abuse or neglect and his attorney or authorized lay representative upon a determination by the division or the presiding

Administrative Law Judge that such disclosure is necessary for a determination of the issue on appeal;

(13) Any person or entity mandated by statute to consider child abuse or neglect information when conducting a background check or employment-related screening of an individual employed by or seeking employment with an agency or organization providing services to children;

(14) Any person or entity conducting a disciplinary, administrative or judicial proceeding to determine terms of employment or continued employment of an officer, employee, or volunteer with an agency or organization providing services for children. The information may be disclosed in whole or in part to the appellant or other appropriate person only upon a determination by the person or entity conducting the proceeding that the disclosure is necessary to make a determination;

(15) The members of a county multi-disciplinary team, established in accordance with State guidelines, for the purpose of coordinating the activities of agencies handling alleged cases of child abuse and neglect;

(16) A person being evaluated by the division or the court as a potential care-giver to determine whether that person is willing and able to provide the care and support required by the child;

(17) The legal counsel of a child, parent or guardian, whether court-appointed or retained, when information is needed to discuss the case with the division in order to make decisions relating to or concerning the child;

(18) A person who has filed a report of suspected child abuse or neglect for the purpose of providing that person with only the disposition of the investigation;

(19) A parent or legal guardian when the information is needed in a division matter in which that parent or guardian is directly involved. The information may be released only to the extent necessary for the requesting parent or guardian to discuss services or the basis for the division's involvement or to develop, discuss, or implement a case plan for the child;

(20) A federal, State or local government entity, to the extent necessary for such entity to carry out its responsibilities under law to protect children from abuse and neglect;

(21) Citizen review panels designated by the State in compliance with the federal "Child Abuse Prevention and Treatment Act Amendments of 1996," Pub.L.104-235;

(22) The Child Fatality and Near Fatality Review Board established pursuant to P.L.1997, c.175 (C.9:6-8.83 et al.).

Any individual, agency, board, court, grand jury, legislative committee, or other entity which receives from the division the records and reports referred to in subsection a., shall keep such records and reports, or parts

thereof, confidential and shall not disclose such records and reports or parts thereof except as authorized by law.

c. The division may share information with a child who is the subject of a child abuse or neglect report, as appropriate to the child's age or condition, to enable the child to understand the basis for the division's involvement and to participate in the development, discussion, or implementation of a case plan for the child.

d. The division may release the records and reports referred to in subsection a. of this section to any person engaged in a bona fide research purpose, provided, however, that no names or other information identifying persons named in the report shall be made available to the researcher unless it is absolutely essential to the research purpose and provided further that the approval of the Director of the Division of Youth and Family Services shall first have been obtained.

e. For incidents determined by the division to be substantiated, the division shall forward to the police or law enforcement agency in whose jurisdiction the child named in the report resides, the identity of persons alleged to have committed child abuse or neglect and of victims of child abuse or neglect, their addresses, the nature of the allegations, and other relevant information, including, but not limited to, prior reports of abuse or neglect and names of siblings obtained by the division during its investigation of a report of child abuse or neglect. The police or law enforcement agency shall keep such information confidential.

f. The division may disclose to the public the findings or information about a case of child abuse or neglect which has resulted in a child fatality or near fatality. Nothing may be disclosed which would likely endanger the life, safety, or physical or emotional well-being of a child or the life or safety of any other person or which may compromise the integrity of a division investigation or a civil or criminal investigation or judicial proceeding. If the division denies access to specific information on this basis, the requesting entity may seek disclosure of the information through the Chancery Division of the Superior Court. No information may be disclosed which is deemed confidential by federal or State law. The name or any other information identifying the person or entity who referred the child to the division shall not be released to the public.

17. Section 15 of P.L.1951, c.138 (C.30:4C-15) is amended to read as follows:

C.30:4C-15 Guardianship petition.

15. Whenever (a) it appears that a court wherein a complaint has been proffered as provided in chapter 6 of Title 9 of the Revised Statutes, has

entered a conviction against the parent or parents, guardian, or person having custody and control of any child because of abuse, abandonment, neglect of or cruelty to such child; or (b) (Deleted by amendment, P.L.1991, c.275); (c) it appears that the best interests of any child under the care or custody of the Division of Youth and Family Services require that he be placed under guardianship; or (d) it appears that a parent or guardian of a child, following the acceptance of such child by the division pursuant to section 11 or 12 of P.L.1951, c.138 (C.30:4C-11 or 12), or following the placement or commitment of such child in the care of an authorized agency, whether in an institution or in a foster home, and notwithstanding the diligent efforts of such agency to encourage and strengthen the parental relationship, has failed for a period of one year to remove the circumstances or conditions that led to the removal or placement of the child, although physically and financially able to do so, notwithstanding the division's diligent efforts to assist the parent or guardian in remedying the conditions; (e) the parent has abandoned the child; or (f) the parent of a child has been found by a court of competent jurisdiction to have committed murder, aggravated manslaughter or manslaughter of another child of the parent; to have aided or abetted, attempted, conspired, or solicited to commit such murder, aggravated manslaughter or manslaughter of the child or another child of the parent; or to have committed, or attempted to commit, an assault that resulted, or could have resulted, in the significant bodily injury to the child or another child of the parent; a petition, setting forth the facts in the case, may be filed with the Family Part of the Chancery Division of the Superior Court in the county where such child may be at the time of the filing of such petition. A petition as provided in this section may be filed by any person or any association or agency, interested in such child, or by the division in the circumstances set forth in items (c),(d), (e) and (f) hereof.

18. Section 7 of P.L.1991, c.275 (C.30:4C-15.1) is amended to read as follows:

C.30:4C-15.1 Termination of parental rights.

7. a. The division shall initiate a petition to terminate parental rights on the grounds of the "best interests of the child" pursuant to subsection (c) of section 15 of P.L.1951, c.138 (C.30:4C-15) if the following standards are met:

(1) The child's health and development have been or will continue to be endangered by the parental relationship;

(2) The parent is unwilling or unable to eliminate the harm facing the child or is unable or unwilling to provide a safe and stable home for the child and the delay of permanent placement will add to the harm. Such harm may

include evidence that separating the child from his foster parents would cause serious and enduring emotional or psychological harm to the child;

(3) The division has made diligent efforts to provide services to help the parent correct the circumstances which led to the child's placement outside the home and the court has considered alternatives to termination of parental rights; and

(4) Termination of parental rights will not do more harm than good.

b. The division shall initiate a petition to terminate parental rights on the ground that the "parent has abandoned the child" pursuant to subsection (e) of section 15 of P.L.1951, c.138 (C.30:4C-15) if the following standards are met:

(1) a court finds that for a period of six or more months:

(a) the parent, although able to have contact, has had no contact with the child, the child's foster parent or the division; and

(b) the parent's whereabouts are unknown, notwithstanding the division's diligent efforts to locate the parent; or

(2) where the identities of the parents are unknown and the division has exhausted all reasonable methods of attempting identification, the division may immediately file for termination of parental rights upon the completion of the law enforcement investigation.

c. As used in this section and in section 15 of P.L.1951, c.138 (C.30:4C-15) "diligent efforts" mean reasonable attempts by an agency authorized by the division to assist the parents in remedying the circumstances and conditions that led to the placement of the child and in reinforcing the family structure, including, but not limited to:

(1) consultation and cooperation with the parent in developing a plan for appropriate services;

(2) providing services that have been agreed upon, to the family, in order to further the goal of family reunification;

(3) informing the parent at appropriate intervals of the child's progress, development and health; and

(4) facilitating appropriate visitation.

d. The division shall not be required to provide "diligent efforts" as defined in subsection c. of this section prior to filing a petition for the termination of parental rights pursuant to (f) of section 15 of P.L.1951, c.138 (C.30:4C-15).

C.9:6-8.98 Rules, regulations by department.

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

20. This act shall take effect immediately.

Approved July 31, 1997.

CHAPTER 176

AN ACT concerning adoption and amending P.L.1993, c.345.

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

1. Section 21 of P.L.1993, c.345 (C.9:3-54.2) is amended to read as follows:

C.9:3-54.2 Home study; fingerprint and criminal data.

21. a. (1) In addition to meeting the other requirements established by the Department of Human Services, a home study completed by an approved agency shall include a recommendation regarding the suitability of the home for the placement of a child based upon the results of State and federal criminal history record checks for each prospective adoptive parent and each adult residing in the home.

For the purposes of this section, the federal criminal history record check conducted by the Immigration and Naturalization Service in the federal Department of Justice on a prospective adoptive parent shall be valid for the prospective adoptive parent in fulfilling the home study requirement for the State.

(2) Each prospective adoptive parent and each member of the prospective adoptive parent's household, age 18 or older, shall submit to the approved agency standard fingerprint cards containing his name, address and fingerprints taken by a State or municipal law enforcement agency.

(3) The cost of all criminal history record checks conducted pursuant to this section shall be paid by the prospective adoptive parent or household member at the time the fingerprint cards are submitted.

(4) The approved agency shall forward the fingerprint cards and payment to the commissioner.

(5) The commissioner is authorized to exchange fingerprint data and receive criminal history record information from the Federal Bureau of Investigation and the Division of State Police for use in making the recommendations provided for in this section.

(6) The department shall advise the approved agency of information received from State and federal criminal history record checks based upon the fingerprints submitted by the agency. Information provided to the approved agency shall be confidential and not disclosed by the approved agency to any individual or entity without the written permission of the person who is the subject of the record check.

(7) The commissioner shall adopt regulations for the use of criminal history record information by approved agencies when determining the suitability of a home for the placement of a child for the purposes of adoption.

b. (1) Beginning one year after the effective date of this act, a home study completed by an approved agency shall include a recommendation regarding the suitability of the home for the placement of the child based upon a check for any records which might reveal a history of child abuse or neglect by the proposed adoptive parent or member of the parent's household who is 18 years of age or older.

(2) Beginning one year after the effective date, at the request of an approved agency, the commissioner or his designee shall conduct a search of the records of the Division of Youth and Family Services regarding referrals of dispositions of child abuse or neglect matters as to the proposed adoptive parent and any member of the parent's household 18 years of age or older, and, if there is information that would raise a question of the suitability of the proposed adoptive parent or member of the parent's household to have guardianship of a child, shall provide that information to the approved agency for its consideration. Information provided to the approved agency pursuant to this paragraph shall be confidential. The commissioner shall establish penalties for disclosure of this confidential information.

2. This act shall take effect immediately.

Approved July 31, 1997.

CHAPTER 177

AN ACT establishing a grant program to provide body vests for certain law enforcement officers, supplementing chapter 17B of Title 52 of the Revised Statutes and amending R.S.39:5-41.

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

C.52:17B-4.4 "Body Armor Replacement" fund; program.

1. There is created in the Department of Law and Public Safety a nonlapsing revolving fund to be known as the "Body Armor Replacement" fund. This fund shall be the repository for moneys provided pursuant to subsection d. of R.S.39:5-41 and shall be administered by the Attorney

General. Moneys deposited in the fund, and any interest earned thereon, shall be used exclusively for the purpose of making grants to local law enforcement agencies, the Division of State Police and the Department of Corrections for the purchase of body vests for the law enforcement officers and corrections officers of those agencies. Of the moneys deposited into the fund, an amount not to exceed $75,000 shall be allocated annually to the Department of Law and Public Safety exclusively for the administration of the grant program.

The grant program shall be designed to effectuate a five-year vest replacement cycle, to the extent practicable, for local law enforcement officers, the officers and troopers of the State Police and State corrections officers. The Attorney General shall provide for the distribution of the initial grants in a manner which is conducive to establishing a balance among the number of local law enforcement officers who are eligible for vest replacement grants in each year of the five-year cycle. In the same manner and to the greatest extent practicable, the Attorney General shall establish a grant distribution schedule for the officers and troopers of the State Police that provides for a balance among the number of officers and troopers receiving vest replacements in each year of the five-year cycle. In establishing a distribution schedule for State corrections officers, the Attorney General shall give first priority to those State corrections officers assigned inmate supervision and control responsibilities in the State's maximum security correctional facilities and second priority to those officers assigned inmate supervision and control responsibilities in the State's medium security correctional facilities. The distribution schedule for State corrections officers shall be based on a five-year cycle, but need not provide for a balance among the number of officers receiving vests in each year of the five-year cycle.

The Attorney General shall promulgate rules and regulations to implement this grant program. Those rules and regulations shall include, but not be limited to: application procedures for local law enforcement agencies seeking vest replacement grants; criteria, such as crime rates and the age and condition of the body vests currently utilized by a local law enforcement agency's officers, to prioritize the awarding of grants; and guidelines identifying those body vests, by manufacturer or brand name, which may be purchased with grant moneys.

As used in this section, "body vest" means bullet resistant body armor which is intended to provide ballistic and trauma protection.

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 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 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, $1.00 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. In addition, upon the forfeiture of bail, $1.00 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 $250,000 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. , c. (C.)(now pending before the Legislature as Assembly, No. 806 of 1996).

3. This act shall take effect on the first day of the second month following enactment.

Approved July 31, 1997.

CHAPTER 178

AN ACT appropriating $750,000 from the "Green Acres, Clean Water, Farmland and Historic Preservation Bond Act of 1992," P.L.1992, c.88, for soil and water conservation projects, and appropriating $5,000,000 from the "Green Acres, Farmland and Historic Preservation, and Blue Acres Bond Act of 1995," P.L.1995, c.204, for the acquisition of fee simple titles to farmland.

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

1. There is appropriated 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, to the State Agriculture Development Committee the sum of $750,000 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.

2. There is appropriated 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, to the State Agriculture Development Committee the sum of $5,000,000 for the purpose of providing for the cost of acquisition of fee simple titles to farmland.

3. The expenditure of the sums appropriated by this act is subject to the provisions and conditions of P.L.1992, c.88 or P.L.1995, c.204, as appropriate.

4. This act shall take effect immediately.

Approved July 31, 1997.

CHAPTER 179

AN ACT concerning discrimination and amending P.L.1945, c.169.

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

1. 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, affectional or sexual orientation, genetic information, sex 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.

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, affectional or sexual orientation 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, affectional or sexual orientation 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, sex, affectional or sexual orientation or nationality of such person, or that the patronage or custom thereat of any person of any particular race, creed, color, national origin, ancestry, marital status, sex,

affectional or sexual orientation 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, 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 "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, sex, affectional or sexual orientation 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 the 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 the race, creed, color, national origin, ancestry,

marital status, affectional or sexual orientation, familial status or nationality of such person or group of persons;

(2) To discriminate against any person or group of persons because of the race, creed, color, national origin, marital status, sex, affectional or sexual orientation or familial status of such person or group of persons 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; or

(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, sex, affectional or sexual orientation, familial status or nationality, or any intent to make any such limitation, specification or discrimination, and the production of any such statement, advertisement, publicity, sign, form of application, record, or inquiry purporting to be made by any such person shall be presumptive evidence in any action that the same was authorized by such person; provided, however, that nothing contained in this subsection shall be construed to bar any person from refusing to sell, rent, lease, assign or sublease or from advertising or recording a qualification as to sex for any room, apartment, flat in a dwelling or residential facility which is planned exclusively for and occupied by individuals of one sex to any individual of the exclusively opposite sex on the basis of sex.

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 the race, creed, color, national origin, ancestry, marital status, familial status, sex, affectional or sexual orientation or nationality of such person or group of persons, 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 the race, creed, color, national origin, ancestry, marital

status, familial status, sex, affectional or sexual orientation or nationality of such person or group of persons;

(2) To discriminate against any person because of his race, creed, color, national origin, ancestry, marital status, familial status, sex or affectional or sexual orientation 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; or

(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, familial status, sex, affectional or sexual orientation or nationality 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.

i. For any person, bank, banking organization, mortgage company, insurance company or other financial institution, lender or credit institution to whom application is made for any loan or extension of credit including but not limited to an application for 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 the race, creed, color, national origin, ancestry, marital status, sex, affectional or sexual orientation or nationality of such person or group of persons or of the prospective occupants or tenants of such real property or part or portion thereof, in the granting, withholding, extending, modifying or renewing, or in the fixing of the rates, terms, conditions or provisions of any such loan, extension of credit or financial assistance or in the extension of services in connection therewith; or

(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, sex, affectional or sexual orientation 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; or

(3) To discriminate on the basis of familial status in any manner described in paragraph (1) or (2) of this subsection with respect to any real property.

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, familial status, sex, affectional or sexual orientation or nationality 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, affectional or sexual orientation, marital status, 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. 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, affectional or sexual orientation, marital status, 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 n.; 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 n.; provided that this subsection n. 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.

2. This act shall take effect immediately.

Approved August 1, 1997.

CHAPTER 180

AN ACT concerning violations of laws intended to protect the public safety, amending N.J.S.2C:2-1 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:2-1 is amended to read as follows:

Requirement of voluntary act; omission as basis of liability; possession as an act.

2C:2-1. Requirement of Voluntary Act; Omission as Basis of Liability; Possession as an act. a. A person is not guilty of an offense unless his liability is based on conduct which includes a voluntary act or the omission to perform an act of which he is physically capable. A bodily movement that is not a product of the effort or determination of the actor, either conscious or habitual, is not a voluntary act within the meaning of this section.

b. Liability for the commission of an offense may not be based on an omission unaccompanied by action unless:

(1) The omission is expressly made sufficient by the law defining the offense; or

(2) A duty to perform the omitted act is otherwise imposed by law, including but not limited to, laws such as the "Uniform Fire Safety Act," P.L.1983, c.383 (C.52:27D-192 et seq.), the "State Uniform Construction Code Act," P.L.1975, c.217 (C.52:27D-119 et seq.), or any other law intended to protect the public safety or any rule or regulation promulgated thereunder.

c. Possession is an act, within the meaning of this section, if the possessor knowingly procured or received the thing possessed or was aware of his control thereof for a sufficient period to have been able to terminate his possession.

C.2C:40-18 Violation of law intended to protect public health and safety; grading.

2. a. A person is guilty of a crime of the second degree if the person knowingly violates a law intended to protect the public health and safety or knowingly fails to perform a duty imposed by a law intended to protect the public health and safety and recklessly causes death.

b. A person is guilty of a crime of the third degree if the person knowingly violates a law intended to protect the public health and safety or knowingly fails to perform a duty imposed by a law intended to protect the public health and safety and recklessly causes serious bodily injury.

c. A person is guilty of a crime of the fourth degree if the person knowingly violates a law intended to protect the public health and safety or knowingly fails to perform a duty imposed by a law intended to protect the public health and safety and recklessly causes significant bodily injury.

3. This act shall take effect immediately.

Approved August 1, 1997.

CHAPTER 181

AN ACT concerning fines imposable in criminal cases and amending various sections of 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:35-3 is amended to read as follows:

Leader of narcotics trafficking network.

2C:35-3. Leader of Narcotics Trafficking Network.

A person is a leader of a narcotics trafficking network if he conspires with others as an organizer, supervisor, financier or manager, to engage for profit in a scheme or course of conduct to unlawfully manufacture, distribute, dispense, bring into or transport in this State methamphetamine, lysergic acid diethylamide, phencyclidine or any controlled dangerous substance classified in Schedule I or II, or any controlled substance analog thereof. Leader of narcotics trafficking network is a crime of the first degree and upon conviction thereof, except as may be provided by N.J.S.2C:35-12, a person shall be sentenced to an ordinary term of life imprisonment during which the person must serve 25 years before being eligible for parole. Notwithstanding the provisions of subsection a. of N.J.S.2C:43-3, the court may also impose a fine not to exceed $750,000.00 or five times the street value of the controlled dangerous substance or controlled substance analog involved, whichever is greater.

Notwithstanding the provisions of N.J.S.2C:1-8, a conviction of leader of narcotics trafficking network shall not merge with the conviction for any offense which is the object of the conspiracy. Nothing contained in this section shall prohibit the court from imposing an extended term pursuant to N.J.S.2C:43-7; nor shall this section be construed in any way to preclude or limit the prosecution or conviction of any person for conspiracy under

N.J.S.2C:5-2, or any prosecution or conviction under N.J.S.2C:35-4 (maintaining or operating a CDS production facility), N.J.S.2C:35-5 (manufacturing, distributing or dispensing), N.J.S.2C:35-6 (employing a juvenile in a drug distribution scheme), N.J.S.2C:35-9 (strict liability for drug induced death), N.J.S.2C:41-2 (racketeering activities) or subsection g. of N.J.S.2C:5-2 (leader of organized crime).

It shall not be necessary in any prosecution under this section for the State to prove that any intended profit was actually realized. The trier of fact may infer that a particular scheme or course of conduct was undertaken for profit from all of the attendant circumstances, including but not limited to the number of persons involved in the scheme or course of conduct, the actor's net worth and his expenditures in relation to his legitimate sources of income, the amount or purity of the specified controlled dangerous substance or controlled substance analog involved, or the amount of cash or currency involved.

It shall not be a defense to a prosecution under this section that such controlled dangerous substance or controlled substance analog was brought into or transported in this State solely for ultimate distribution or dispensing in another jurisdiction; nor shall it be a defense that any profit was intended to be made in another jurisdiction.

2. N.J.S.2C:35-4 is amended to read as follows:

Maintaining or operating a controlled dangerous substance production facility.

2C:35-4. Maintaining or Operating a Controlled Dangerous Substance Production Facility.

Except as authorized by P.L.1970, c.226 (C.24:21-1 et seq.), any person who knowingly maintains or operates any premises, place or facility used for the manufacture of methamphetamine, lysergic acid diethylamide, phencyclidine or any substance classified as a narcotic drug in Schedule I or II, or the analog of any such substance, or any person who knowingly aids, promotes, finances or otherwise participates in the maintenance or operations of such premises, place or facility, is guilty of a crime of the first degree and shall, except as provided in N.J.S.2C:35-12, be sentenced to a term of imprisonment which shall include the imposition of a minimum term which shall be fixed at, or between, one-third and one-half of the sentence imposed, during which the defendant shall be ineligible for parole. Notwithstanding the provisions of subsection a. of N.J.S.2C:43-3, the court may also impose a fine not to exceed $750,000.00 or five times the street value of all controlled dangerous substances or controlled substance analogs at any time manufactured or stored at such premises, place or facility, whichever is greater.

3. N.J.S.2C:35-5 is amended to read as follows:

Manufacturing, distributing or dispensing.

2C:35-5. Manufacturing, Distributing or Dispensing. a. Except as authorized by P.L.1970, c.226 (C.24:21-1 et seq.), it shall be unlawful for any person knowingly or purposely:

(1) To manufacture, distribute or dispense, or to possess or have under his control with intent to manufacture, distribute or dispense, a controlled dangerous substance or controlled substance analog; or

(2) To create, distribute, or possess or have under his control with intent to distribute, a counterfeit controlled dangerous substance.

b. Any person who violates subsection a. with respect to:

(1) Heroin, or its analog, or 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, or analogs, except that the substances shall not include decocainized coca leaves or extractions which do not contain cocaine or ecogine, in a quantity of five ounces or more including any adulterants or dilutants is guilty of a crime of the first degree. The defendant shall, except as provided in N.J.S.2C:35-12, be sentenced to a term of imprisonment by the court. The term of imprisonment shall include the imposition of a minimum term which shall be fixed at, or between, one-third and one-half of the sentence imposed, during which the defendant shall be ineligible for parole. Notwithstanding the provisions of subsection a. of N.J.S.2C:43-3, a fine of up to $500,000.00 may be imposed;

(2) A substance referred to in paragraph (1) of this subsection, in a quantity of one-half ounce or more but less than five ounces, including any adulterants or dilutants is guilty of a crime of the second degree;

(3) A substance referred to in paragraph (1) of this subsection in a quantity less than one-half ounce including any adulterants or dilutants is guilty of a crime of the third degree except that, notwithstanding the provisions of subsection b. of N.J.S.2C:43-3, a fine of up to $75,000.00 may be imposed;

(4) A substance classified as a narcotic drug in Schedule I or II other than those specifically covered in this section, or the analog of any such substance, in a quantity of one ounce or more including any adulterants or dilutants is guilty of a crime of the second degree;

(5) A substance classified as a narcotic drug in Schedule I or II other than those specifically covered in this section, or the analog of any such substance, in a quantity of less than one ounce including any adulterants or dilutants is guilty of a crime of the third degree except that, notwithstanding

the provisions of subsection b. of N.J.S.2C:43-3, a fine of up to $75,000.00 may be imposed;

(6) Lysergic acid diethylamide, or its analog, in a quantity of 100 milligrams or more including any adulterants or dilutants, or phencyclidine, or its analog, in a quantity of 10 grams or more including any adulterants or dilutants, is guilty of a crime of the first degree. Except as provided in N.J.S.2C:35-12, the court shall impose a term of imprisonment which shall include the imposition of a minimum term, fixed at, or between, one-third and one-half of the sentence imposed by the court, during which the defendant shall be ineligible for parole. Notwithstanding the provisions of subsection a. of N.J.S.2C:43-3, a fine of up to $500,000.00 may be imposed;

(7) Lysergic acid diethylamide, or its analog, in a quantity of less than 100 milligrams including any adulterants or dilutants, or where the amount is undetermined, or phencyclidine, or its analog, in a quantity of less than 10 grams including any adulterants or dilutants, or where the amount is undetermined, is guilty of a crime of the second degree;

(8) Methamphetamine, or its analog, in a quantity of one ounce or more including any adulterants or dilutants is guilty of a crime of the second degree;

(9) Methamphetamine, or its analog, in a quantity of less than one ounce including any adulterants or dilutants is guilty of a crime of the third degree except that, notwithstanding the provisions of subsection b. of N.J.S.2C:43-3, a fine of up to $75,000.00 may be imposed;

(10) Marijuana in a quantity of five pounds or more including any adulterants and dilutants, or hashish in a quantity of one pound or more including any adulterants and dilutants, is guilty of a crime of the second degree;

(11) Marijuana in a quantity of one ounce or more but less than five pounds including any adulterants and dilutants, or hashish in a quantity of five grams or more but less than one pound including any adulterants and dilutants, is guilty of a crime of the third degree except that, notwithstanding the provisions of subsection b. of N.J.S.2C:43-3, a fine of up to $25,000.00 may be imposed;

(12) Marijuana in a quantity of less than one ounce including any adulterants and dilutants, or hashish in a quantity of less than five grams including any adulterants and dilutants, is guilty of a crime of the fourth degree;

(13) Any other controlled dangerous substance classified in Schedule I, II, III or IV, or its analog, is guilty of a crime of the third degree, except that, notwithstanding the provisions of subsection b. of N.J.S.2C:43-3, a fine of up to $25,000.00 may be imposed; or

(14) Any Schedule V substance, or its analog, is guilty of a crime of the fourth degree except that, notwithstanding the provisions of subsection b. of N.J.S.2C:43-3, a fine of up to $25,000.00 may be imposed.

c. Where the degree of the offense for violation of this section depends on the quantity of the substance, the quantity involved shall be determined by the trier of fact. Where the indictment or accusation so provides, the quantity involved in individual acts of manufacturing, distribution, dispensing or possessing with intent to distribute may be aggregated in determining the grade of the offense, whether distribution or dispensing is to the same person or several persons, provided that each individual act of manufacturing, distribution, dispensing or possession with intent to distribute was committed within the applicable statute of limitations.

4. N.J.S.2C:35-6 is amended to read as follows:

Employing a juvenile in a drug distribution scheme.

2C:35-6. Employing a Juvenile in a Drug Distribution Scheme.

Any person being at least 18 years of age who knowingly uses, solicits, directs, hires or employs a person 17 years of age or younger to violate N.J.S.2C:35-4 or subsection a. of N.J.S.2C:35-5, is guilty of a crime of the second degree and shall, except as provided in N.J.S.2C:35-12, be sentenced to a term of imprisonment which shall include the imposition of a minimum term which shall be fixed at, or between, one-third and one-half of the sentence imposed, or five years, whichever is greater, during which the defendant shall be ineligible for parole. Notwithstanding the provisions of subsection a. of N.J.S.2C:43-3, the court may also impose a fine not to exceed $500,000.00 or five times the street value of the controlled dangerous substance or controlled substance analog involved, whichever is greater.

It shall be no defense to a prosecution under this section that the actor mistakenly believed that the person which the actor used, solicited, directed, hired or employed was 18 years of age or older, even if such mistaken belief was reasonable.

Nothing in this section shall be construed to preclude or limit a prosecution or conviction for a violation of any offense defined in this chapter pursuant to N.J.S.2C:2-6 or any other provision of law governing an actor's liability for the conduct of another, and, notwithstanding the provisions of N.J.S.2C:1-8 or any other provision of law, a conviction arising under this section shall not merge with a conviction for a violation of N.J.S.2C:35-3 (leader of narcotics trafficking network), N.J.S.2C:35-4 (maintaining or operating a CDS production facility), N.J.S.2C:35-5

(manufacturing, distributing or dispensing), or N.J.S.2C:35-9 (strict liability for drug induced death).

5. Section 1 of P.L.1987, c.101 (C.2C:35-7) is amended to read as follows:

C.2C:35-7 Distribution on or within 1,000 feet of school property.

1. Any person who violates subsection a. of N.J.S.2C:35-5 by distributing, dispensing or possessing with intent to distribute a controlled dangerous substance or controlled substance analog while 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 or a school bus, or while on any school bus, is guilty of a crime of the third degree and shall, except as provided in N.J.S.2C:35-12, be sentenced by the court to a term of imprisonment. Where the violation involves less than one ounce of marijuana, the term of imprisonment shall include the imposition of a minimum term which shall be fixed at, or between, one-third and one-half of the sentence imposed, or one year, whichever is greater, during which the defendant shall be ineligible for parole. In all other cases, the term of imprisonment shall include the imposition of a minimum term which shall be fixed at, or between, one-third and one-half of the sentence imposed, or three years, whichever is greater, during which the defendant shall be ineligible for parole. Notwithstanding the provisions of subsection b. of N.J.S.2C:43-3, a fine of up to $150,000.00 may also be imposed upon any conviction for a violation of this section.

Notwithstanding the provisions of N.J.S.2C:1-8 or any other provisions of law, a conviction arising under this section shall not merge with a conviction for a violation of subsection a. of N.J.S.2C:35-5 (manufacturing, distributing or dispensing) or N.J.S.2C:35-6 (employing a juvenile in a drug distribution scheme).

It shall be no defense to a prosecution for a violation of this section that the actor was unaware that the prohibited conduct took place while on or within 1,000 feet of any school property. Nor shall it be a defense to a prosecution under this section, or under any other provision of this title, that no juveniles were present on the school property at the time of the offense or that the school was not in session.

It is an affirmative defense to prosecution for a violation of this section that the prohibited conduct took place entirely within a private residence, that no person 17 years of age or younger was present in such private residence at any time during the commission of the offense, and that the prohibited conduct did not involve distributing, dispensing or possessing

with the intent to distribute or dispense any controlled dangerous substance or controlled substance analog for profit. The affirmative defense established in this section shall be proved by the defendant by a preponderance of the evidence. Nothing herein shall be construed to establish an affirmative defense with respect to a prosecution for an offense defined in any other section of this chapter.

In a prosecution under this section, a map produced or reproduced by any municipal or county engineer for the purpose of 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, or a true copy of such a map, shall, upon proper authentication, be admissible and shall constitute prima facie evidence of the location and boundaries of those areas, provided that the governing body of the municipality or county has adopted a resolution or ordinance approving the map as official finding and record of the location and boundaries of the area or areas on or within 1,000 feet of the school property. Any map approved pursuant to this section may be changed from time to time by the governing body of the municipality or county. The original of every map approved or revised pursuant to this section, or a true copy thereof, shall be filed with the clerk of the municipality or county, and shall be maintained as an official record of the municipality or county. Nothing in this section shall be construed to preclude the prosecution from introducing or relying upon any other evidence or testimony to establish any element of this offense; nor shall this section be construed to preclude the use or admissibility of any map or diagram other than one which has been approved by the governing body of a municipality or county, provided that the map or diagram is otherwise admissible pursuant to the Rules of Evidence.

6. N.J.S.2C:35-10 is amended to read as follows:

Possession, use or being under the influence, or failure to make lawful disposition.

2C:35-10. Possession, Use or Being Under the Influence, or Failure to Make Lawful Disposition.

a. It is unlawful for any person, knowingly or purposely, to obtain, or to possess, actually or constructively, a controlled dangerous substance or controlled substance analog, unless the substance was obtained directly, or pursuant to a valid prescription or order form from a practitioner, while acting in the course of his professional practice, or except as otherwise authorized by P.L.1970, c.226 (C.24:21-1 et seq.). Any person who violates this section with respect to:

(1) A controlled dangerous substance, or its analog, classified in Schedule I, II, III or IV other than those specifically covered in this section, is guilty of a crime of the third degree except that, notwithstanding the provisions of subsection b. of N.J.S.2C:43-3, a fine of up to $35,000.00 may be imposed;

(2) Any controlled dangerous substance, or its analog, classified in Schedule V, is guilty of a crime of the fourth degree except that, notwithstanding the provisions of subsection b. of N.J.S.2C:43-3, a fine of up to $15,000.00 may be imposed;

(3) Possession of more than 50 grams of marijuana, including any adulterants or dilutants, or more than five grams of hashish is guilty of a crime of the fourth degree, except that, notwithstanding the provisions of subsection b. of N.J.S.2C:43-3, a fine of up to $25,000.00 may be imposed; or

(4) Possession of 50 grams or less of marijuana, including any adulterants or dilutants, or five grams or less of hashish is a disorderly person.

Any person who commits any offense defined in this section while on any 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 any such school property or a school bus, or while on any school bus, and who is not sentenced to a term of imprisonment, shall, in addition to any other sentence which the court may impose, be required to perform not less than 100 hours of community service.

b. Any person who uses or who is under the influence of any controlled dangerous substance, or its analog, for a purpose other than the treatment of sickness or injury as lawfully prescribed or administered by a physician is a disorderly person.

In a prosecution under this subsection, it shall not be necessary for the State to prove that the accused did use or was under the influence of any specific drug, but it shall be sufficient for a conviction under this subsection for the State to prove that the accused did use or was under the influence of some controlled dangerous substance, counterfeit controlled dangerous substance, or controlled substance analog, by proving that the accused did manifest physical and physiological symptoms or reactions caused by the use of any controlled dangerous substance or controlled substance analog.

c. Any person who knowingly obtains or possesses a controlled dangerous substance or controlled substance analog in violation of subsection a. of this section and who fails to voluntarily deliver the substance to the nearest law enforcement officer is guilty of a disorderly persons offense. Nothing in this subsection shall be construed to preclude

a prosecution or conviction for any other offense defined in this title or any other statute.

7. N.J.S.2C:35-11 is amended to read as follows:

Imitation controlled dangerous substances; distribution, possession, manufacture, etc.; penalties.

2C:35-11. Imitation controlled dangerous substances; distribution, possession, manufacture, etc.; penalties.

a. It is unlawful for any person to distribute or to possess or have under his control with intent to distribute any substance which is not a controlled dangerous substance or controlled substance analog:

(1) Upon the express or implied representation to the recipient that the substance is a controlled dangerous substance or controlled substance analog; or

(2) Upon the express or implied representation to the recipient that the substance is of such nature, appearance or effect that the recipient will be able to distribute or use the substance as a controlled dangerous substance or controlled substance analog; or

(3) Under circumstances which would lead a reasonable person to believe that the substance is a controlled dangerous substance or controlled substance analog.

Any of the following shall constitute prima facie evidence of such circumstances:

(a) The substance was packaged in a manner normally used for the unlawful distribution of controlled dangerous substances or controlled substance analogs.

(b) The distribution or attempted distribution of the substance was accompanied by an exchange of or demand for money or other thing as consideration for the substance, and the value of the consideration exceeded the reasonable value of the substance.

(c) The physical appearance of the substance is substantially the same as that of a specific controlled dangerous substance or controlled substance analog.

b. It is unlawful for any person to manufacture, compound, encapsulate, package or imprint any substance which is not a controlled dangerous substance, controlled substance analog or any combination of such substances, other than a prescription drug, with the purpose that it resemble or duplicate the physical appearance of the finished form, package, label or imprint of a controlled dangerous substance or controlled substance analog.

c. In any prosecution under this section, it shall not be a defense that the defendant mistakenly believed a substance to be a controlled dangerous substance or controlled substance analog.

d. A violation of this section is a crime of the third degree, except that, notwithstanding the provisions of subsection b. of N.J.S.2C:43-3, a fine of up to $200,000.00 may be imposed.

e. The provisions of this section shall not be applicable to (1) practitioners or agents, servants and employees of practitioners dispensing or administering noncontrolled substances to patients on behalf of practitioners in the normal course of their business or professional practice; and (2) persons who manufacture, process, package, distribute or sell noncontrolled substances to practitioners for use as placebos in the normal course of their business, professional practice or research or for use in Federal Food and Drug Administration investigational new drug trials.

8. N.J.S.2C:35-13 is amended to read as follows:

Obtaining by fraud.

2C:35-13. Obtaining by Fraud.

It shall be unlawful for any person to acquire or obtain possession of a controlled dangerous substance or controlled substance analog by misrepresentation, fraud, forgery, deception or subterfuge. It shall be unlawful for any person to acquire or obtain possession of a forged or fraudulent certificate of destruction required pursuant to N.J.S.2C:35-21. A violation of this section shall be a crime of the third degree except that, notwithstanding the provisions of subsection b. of N.J.S.2C:43-3, a fine of up to $50,000.00 may be imposed. Nothing in this section shall be deemed to preclude or limit a prosecution for theft as defined in chapter 20 of this title.

9. N.J.S.2C:37-2 is amended to read as follows:

Promoting gambling.

2C:37-2. Promoting Gambling.

a. Promoting Gambling Defined. A person is guilty of promoting gambling when he knowingly:

(1) Accepts or receives money or other property, pursuant to an agreement or understanding with any person whereby he participates or will participate in the proceeds of gambling activity; or

(2) Engages in conduct, which materially aids any form of gambling activity. Such conduct includes but is not limited to conduct directed toward the creation or establishment of the particular game, contest, scheme, device or activity involved, toward the acquisition or maintenance of premises, paraphernalia, equipment or apparatus therefor, toward the solicitation or inducement of persons to participate therein, toward the actual conduct of the playing phases thereof, toward the arrangement of any

of its financial or recording phases, or toward any other phase of its operation.

b. Grading. A person who violates the provisions of subsection a. by:

(1) Engaging in bookmaking to the extent he receives or accepts in any one day more than five bets totaling more than $1,000.00; or

(2) Receiving, in connection with a lottery or policy scheme or enterprise (a) money or written records from a person other than a player whose chances or plays are represented by such money or records, or (b) more than $100.00 in any one day of money played in such scheme or enterprise, is guilty of a crime of the third degree and notwithstanding the provisions of section 2C:43-3 shall be subject to a fine of not more than $35,000.00 and any other appropriate disposition authorized by N.J.S.2C:43-2b.

A person who violates the provisions of subsection a. by engaging in bookmaking to the extent he receives or accepts three or more bets in any two-week period is guilty of a crime of the fourth degree and notwithstanding the provisions of section 2C:43-3 shall be subject to a fine of not more than $25,000.00 and any other appropriate disposition authorized by N.J.S.2C:43-2b. Otherwise, promoting gambling is a disorderly persons offense and notwithstanding the provisions of section 2C:43-3 shall be subject to a fine of not more than $10,000.00 and any other appropriate disposition authorized by N.J.S.2C:43-2b.

c. It is a defense to a prosecution under subsection a. that the person participated only as a player. It shall be the burden of the defendant to prove by clear and convincing evidence his status as such player.

10. N.J.S.2C:37-3 is amended to read as follows:

Possession of gambling records.

2C:37-3. Possession of Gambling Records.

a. A person is guilty of possession of gambling records when, with knowledge of the contents thereof, he possesses any writing, paper, instrument or article:

(1) Of a kind commonly used in the operation or promotion of a bookmaking scheme or enterprise, including any paper or paper product in sheet form chemically converted to nitrocellulose having explosive characteristics as well as any water soluble paper or paper derivative in sheet form; or

(2) Of a kind commonly used in the operation, promotion or playing of a lottery or policy scheme or enterprise.

b. Defenses.

(1) It is a defense to a prosecution under subsection a. (2) which must be proven by the defendant by clear and convincing evidence that the writing, paper, instrument or article possessed by the defendant constituted, reflected or represented plays, bets or chances of the defendant himself in a number not exceeding 10.

(2) It is a defense to a prosecution under subsection a. which must be proven by the defendant by clear and convincing evidence that the writing, paper, instrument or article possessed by the defendant was neither used nor intended to be used in the operation or promotion of a bookmaking scheme or enterprise, or in the operation, promotion or playing of a lottery or policy scheme or enterprise.

c. Grading. Possession of gambling records is a crime of the third degree and notwithstanding the provisions of section 2C:43-3 shall be subject to a fine of not more than $35,000.00 and any other appropriate disposition authorized by N.J.S.2C:43-2b. when the writing, paper, instrument or article:

(1) In a bookmaking scheme or enterprise, constitute, reflect or represent more than five bets totaling more than $1,000.00; or

(2) In the case of a lottery or policy scheme or enterprise, constitute, reflect or represent more than one hundred plays or chances therein.

Otherwise, possession of gambling records is a disorderly persons offense and notwithstanding the provisions of section 2C:43-3 shall be subject to a fine of not more than $20,000.00 and any other appropriate disposition authorized by N.J.S.2C:43-2b.

11. N.J.S.2C:37-4 is amended to read as follows:

Maintenance of a gambling resort.

2C:37-4. Maintenance of a Gambling Resort.

a. A person is guilty of a crime of the fourth degree if, having substantial proprietary or other authoritative control over premises which are being used with his knowledge for purposes of activities prohibited by N.J.S.2C:37-2 and N.J.S.2C:37-3, he permits such to occur or continue or makes no effort to prevent its occurrence or continuation and he accepts or receives money or other property pursuant to an agreement or understanding with any person whereby he participates or will participate in the proceeds of such gambling activity on such premises and notwithstanding the provisions of section 2C:43-3 shall be subject to a fine of not more than $25,000.00 and any other appropriate disposition authorized by N.J.S.2C:43-2b.

b. A person is guilty of a crime of the fourth degree if, having substantial proprietary or other authoritative control over premises open to

the general public which are being used with his knowledge for purposes of gambling activity, he permits such to occur or continue or makes no effort to prevent its occurrence or continuation and notwithstanding the provisions of section 2C:43-3 shall be subject to a fine of not more than $25,000.00 and any other appropriate disposition authorized by N.J.S.2C:43-2b.

12. N.J.S.2C:43-3 is amended to read as follows:

Fines and restitutions.

2C:43-3. Fines and Restitutions. A person who has been convicted of an offense may be sentenced to pay a fine, to make restitution, or both, such fine not to exceed:

a. (1) $200,000.00 when the conviction is of a crime of the first degree;

(2) $150,000.00 when the conviction is of a crime of the second degree;

b. (1) $15,000.00 when the conviction is of a crime of the third degree;

(2) $10,000.00 when the conviction is of a crime of the fourth degree;

c. $1,000.00, when the conviction is of a disorderly persons offense;

d. $500.00, when the conviction is of a petty disorderly persons offense;

e. Any higher amount equal to double the pecuniary gain to the offender or loss to the victim caused by the conduct constituting the offense by the offender. In such case the court shall make a finding as to the amount of the gain or loss, and if the record does not contain sufficient evidence to support such a finding the court may conduct a hearing upon the issue. For purposes of this section the term "gain" means the amount of money or the value of property derived by the offender and "loss" means the amount of value separated from the victim or the amount of any payment owed to the victim and avoided or evaded and includes any reasonable and necessary expense incurred by the owner in recovering or replacing lost, stolen or damaged property, or recovering any payment avoided or evaded, and, with respect to property of a research facility, includes the cost of repeating an interrupted or invalidated experiment or loss of profits. The term "victim" shall mean a person who suffers a personal physical or psychological injury or death or incurs loss of or injury to personal or real property as a result of a crime committed against that person, or in the case of a homicide, the nearest relative of the victim. The terms "gain" and "loss" shall also mean, where appropriate, the amount of any tax, fee, penalty and interest avoided, evaded, or otherwise unpaid or improperly retained or disposed of;

f. Any higher amount specifically authorized by another section of this code or any other statute;

g. Up to twice the amounts authorized in subsection a., b., c. or d. of this section, in the case of a second or subsequent conviction of any tax offense defined in Title 54 of the Revised Statutes or Title 54A of the New

Jersey Statutes, as amended and supplemented, or of any offense defined in chapter 20 or 21 of this code;

h. In the case of violations of chapter 35, any higher amount equal to three times the street value of the controlled dangerous substance or controlled substance analog. The street value for purposes of this section shall be determined pursuant to subsection e. of N.J.S.2C:44-2.

The restitution ordered paid to the victim shall not exceed the victim's loss, except that in any case involving the failure to pay any State tax, the amount of restitution to the State shall be the full amount of the tax avoided or evaded, including full civil penalties and interest as provided by law. In any case where the victim of the offense is any department or division of State government, the court shall order restitution to the victim. Any restitution imposed on a person shall be in addition to any fine which may be imposed pursuant to this section.

13. This act shall take effect immediately.

Approved August 1, 1997.

CHAPTER 182

AN ACT concerning certain acts of inmates and parolees and supplementing chapter 12 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:12-12 Definitions relative to certain acts of inmates, parolees.

1. As used in this act:

"Bodily fluid" means saliva, blood, urine, feces, seminal fluid or any other bodily fluid.

"Department of Corrections employee" means any corrections officer, parole officer or other employee of the New Jersey Department of Corrections and any person under contract to provide services to the department.

C.2C:12-13 Throwing bodily fluid at Department of Corrections employee deemed aggragated assault; grading, sentence.

2. A person who throws a bodily fluid at a Department of Corrections employee while in the performance of his duties or otherwise purposely subjects such employee to contact with a bodily fluid commits an aggravated assault. If the victim suffers bodily injury, this shall be a crime of the third degree. Otherwise, this shall be a crime of the fourth degree. A term

of imprisonment imposed for this offense shall run consecutively to any term of imprisonment currently being served and to any other term imposed for another offense committed at the time of the assault. Nothing herein shall be deemed to preclude, if the evidence so warrants, an indictment and conviction for a violation or attempted violation of chapter 11 of Title 2C of the New Jersey Statutes or subsection b. of N.J.S. 2C:12-1 or any other provision of the criminal laws.

3. This act shall take effect immediately.

Approved August 1, 1997.

CHAPTER 183

AN ACT concerning compulsory arbitration for public fire and police departments and amending P.L.1977, c.85.

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

1. Section 3 of P.L.1977, c.85 (C.34:13A-16) is amended to read as follows:

C.34:13A-16 Negotiations between public fire, police department and exclusive representative; binding arbitration.

3. a. (1) Negotiations between a public fire or police department and an exclusive representative concerning the terms and conditions of employment shall begin at least 120 days prior to the day on which their collective negotiation agreement is to expire. The parties shall meet at least three times during that 120-day period. The first of those three meetings shall take place no later than the 90th day prior to the day on which their collective negotiation agreement is to expire. By mutual consent, the parties may agree to extend the period during which the second and third meetings are required to take place beyond the day on which their collective negotiation agreement is to expire. A violation of this paragraph shall constitute an unfair practice and the violator shall be subject to the penalties prescribed by the commission pursuant to rule and regulation.

(2) Whenever those negotiations concerning the terms and conditions of employment shall reach an impasse, the commission, through the Division of Public Employment Relations shall, upon the request of either party, or upon its own motion take such steps, including the assignment of

a mediator, as it may deem expedient to effect a voluntary resolution of the impasse.

b. (1) In the event of a failure to resolve the impasse by mediation, the Division of Public Employment Relations, at the request of either party, shall invoke factfinding with recommendation for settlement of all issues in dispute unless the parties reach a voluntary settlement prior to the issuance of the factfinder's report and recommended terms of settlement. Factfindings shall be limited to those issues that are within the required scope of negotiations unless the parties to the factfinding agree to factfinding on permissive subjects of negotiation. In the event of a continuing failure to resolve an impasse by means of the procedure set forth in this paragraph, and notwithstanding the fact that such procedures have not been exhausted, the parties shall notify the commission, at a time and in a manner prescribed by the commission, as to whether or not they have agreed upon a terminal procedure for resolving the issues in dispute. Any terminal procedure mutually agreed upon by the parties shall be reduced to writing, provide for finality in resolving the issues in dispute, and shall be submitted to the commission for approval.

(2) Notwithstanding the provisions of paragraph (2) of subsection a. of this section or paragraph (1) of this subsection, either party may petition the commission for arbitration on or after the date on which their collective negotiation agreement expires. The petition shall be filed in a manner and form prescribed by the commission. The party filing the petition shall notify the other party of its action. The notice shall be given in a manner and form prescribed by the commission.

Within 10 days of the receipt of the notice by the non-petitioning party, the parties shall notify the commission as to whether or not they have agreed upon a terminal procedure for resolving the issues in dispute. Any terminal procedure mutually agreed upon by the parties shall be reduced to writing, provide for finality in resolving the issues in dispute, and shall be submitted to the commission for approval. If the parties fail to agree on a terminal procedure, they shall be subject to the provisions of subsection d. of this section.

c. Terminal procedures that are approvable include, but shall not be limited to the following:

(1) Conventional arbitration of all unsettled items.

(2) Arbitration under which the award by an arbitrator or panel of arbitrators is confined to a choice between (a) the last offer of the employer and (b) the last offer of the employees' representative, as a single package.

(3) Arbitration under which the award is confined to a choice between (a) the last offer of the employer and (b) the last offer of the employees'

representative, on each issue in dispute, with the decision on an issue-by-issue basis.

(4) If there is a factfinder's report with recommendations on the issues in dispute, the parties may agree to arbitration under which the award would be confined to a choice among three positions: (a) the last offer of the employer as a single package, (b) the last offer of the employees' representative as a single package, or (c) the factfinder's recommendations as a single package.

(5) If there is a factfinder's report with a recommendation on each of the issues in dispute, the parties may agree to arbitration under which the award would be confined to a choice on each issue from among three positions: (a) the last offer of the employer on the issue, (b) the employee representative's last offer on the issue, or (c) the factfinder's recommendation on the issue.

(6) Arbitration under which the award on the economic issues in dispute is confined to a choice between (a) the last offer of the employer on the economic issues as a single package and (b) the employee representative's last offer on the economic issues as a single package; and, on any noneconomic issues in dispute, the award is confined to a choice between (a) the last offer of the employer on each issue in dispute and (b) the employee representative's last offer on that issue.

d. The following procedure shall be utilized if parties fail to agree on a terminal procedure for the settlement of an impasse dispute:

(1) In the event of a failure of the parties to agree upon an acceptable terminal procedure the parties shall separately so notify the commission in writing, indicating all issues in dispute and the reasons for their inability to agree on the procedure. The substance of a written notification shall not provide the basis for any delay in effectuating the provisions of this subsection.

(2) Upon receipt of such notification from either party or on the commission's own motion, the procedure to provide finality for the resolution of issues in dispute shall be binding arbitration under which the award on the unsettled issues is determined by conventional arbitration. The arbitrator shall separately determine whether the total net annual economic changes for each year of the agreement are reasonable under the eight statutory criteria set forth in subsection g. of this section.

e. (1) The commission shall take measures to assure the impartial selection of an arbitrator or arbitrators from its special panel of arbitrators. Unless the parties, in a time and manner prescribed by the commission, mutually agree upon the selection of an arbitrator from the commission's special panel of arbitrators and so notify the commission in writing of that selection, the assignment of any arbitrator for the purposes of this act shall

be the responsibility of the commission, independent of and without any participation by either of the parties. The commission shall select the arbitrator for assignment by lot.

In any proceeding where an arbitrator selected by mutual agreement is unable to serve, the two parties shall be afforded an opportunity to select a replacement. If the two parties are unable to mutually agree upon the selection of a replacement within a time period prescribed by the commission, the commission shall select the replacement in the manner hereinafter provided.

In any proceeding where an assigned arbitrator is unable to serve or, pursuant to the preceding paragraph, the two parties are unable to mutually agree upon a replacement, the commission shall assign a replacement arbitrator. The assignment shall be the responsibility of the commission, independent of and without any participation by either of the parties. The commission shall select the replacement arbitrator for assignment by lot.

(2) Appointment to the commission's special panel of arbitrators shall be for a three-year term, with reappointment contingent upon a screening process similar to that used for determining initial appointments.

The commission may suspend, remove, or otherwise discipline an arbitrator for a violation of P.L.1977, c.85 (C.34:13A-14 et seq.), section 4 of P.L.1995, c.425 (C.34:13A-16.1) or for good cause.

f. (1) At a time prescribed by the commission, the parties shall submit to the arbitrator or tripartite panel of arbitrators their final offers on each economic and non-economic issue in dispute. The offers submitted pursuant to this section shall be used by the arbitrator for the purposes of determining an award pursuant to paragraph (2) of subsection d. of this section. The commission shall promulgate rules and procedures governing the submission of the offers required under this paragraph, including when those offers shall be deemed final, binding and irreversible.

(2) In the event of a dispute, the commission shall have the power to decide which issues are economic issues. Economic issues include those items which have a direct relation to employee income including wages, salaries, hours in relation to earnings, and other forms of compensation such as paid vacation, paid holidays, health and medical insurance, and other economic benefits to employees.

(3) Throughout formal arbitration proceedings the chosen arbitrator or panel of arbitrators may mediate or assist the parties in reaching a mutually agreeable settlement.

(4) Arbitration shall be limited to those subjects that are within the required scope of collective negotiations, except that the parties may agree to submit to arbitration one or more permissive subjects of negotiation.

(5) The decision of an arbitrator or panel of arbitrators shall include an opinion and an award, and shall be rendered within 120 days of the selection of the arbitrator by the mutual agreement of both parties or the commission's assignment of that arbitrator or panel of arbitrators, as the case may be, pursuant to paragraph (1) of subsection e. of this section; provided, however, the arbitrator or panel of arbitrators, for good cause, may petition the commission for an extension of not more than 60 days. The two parties, by mutual consent, may agree to an extension. The parties shall notify the arbitrator and the commission of any such agreement in writing. The notice shall set forth the specific date on which the extension shall expire. Any arbitrator or panel of arbitrators violating the provisions of this paragraph may be subject to the commission's powers under paragraph (2) of subsection e. of this section. The decision shall be final and binding upon the parties and shall be irreversible, except:

(a) Within 14 days of receiving an award, an aggrieved party may file notice of an appeal of an award to the commission on the grounds that the arbitrator failed to apply the criteria specified in subsection g. of this section or violated the standards set forth in N.J.S.2A:24-8 or N.J.S.2A:24-9. The appeal shall be filed in a form and manner prescribed by the commission. In deciding an appeal, the commission, pursuant to rule and regulation and upon petition, may afford the parties the opportunity to present oral arguments. The commission may affirm, modify, correct or vacate the award or may, at its discretion, remand the award to the same arbitrator or to another arbitrator, selected by lot, for reconsideration. An aggrieved party may appeal a decision of the commission to the Appellate Division of the Superior Court.

(b) An award that is not appealed to the commission shall be implemented immediately. An award that is appealed and not set aside by the commission shall be implemented within 14 days of the receipt of the commission's decision absent a stay.

(6) The parties shall bear the costs of arbitration subject to a fee schedule approved by the commission.

g. The arbitrator or panel of arbitrators shall decide the dispute based on a reasonable determination of the issues, giving due weight to those factors listed below that are judged relevant for the resolution of the specific dispute. In the award, the arbitrator or panel of arbitrators shall indicate which of the factors are deemed relevant, satisfactorily explain why the others are not relevant, and provide an analysis of the evidence on each relevant factor:

(1) The interests and welfare of the public. Among the items the arbitrator or panel of arbitrators shall assess when considering this factor are

the limitations imposed upon the employer by P.L.1976, c.68 (C.40A:4-45.1 et seq.).

(2) Comparison of the wages, salaries, hours, and conditions of employment of the employees involved in the arbitration proceedings with the wages, hours, and conditions of employment of other employees performing the same or similar services and with other employees generally:

(a) In private employment in general; provided, however, each party shall have the right to submit additional evidence for the arbitrator's consideration.

(b) In public employment in general; provided, however, each party shall have the right to submit additional evidence for the arbitrator's consideration.

(c) In public employment in the same or similar comparable jurisdictions, as determined in accordance with section 5 of P.L.1995, c.425 (C.34:13A-16.2); provided, however, that each party shall have the right to submit additional evidence concerning the comparability of jurisdictions for the arbitrator's consideration.

(3) The overall compensation presently received by the employees, inclusive of direct wages, salary, vacations, holidays, excused leaves, insurance and pensions, medical and hospitalization benefits, and all other economic benefits received.

(4) Stipulations of the parties.

(5) The lawful authority of the employer. Among the items the arbitrator or panel of arbitrators shall assess when considering this factor are the limitations imposed upon the employer by P.L.1976, c.68 (C.40A:4-45.1 et seq.).

(6) The financial impact on the governing unit, its residents and taxpayers. When considering this factor in a dispute in which the public employer is a county or a municipality, the arbitrator or panel of arbitrators shall take into account, to the extent that evidence is introduced, how the award will affect the municipal or county purposes element, as the case may be, of the local property tax; a comparison of the percentage of the municipal purposes element or, in the case of a county, the county purposes element, required to fund the employees' contract in the preceding local budget year with that required under the award for the current local budget year; the impact of the award for each income sector of the property taxpayers of the local unit; the impact of the award on the ability of the governing body to (a) maintain existing local programs and services, (b) expand existing local programs and services for which public moneys have been designated by the governing body in a proposed local budget, or (c) initiate any new programs and services for which public moneys have been designated by the governing body in a proposed local budget.

(7) The cost of living.

(8) The continuity and stability of employment including seniority rights and such other factors not confined to the foregoing which are ordinarily or traditionally considered in the determination of wages, hours, and conditions of employment through collective negotiations and collective bargaining between the parties in the public service and in private employment.

h. A mediator, factfinder, or arbitrator while functioning in a mediatory capacity shall not be required to disclose any files, records, reports, documents, or other papers classified as confidential received or prepared by him or to testify with regard to mediation, conducted by him under this act on behalf of any party to any cause pending in any type of proceeding under this act. Nothing contained herein shall exempt such an individual from disclosing information relating to the commission of a crime.

2. This act shall take effect immediately.

Approved August 1, 1997.

CHAPTER 184

AN ACT concerning the Police and Firemen's Retirement System's mortgage loan program and amending P.L.1992, c.78.

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

1. Section 11 of P.L.1992, c.78 is amended to read as follows:

11. This act shall take effect immediately.

2. This act shall take effect immediately.

Approved August 1, 1997.

CHAPTER 185

AN ACT concerning the use of certain devices 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:35-4.1 Booby traps in manufacturing or distribution facilities; fortified premises.

1. Booby traps in Manufacturing or Distribution Facilities; Fortified Premises.

a. As used in this section:

(1) "Booby trap" means any concealed or camouflaged device designed or reasonably likely to cause bodily injury when triggered by the action of a person entering a property or building or any portion thereof, or moving on the property or in the building, or by the action of another person. The term includes, but is not limited to, firearms, ammunition or destructive devices activated by a trip wire or other triggering mechanism, sharpened stakes, traps, and lines or wires with hooks, weights or other objects attached.

(2) "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 the person is actually present.

b. Any person who knowingly assembles, maintains, places or causes to be placed a booby trap on property used for the manufacture, distribution, dispensing, or possession or control with intent to manufacture, distribute or dispense, controlled dangerous substances in violation of this chapter shall be guilty of a crime of the second degree. If the booby trap causes bodily injury to any person, the defendant shall be guilty of a crime of the first degree.

It shall not be a defense that the device was inoperable or was not actually triggered, or that its existence or location was known to a law enforcement officer or another person.

c. Any person who fortifies or maintains in a fortified condition a structure for the manufacture, distribution, dispensing or possession or control with intent to manufacture, distribute or dispense, controlled dangerous substances, or who violates section 3, 4, 5, 6 or 7 of chapter 35 in a structure which he owns, leases, occupies or controls, and which has been fortified, is guilty of a crime of the third degree. A structure has been fortified if steel doors, wooden planking, cross bars, alarm systems, dogs, lookouts or any other means are employed to prevent, impede, delay or provide warning of the entry into a structure or any part of a structure by law enforcement officers.

d. A booby trap or fortification is maintained if it remains on property or in a structure while the property or structure is owned, occupied, controlled or used by the defendant.

e. Nothing herein shall be deemed to preclude, if the evidence so warrants, an indictment and conviction for a violation of chapters 11, 12, 17, and 39 of this title, or any other law. Notwithstanding the provisions of N.J.S.2C:1-8, N.J.S.2C:44-5 or any other provisions of law, a conviction arising under this section shall not merge with a conviction for a violation of any section of chapter 35 of Title 2C of the New Jersey Statutes, or for conspiring or attempting to violate any section of chapter 35 of Title 2C of the New Jersey Statutes, and the sentence imposed upon a violation of this section shall be ordered to be served consecutively to that imposed for any other conviction arising under any section of chapter 35 of Title 2C of the New Jersey Statutes or for conspiracy or attempt to violate any section of chapter 35 of Title 2C of the New Jersey Statutes, unless the court, in consideration of the character and circumstances of the defendant, finds that imposition of consecutive sentences would be a serious injustice which overrides the need to deter such conduct by others. If the court does not impose a consecutive sentence, the sentence shall not become final for 10 days in order to permit the appeal of such sentence by the prosecution.

2. This act shall take effect immediately.

Approved August 4, 1997.

CHAPTER 186

AN ACT concerning controlled dangerous substances and amending N.J.S.2C:35-2, N.J.S.2C:35-4 and N.J.S.2C:35-5.

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

1. N.J.S.2C:35-2 is amended to read as follows:

Definitions.

2C:35-2. Definitions.

As used in this chapter:

"Administer" means the direct application of a controlled dangerous substance or controlled substance analog, 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.

"Controlled dangerous substance" means a drug, substance, or immediate precursor in Schedules I through V. 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. The term, wherever it appears in any law or administrative regulation of this State, shall include controlled substance analogs.

"Controlled substance analog" means a substance that has a chemical structure substantially similar to that of a controlled dangerous substance and that was specifically designed to produce an effect substantially similar to that of a controlled dangerous substance. The term shall not include a substance manufactured or distributed in conformance with the provisions of an approved new drug application or an exemption for investigational use within the meaning of section 505 of the "Federal Food, Drug and Cosmetic Act," 52 Stat. 1052 (21 U.S.C. s. 355).

"Counterfeit substance" means a controlled dangerous substance or controlled substance analog 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 or controlled substance analog, whether or not there is an agency relationship.

"Dispense" means to deliver a controlled dangerous substance or controlled substance analog 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 or controlled substance analog. "Distributor" means a person who distributes.

"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 or controlled substance analog and who is in a state of psychic or physical dependence, or both, arising from the use of that controlled dangerous substance or controlled substance analog 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.

"Manufacture" means the production, preparation, propagation, compounding, conversion or processing of a controlled dangerous substance or controlled substance analog, 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 or controlled substance analog 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 or controlled substance analog 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.

"Marijuana" 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.

"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:

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(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 ecogine.

"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 pursuant to the provisions of section 3 of P.L.1970, c.226 (C.24:21-3), 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.

"Plant" means an organism having leaves and a readily observable root formation, including, but not limited to, a cutting having roots, a rootball or root hairs.

"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 or controlled substance analog 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 or controlled substance analogs.

(e) "Laboratory" means a laboratory to be entrusted with the custody of narcotic drugs and the use of controlled dangerous substances or controlled substance analogs for scientific, experimental and medical purposes and for purposes of instruction approved by the State Department of Health and Senior Services.

"Production" includes the manufacture, planting, cultivation, growing, or harvesting of a controlled dangerous substance or controlled substance analog.

"Immediate precursor" means a substance which the State Department of Health and Senior Services 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 or controlled substance analog, the control of which is necessary to prevent, curtail, or limit such manufacture.

"Residential treatment facility" means any facility approved by any county probation department for the inpatient treatment and rehabilitation of drug dependent persons.

"Schedules I, II, III, IV, and V" are the schedules set forth in sections 5 through 8 of P.L.1970, c.226 (C.24:21-5 through 24:21-8) and in section 4 of P.L.1971, c.3 (C.24:21-8.1) and as modified by any regulations issued by the Commissioner of Health and Senior Services pursuant to his authority as provided in section 3 of P.L.1970, c.226 (C.24:21-3).

"State" means the State of New Jersey.

"Ultimate user" means a person who lawfully possesses a controlled dangerous substance or controlled substance analog 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. N.J.S.2C:35-4 is amended to read as follows:

Maintaining or operating a controlled dangerous substance production facility.

2C:35-4. Maintaining or Operating a Controlled Dangerous Substance Production Facility.

Except as authorized by P.L.1970, c.226 (C.24:21-1 et seq.), any person who knowingly maintains or operates any premises, place or facility used for the manufacture of methamphetamine, lysergic acid diethylamide, phencyclidine, marijuana in an amount greater than five pounds or ten plants or any substance listed in Schedule I or II, or the analog of any such substance, or any person who knowingly aids, promotes, finances or otherwise participates in the maintenance or operations of such premises,

place or facility, is guilty of a crime of the first degree and shall, except as provided in N.J.S.2C:35-12, be sentenced to a term of imprisonment which shall include the imposition of a minimum term which shall be fixed at, or between, one-third and one-half of the sentence imposed, during which the defendant shall be ineligible for parole. Notwithstanding the provisions of subsection a. of N.J.S.2C:43-3, the court may also impose a fine not to exceed $750,000.00 or five times the street value of all controlled dangerous substances or controlled substance analogs at any time manufactured or stored at such premises, place or facility, whichever is greater.

3. N.J.S.2C:35-5 is amended to read as follows:

Manufacturing, distributing or dispensing.

2C:35-5. Manufacturing, Distributing or Dispensing. a. Except as authorized by P.L.1970, c.226 (C.24:21-1 et seq.), it shall be unlawful for any person knowingly or purposely:

(1) To manufacture, distribute or dispense, or to possess or have under his control with intent to manufacture, distribute or dispense, a controlled dangerous substance or controlled substance analog; or

(2) To create, distribute, or possess or have under his control with intent to distribute, a counterfeit controlled dangerous substance.

b. Any person who violates subsection a. with respect to:

(1) Heroin, or its analog, or 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, or analogs, except that the substances shall not include decocainized coca leaves or extractions which do not contain cocaine or ecogine, in a quantity of five ounces or more including any adulterants or dilutants is guilty of a crime of the first degree. The defendant shall, except as provided in N.J.S.2C:35-12, be sentenced to a term of imprisonment by the court. The term of imprisonment shall include the imposition of a minimum term which shall be fixed at, or between, one-third and one-half of the sentence imposed, during which the defendant shall be ineligible for parole. Notwithstanding the provisions of subsection a. of N.J.S.2C:43-3, a fine of up to $500,000.00 may be imposed;

(2) A substance referred to in paragraph (1) of this subsection, in a quantity of one-half ounce or more but less than five ounces, including any adulterants or dilutants is guilty of a crime of the second degree;

(3) A substance referred to paragraph (1) of this subsection in a quantity less than one-half ounce including any adulterants or dilutants is guilty of a crime of the third degree except that, notwithstanding the provisions of subsection b. of N.J.S.2C:43-3, a fine of up to $75,000.00 may be imposed;

(4) A substance classified as a narcotic drug in Schedule I or II other than those specifically covered in this section, or the analog of any such substance, in a quantity of one ounce or more including any adulterants or dilutants is guilty of a crime of the second degree;

(5) A substance classified as a narcotic drug in Schedule I or II other than those specifically covered in this section, or the analog of any such substance, in a quantity of less than one ounce including any adulterants or dilutants is guilty of a crime of the third degree except that, notwithstanding the provisions of subsection b. of N.J.S.2C:43-3, a fine of up to $75,000.00 may be imposed;

(6) Lysergic acid diethylamide, or its analog, in a quantity of 100 milligrams or more including any adulterants or dilutants, or phencyclidine, or its analog, in a quantity of 10 grams or more including any adulterants or dilutants, is guilty of a crime of the first degree. Except as provided in N.J.S.2C:35-12, the court shall impose a term of imprisonment which shall include the imposition of a minimum term, fixed at, or between, one-third and one-half of the sentence imposed by the court, during which the defendant shall be ineligible for parole. Notwithstanding the provisions of subsection a. of N.J.S.2C:43-3, a fine of up to $500,000.00 may be imposed;

(7) Lysergic acid diethylamide, or its analog, in a quantity of less than 100 milligrams including any adulterants or dilutants, or where the amount is undetermined, or phencyclidine, or its analog, in a quantity of less than 10 grams including any adulterants or dilutants, or where the amount is undetermined, is guilty of a crime of the second degree;

(8) Methamphetamine, or its analog, or phenyl-2-propanone (P2P), in a quantity of five ounces or more including any adulterants or dilutants is guilty of a crime of the first degree. Notwithstanding the provisions of subsection a. of N.J.S.2C:43-3, a fine of up to $300,000.00 may be imposed;

(9) (a) Methamphetamine, or its analog, or phenyl-2-propanone (P2P), in a quantity of one-half ounce or more but less than five ounces including any adulterants or dilutants is guilty of a crime of the second degree;

(b) Methamphetamine, or its analog, or phenyl-2-propanone (P2P), in a quantity of less than one-half ounce including any adulterants or dilutants is guilty of a crime of the third degree except that notwithstanding the provisions of subsection b. of N.J.S.2C:43-3, a fine of up to $75,000.00 may be imposed;

(10) (a) Marijuana in a quantity of 25 pounds or more including any adulterants or dilutants, or more than 50 marijuana plants, regardless of weight, or hashish in a quantity of five pounds or more including any adulterants or dilutants, is guilty of a crime of the first degree. Notwithstanding the provisions of subsection a. of N.J.S.2C:43-3, a fine of up to $300,000.00 may be imposed;

(b) Marijuana in a quantity of five pounds or more but less than 25 pounds including any adulterants or dilutants, or 10 or more but fewer than 50 marijuana plants, regardless of weight, or hashish in a quantity of one pound or more but less than five pounds, including any adulterants and dilutants, is guilty of a crime of the second degree;

(11) Marijuana in a quantity of one ounce or more but less than five pounds including any adulterants or dilutants, or hashish in a quantity of five grams or more but less than one pound including any adulterants or dilutants, is guilty of a crime of the third degree except that, notwithstanding the provisions of subsection b. of N.J.S.2C:43-3, a fine of up to $25,000.00 may be imposed;

(12) Marijuana in a quantity of less than one ounce including any adulterants or dilutants, or hashish in a quantity of less than five grams including any adulterants or dilutants, is guilty of a crime of the fourth degree;

(13) Any other controlled dangerous substance classified in Schedule I, II, III or IV, or its analog, is guilty of a crime of the third degree, except that, notwithstanding the provisions of subsection b. of N.J.S.2C:43-3, a fine of up to $25,000.00 may be imposed; or

(14) Any Schedule V substance, or its analog, is guilty of a crime of the fourth degree except that, notwithstanding the provisions of subsection b. of N.J.S.2C:43-3, a fine of up to $25,000.00 may be imposed.

c. Where the degree of the offense for violation of this section depends on the quantity of the substance, the quantity involved shall be determined by the trier of fact. Where the indictment or accusation so provides, the quantity involved in individual acts of manufacturing, distribution, dispensing or possessing with intent to distribute may be aggregated in determining the grade of the offense, whether distribution or dispensing is to the same person or several persons, provided that each individual act of manufacturing, distribution, dispensing or possession with intent to distribute was committed within the applicable statute of limitations.

4. This act shall take effect immediately.

Approved August 4, 1997.

CHAPTER 187

AN ACT concerning illegal drug profiteering, amending N.J.S.2C:35-12 and P.L.1991, c.329 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:35-12 is amended to read as follows:

Waiver of mandatory minimum and extended terms.

2C:35-12. Waiver of Mandatory Minimum and Extended Terms. Whenever an offense defined in this chapter specifies a mandatory sentence of imprisonment which includes a minimum term during which the defendant shall be ineligible for parole, a mandatory extended term which includes a period of parole ineligibility, or an anti-drug profiteering penalty pursuant to section 2 of P.L.1997, c.187 (N.J.S.2C:35A-1 et seq.), the court upon conviction shall impose the mandatory sentence or anti-drug profiteering penalty unless the defendant has pleaded guilty pursuant to a negotiated agreement or, in cases resulting in trial, the defendant and the prosecution have entered into a post-conviction agreement, which provides for a lesser sentence, period of parole ineligibility or anti-drug profiteering penalty. The negotiated plea or post-conviction agreement may provide for a specified term of imprisonment within the range of ordinary or extended sentences authorized by law, a specified period of parole ineligibility, a specified fine, a specified anti-drug profiteering penalty, or other disposition. In that event, the court at sentencing shall not impose a lesser term of imprisonment, lesser period of parole ineligibility, lesser fine or lesser anti-drug profiteering penalty than that expressly provided for under the terms of the plea or post-conviction agreement.

2. An additional chapter, chapter 35A, is added to Title 2C as follows:

Short title.

2C:35A-1. Short Title.

This act shall be known and may be cited as the "Anti-Drug Profiteering Act."

Declaration of policy and legislative findings.

2C:35A-2. Declaration of Policy and Legislative Findings.

The Legislature hereby finds and declares the following:

a. Persons who engage in drug trafficking activities for profit are a form of professional criminal, and deserve enhanced punishment that is specially adapted to remove the economic incentives inherent in such criminal activities.

b. It shall be the overriding objective of the provisions of this chapter to eliminate to the greatest extent possible the economic incentives inherent in commercial drug distribution activities at all levels within the drug distribution chain. In order to accomplish this objective, it is appropriate to

impose stern economic sanctions in the form of monetary penalties against certain convicted drug offenders. So as to ensure that such economic sanctions are specially adapted and proportionate to the true nature, extent and profitability of the specific criminal activities involved, such monetary penalties should in appropriate cases be based upon a multiple of the street level value of all the illicit substances involved. The use of such a mechanism for calculating an appropriate monetary penalty will help to offset and overcome the perception of some drug offenders, and especially those who are well insulated within a drug trafficking network, that they face only a comparatively low risk of immediate detection and punishment. The Legislature, by adoption of the "Comprehensive Drug Reform Act," N.J.S.2C:35-1 et al., recognized the utility of such a mechanism by providing for the imposition of discretionary cash fines which may be based upon three, or in some cases five, times the street value of the illicit drugs involved.

c. The imposition of monetary penalties pursuant to this act is intended to serve as an adjunct to forfeiture actions, which are designed to deprive offenders of the proceeds of their criminal activities and of all property used in furtherance of or to facilitate such illegal activities. While the seizure and forfeiture of property in accordance with the provisions of chapters 41 and 64 of this Title and P.L.1994, c.121 (money laundering) remain a critically important means by which to reduce the economic incentive inherent in drug trafficking activities, in many instances, given the efforts undertaken by offenders to conceal and disguise assets and to resort to complex financial transactions and money laundering schemes, it has become increasingly difficult for law enforcement agencies to establish to the required degree of certainty that a given asset or interest in property is subject to forfeiture. Accordingly, it is necessary and appropriate to impose an in personam debt against the defendant which may be satisfied by proceeding against any asset or interest in property belonging to the defendant, whether or not such property can be directly or indirectly linked to criminal activity.

d. In order to ensure the maximum deterrent effect of imposing such specially adapted economic sanctions as are required pursuant to the provisions of this act, it shall be the policy of this State to enforce the judgment and to collect the entire debt, or the greatest possible portion thereof, as soon as is feasible following the imposition of the penalty, taking full advantage, where necessary, of this State's long arm jurisdiction and the full faith and credit clause of the Constitution of the United States.

Criteria for imposition of anti-drug profiteering penalty.

2C:35A-3. Criteria for Imposition of Anti-Drug Profiteering Penalty. a. In addition to any other disposition authorized by this title, including but not limited to any fines which may be imposed pursuant to the provisions of N.J.S.2C:43-3 and except as may be provided by section 5 of this chapter, where a person has been convicted of a crime defined in chapter 35 or 36 of this Title or an attempt or conspiracy to commit such a crime, the court shall, upon the application of the prosecutor, sentence the person to pay a monetary penalty in an amount determined pursuant to section 4 of this chapter, provided the court finds at a hearing, which may occur at the time of sentencing, that the prosecutor has established by a preponderance of the evidence one or more of the grounds specified in this section. The findings of the court shall be incorporated in the record, and in making its findings, 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.

b. Any of the following shall constitute grounds for imposing an Anti-Drug Profiteering Penalty:

(1) The defendant was convicted of: (a) a violation of N.J.S.2C:35-3 (leader of narcotics trafficking network), or (b) a violation of subsection g. of N.J.S.2C:5-2 (leader of organized crime), or (c) an offense defined in chapter 41 of this Title (racketeering) which involved the manufacture, distribution, possession with intent to distribute or transportation of any controlled dangerous substance or controlled substance analog.

(2) The defendant is a drug profiteer. A defendant is a drug profiteer when the conduct constituting the crime shows that the person has knowingly engaged in the illegal manufacture, distribution or transportation of any controlled dangerous substance, controlled substance analog or drug paraphernalia as a substantial source of livelihood. In making its determination, the court may consider all of the attending circumstances, including but not limited to the defendant's role in the criminal activity, the nature, amount and purity of the substance involved, the amount of cash or currency involved, the extent and accumulation of the defendant's assets during the course of the criminal activity and the defendant's net worth and his expenditures in relation to his legitimate sources of income.

(3) The defendant is a wholesale drug distributor. (a) A defendant is a wholesale drug distributor when the conduct constituting the crime involves the manufacture, distribution or intended or attempted distribution of a controlled dangerous substance or controlled substance analog to any other person for pecuniary gain, knowing, believing, or under circumstances where it reasonably could be assumed that such other person would in turn distribute the substance to another or others for pecuniary gain. It shall not

be necessary for the prosecution to establish to whom the substance was distributed or intended or attempted to be distributed, and the court may draw all reasonable inferences from the nature of the defendant's conduct and the substance involved that such other person, while not specifically identified, would in turn distribute the substance to another or others for pecuniary gain. In making its determination, the court shall consider all of the attending circumstances, including but not limited to the defendant's role in the criminal activity, the nature, amount and purity of the substance involved, and the likelihood that a substance of such purity would be intended to be distributed directly to the ultimate consumer of the substance.

(b) Notwithstanding that the prosecutor has established that the defendant is a wholesale drug distributor within the meaning of this paragraph, the court shall not impose an anti-drug profiteering penalty on that ground if the defendant establishes by a preponderance of the evidence at the hearing that his participation in the conduct constituting the crime was limited solely to operating a conveyance used to transport a controlled dangerous substance or controlled substance analog, or loading or unloading the substance into such a conveyance or storage facility. Nothing in this paragraph shall be construed to establish a basis for not imposing a penalty where the prosecutor has established any other ground or grounds specified in this section for the imposition of an anti-drug profiteering penalty.

(4) The defendant is a professional drug distributor. A professional drug distributor is a person who has at any time, for pecuniary gain, unlawfully distributed a controlled dangerous substance, controlled substance analog or drug paraphernalia to three or more different persons, or on five or more separate occasions regardless of the number of persons to whom the substance or paraphernalia was distributed.

c. In making its determination, the court may rely upon expert opinion in the form of live testimony or by affidavit, or by such other means as the court deems appropriate.

d. For the purposes of this chapter, an act is undertaken for pecuniary gain if it involves or contemplates the transfer of anything of value in exchange for a controlled dangerous substance, controlled substance analog or drug paraphernalia, provided that the thing of value received or intended to be received in exchange for the substance or paraphernalia is or was reasonably believed to be of a higher value than that expended by the defendant or by any other person with whom the actor is acting in concert, to acquire or manufacture the substance or paraphernalia. It shall also include any act which would constitute a violation of subsection a. of N.J.S.2C:35-5, N.J.S.2C:35-11 or N.J.S.2C:36-3 for which the actor was paid or expected to be paid in return for performing such act. There shall be a rebuttable presumption at the hearing that any manufacturing, distribution

or possession with intent to distribute which contemplates or involves the payment or exchange of anything of value constitutes an act undertaken for pecuniary gain. It shall not be necessary for the prosecution to establish that any intended profit or payment was actually received; nor shall it be relevant that the act, payment in return for such act or the transfer of anything of value in exchange for the substance or paraphernalia, occurred or was intended to occur in another jurisdiction.

Calculation of anti-drug profiteering penalty.

2C:35A-4. Calculation of Anti-Drug Profiteering Penalty. a. Where the prosecutor has established one or more grounds for imposing an Anti-Drug Profiteering Penalty pursuant to section 3 of this chapter, the court shall assess a monetary penalty as follows:

(1) $200,000.00 in the case of a crime of the first degree; $100,000.00 in the case of a crime of the second degree; $50,000.00 in the case of a crime of the third degree; $25,000.00 in the case of a crime of the fourth degree; or

(2) an amount equal to three times the street value of all controlled dangerous substances or controlled substance analogs involved, or three times the market value of all drug paraphernalia involved, if this amount is greater than that provided in paragraph (1) of this subsection.

b. When the court is for any reason unable to determine the amount of the penalty pursuant to paragraph (2) of subsection a., the court shall assess a penalty in the amount appropriate to the degree of the offense as provided in paragraph (1) of subsection a.

c. In determining the street value of the substance involved or the market value of drug paraphernalia involved, the court shall take into account all amounts of the substance or paraphernalia reasonably believed to have been involved in the course of the criminal activity in which the defendant knowingly participated, and it shall not be relevant for the purposes of this section that some of those amounts or paraphernalia were involved in acts or transactions which occurred, or which were intended to occur, in another jurisdiction.

d. Where the prosecution requests that the court assess a penalty in an amount calculated pursuant to paragraph (2) of subsection a., the prosecutor shall have the burden of establishing by a preponderance of the evidence the appropriate amount of the penalty to be assessed pursuant to that paragraph. In making its finding, 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.

Revocation or reduction of penalty assessment.

2C:35A-5. Revocation or Reduction of Penalty Assessment. The court shall not revoke or reduce a penalty imposed pursuant to this chapter except in accordance with the provisions of N.J.S.2C:35-12. An anti-drug profiteering penalty imposed pursuant to this chapter shall not be deemed a fine for purposes of N.J.S.2C:46-3.

Payment schedule.

2C:35A-6. Payment Schedule. The court may, for good cause shown, and subject to the provisions of this section, grant permission for the payment of a penalty assessed pursuant to this chapter 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 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 permission 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.

Relation to other dispositions.

N.J.S.2C:35A-7. Relation to Other Dispositions. a. An anti-drug profiteering penalty assessed pursuant to this chapter shall be imposed and paid in addition to any penalty required to be imposed pursuant to N.J.S.2C:35-15 and N.J.S.2C:43-3.1, any fee required to be imposed pursuant to N.J.S. 2C:35-20, and any other fine, penalty, fee or order for restitution which may be imposed.

b. An anti-drug profiteering penalty imposed pursuant to this chapter 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 this Title, and nothing in this chapter 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 penalty imposed pursuant to this chapter for the value of property forfeited, or subject to forfeiture, pursuant to the provisions of chapters 41 and 64 of this Title.

Collection and distribution.

2C:35A-8. Collection and Distribution. All penalties assessed pursuant to this chapter shall be docketed and collected as provided for collection of fines, penalties and restitution in chapter 46 of this Title. The Attorney General or prosecutor may prosecute an action to collect penalties imposed pursuant to this chapter. All penalties assessed pursuant to this chapter shall be disposed of, distributed, appropriated and used as if the collected penalties were the proceeds of property forfeited pursuant to chapter 64 of this Title.

3. Section 13 of P.L.1991, c.329 (C.2C:46-4.1) is amended to read as follows:

C.2C:46-4.1 Application of moneys collected; priority.

13. Moneys that are collected in satisfaction of any assessment imposed pursuant to section 2 of P.L.1979, c.396 (C.2C:43-3.1), or in satisfaction of restitution or fines imposed in accordance with the provisions of Title 2C of the New Jersey Statutes or with the provisions of section 24 of P.L.1982, c.77 (C.2A:4A-43), shall be applied in the following order:

a. first, in satisfaction of all assessments imposed pursuant to section 2 of P.L.1979, c.396 (C.2C:43-3.1);

b. second, in satisfaction of any restitution ordered;

c. third, in satisfaction of all assessments imposed pursuant to section 11 of P.L.1993, c.220 (C.2C:43-3.2);

d. fourth, in satisfaction of any forensic laboratory fee assessed pursuant to N.J.S.2C:35-20;

e. fifth, in satisfaction of any mandatory Drug Enforcement and Demand Reduction penalty assessed pursuant to N.J.S.2C:35-15;

f. sixth, in satisfaction of any anti-drug profiteering penalty imposed pursuant to section 2 of P.L.1997, c.187 (N.J.S.2C:35A-1 et seq.); and

g. seventh, in satisfaction of any fine.

4. This act shall take effect immediately.

Approved August 4, 1997.

CHAPTER 188

AN ACT concerning motor vehicle records and supplementing chapter 2 of Title 39 of the Revised Statutes.

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

C.39:2-3.3 Definitions relative to privacy of motor vehicle records.

1. As used in this act:

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

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

"Motor vehicle record" means any record that pertains to a motor vehicle operator's permit, driver's license, motor vehicle title, motor vehicle registration, or identification card issued by the Division of Motor Vehicles.

"Person" means an individual, organization or entity, but does not include the State or a political subdivision thereof.

"Personal information" means information that identifies an individual, including an individual's photograph; social security number; driver identification number; name; address other than the five-digit zip code; telephone number; and medical or disability information, but does not include information on vehicular accidents, driving violations, and driver's status.

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

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

b. A person requesting a motor vehicle record including personal information shall produce proper identification and shall complete and submit a written request form provided by the director for the division's approval. The written request form shall bear notice that the making of false statements therein is punishable and shall include, but not be limited to, the requestor's name and address; the requestor's driver's license number or corporate identification number; the requestor's reason for requesting the record; the driver's license number or the name, address and birth date of the person whose driver record is requested; the license plate number or VIN number of the vehicle for which a record is requested; any additional

information determined by the director to be appropriate and the requestor's certification as to the truth of the foregoing statements. Prior to the approval of the written request form, the division may also require the requestor to submit documentary evidence supporting the reason for the request.

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

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

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

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

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

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

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

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

(5) For use in research activities, and for use in producing statistical reports, so long as the personal information is not published, redisclosed, or used to contact individuals.

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

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

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

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

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

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

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

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

d. As provided by the federal "Drivers' Privacy Protection Act of 1994," Pub.L. 103-322, a person authorized to receive personal information under paragraphs (1) through (10) of subsection c. of this section may resell

or redisclose the personal information only for a use permitted by paragraphs (1) through (10) of subsection c. of this section subject to regulation by the division. A person authorized to receive personal information under paragraph (11) of subsection c. of this section may resell or redisclose the personal information pursuant to paragraph (11) of subsection c. of this section subject to regulation by the division.

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

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

C.39:2-3.5 Violation, fourth degree crime.

3. A person who knowingly obtains or discloses personal information from a motor vehicle record for any use not permitted under section 2 of P.L.1997, c.188 (C.39:2-3.4) is guilty of a crime of the fourth degree.

C.39:2-3.6 Liability for civil action.

4. a. A person who knowingly obtains, discloses or uses personal information from a motor vehicle record for a purpose not permitted under this act shall be liable to the individual to whom the information pertains, who may bring a civil action in the Superior Court.

b. The court may award:

(1) actual damages, but not less than liquidated damages in the amount of $2,500;

(2) punitive damages upon proof of willful or reckless disregard of the law;

(3) reasonable attorney's fees and other litigation costs reasonably incurred; and

(4) such other preliminary and equitable relief as the court determines to be appropriate.

C.39:2-3.7 Construction of act.

5. Nothing in this act shall be construed as authorizing the division to obtain personal information, except as provided in subsection b. of section 2 of this act.

6. This act shall take effect immediately but shall be inoperative until the 31st day after enactment.

Approved August 5, 1997.

CHAPTER 189

AN ACT concerning motor vehicle licenses and registrations, amending R.S.39:3-4 and P.L.1989, c.326, and supplementing Title 39 of the Revised Statutes

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

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

Registration of automobiles and motorcycles, application, registration certificates; expiration; issuance; violations; notification.

39:3-4. Except as hereinafter provided, every resident of this State and every nonresident whose automobile or motorcycle shall be driven in this State shall, before using such vehicle on the public highways, register the same, and no automobile or motorcycle shall be driven unless so registered.

Such registration shall be made in the following manner: An application in writing, signed by the applicant or by an agent or officer, in case the applicant is a corporation, shall be made to the director or the director's agent, on forms prepared and supplied by the director, containing the name, street address of the residence or the business of the owner, mailing address, if different from the street address of the owner's residence or business, and age of the owner, together with a description of the character of the automobile or motorcycle, including the name of the maker and the vehicle identification number, or the manufacturer's number or the number assigned by the director if the vehicle does not have a vehicle identification number, and any other statement that may be required by the director. A post office box shall appear on the application only as part of a mailing address that is submitted by the owner, agent or officer, as the case may be, in addition to the street address of the applicant's residence or business; provided, however, the director, upon application, shall permit a person who was a victim of a violation of N.J.S.2C:12-10, N.J.S.2C:14-2, or N.J.S.2C:25-17 et seq., or who the director otherwise determines to have good cause, to use as a mailing address a post office box, an address other than the applicant's address or other contact point. An owner whose last address appears on the

records of the division as a post office box shall change his address on his application for renewal to the street address of his residence or business and, if different from his street address, his mailing address unless the director has determined, pursuant to this section, that the owner may use a post office box, an address other than the owner's address or other contact point as a mailing address. The application shall contain the name of the insurer of the vehicle and the policy number. If the vehicle is a leased motor vehicle, the application shall make note of that fact and shall include along with the name and street address of the lessor the name, street address and driver license number of the lessee. A lessor of a leased motor vehicle shall notify the director in writing, on such form as the director may prescribe, of the termination of a lease or of a change of the lessee within seven days after the termination or change.

Thereupon the director shall have the power to grant a registration certificate to the owner of any motor vehicle, if over 17 years of age, application for the registration having been properly made and the fee therefor paid, and the vehicle being of a type that complies with the requirements of this title. The form and contents of the registration certificate to be issued shall be determined by the director.

If the vehicle is a leased motor vehicle, the registration certificate shall, in addition to containing the name and street address of the lessor, identify the vehicle as a leased motor vehicle.

The director shall maintain a record of all registration certificates issued, and of the contents thereof.

Every registration shall expire and the registration certificate thereof become void on the last day of the twelfth calendar month following the calendar month in which the certificate was issued; provided, however, that the director may, at his discretion, require registrations which shall expire, and issue certificates thereof which shall become void, on a date fixed by him, which date shall not be sooner than three months nor later than 26 months after the date of issuance of such certificates, and the fees for such registrations, including any other fees or charges collected in connection with the registration fee, shall be fixed by the director in amounts proportionately less or greater than the fees established by law. The director may fix the expiration date for registration certificates at a date other than 12 months if the director determines that the change is necessary, appropriate or convenient in order to aid in implementing the vehicle inspection requirements of chapter 8 of Title 39 or for other good cause.

All motorcycles for which registrations have been issued prior to the effective date of P.L.1989, c.167 and which are scheduled to expire between November 1 and March 31 shall, upon renewal, be issued registrations by the director which shall expire on a date fixed by him, but in no case shall

that expiration date be earlier than April 30 nor later than October 31. The fees for the renewal of the motorcycle registrations authorized under this paragraph shall be fixed by the director in an amount proportionately less or greater than the fee established by R.S.39:3-21.

Application forms for all renewals of registrations for passenger automobiles shall be sent to the last addresses of owners of motor vehicles and motorcycles, as they appear on the records of the division.

No person owning or having control over any unregistered vehicle shall permit the same to be parked or to stand on a public highway.

Any police officer is authorized to remove any unregistered vehicle from the public highway to a storage space or garage, and the expense involved in such removal and storing of the vehicle shall be borne by the owner of the vehicle, except that the expense shall be borne by the lessee of a leased vehicle.

Any person violating the provisions of this section shall be subject to a fine not exceeding $100, except that for the misstatement of any fact in the application required to be made to the director, the person making such statement or omitting the statement that the motor vehicle is to be used as a leased motor vehicle when that is the case shall be subject to the penalties provided in R.S.39:3-37.

The director may extend the expiration date of a registration certificate without payment of a proportionate fee when the director determines that such extension is necessary, appropriate or convenient to the implementation of vehicle inspection requirements. If any registration certificate is so extended, the owner shall pay upon renewal the full registration fee for the period fixed by the director as if no extension had been granted.

The Division of Motor Vehicles shall make a reasonable effort to notify any lessor whose name and address is on file with the division, or any other lessor the division may determine it is necessary to notify, of the requirements of this amendatory act.

2. Section 2 of P.L.1989, c.326 (C.39:3-9b) is amended to read as follows:

C.39:3-9b Street address on driver's license; exception.

2. Each application for a driver's license, or a renewal thereof, required by R.S.39:3-10 shall contain the street address of the place of residence or business of the licensee at the time of application or renewal. A post office box shall appear on a driver's license application only as part of a mailing address that is submitted by the licensee in addition to the street address of the licensee's residence or business; provided, however, the director, upon application, shall permit a person who was a victim of a violation of

N.J.S.2C:12-10, N.J.S.2C:14-2, or N.J.S.2C:25-17 et seq., or who the director otherwise determines to have good cause, to use as a mailing address a post office box, an address other than the applicant's address or other contact point. A licensee whose last address appears on the records of the division as a post office box shall change the address on the application for renewal to the street address of the licensee's residence or business and, if different from the street address, his mailing address unless the director has determined, pursuant to this section, that the licensee may use a post office box, an address other than the licensee's address or other contact point as a mailing address.

C.39:3-9c Rules, regulations on use of drivers' addresses.

3. Pursuant to the provisions of the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), the director, in consultation with the Attorney General, may promulgate rules and regulations to effectuate the purposes of P.L.1997, c.189.

4. This act shall take effect immediately.

Approved August 5, 1997.

CHAPTER 190

AN ACT concerning property tax liens and amending various sections of statutory law.

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

1. Section 11 of P.L.1963, c.144 (C.17:12B-11) is amended to read as follows:

C.17:12B-11 Mortgage deemed first lien.

11. A mortgage upon real property or a mortgage upon a lease of the fee of real property shall be deemed a first lien as follows:

(a) A mortgage upon real property shall be deemed a first lien notwithstanding the existence of (i) a prior mortgage or mortgages held by the association, (ii) a lien of a condominium association for up to six months of customary condominium assessments pursuant to section 21 of P.L.1969, c.257 (C.46:8B-21), or (iii) building restrictions or other restrictive covenants or conditions, leases or tenancies whereby rents or profits are reserved to the owner, joint driveways, sewer rights, rights in walls,

rights-of-way or other easements, or encroachments which do not materially affect the security for the mortgage loan. Nothing herein shall alter or affect the status or priority of municipal liens under R.S.54:5-1 et seq.

(b) A mortgage upon a lease of the fee of real property shall be deemed a first lien not subject to any prior lien, except for municipal liens, notwithstanding the existence of building restrictions or other restrictive covenants or conditions, joint driveways, sewer rights, rights in walls, rights-of-way or other easements, or encroachments which do not materially affect the security for the mortgage loan. Nothing herein shall alter or affect the status or priority of municipal liens under R.S.54:5-1 et seq.

(c) A mortgage upon an apartment which is part of a horizontal property regime, established under the "Horizontal Property Act," P.L.1963, c.168 (C.46:8A-1 et seq.) or upon a unit which is part of a condominium established pursuant to the "Condominium Act," P.L.1969, c.257 (C.46:8B-1 et seq.) shall be deemed a first lien notwithstanding the existence of other proportionate undivided interests in the "general common elements" or "common elements" of such horizontal property regime or condominium, as the case may be, as the same are defined in the "Horizontal Property Act," and the "Condominium Act," respectively, and notwithstanding the indivisibility of such common elements or the existence of a prior mortgage or mortgages held by the association upon such apartment or unit or the existence of a prior mortgage or mortgages on other apartments or units within the particular horizontal property regime or condominium, as the case may be, regardless of whether such prior mortgages are held by the association or any other mortgagee and notwithstanding the existence of building restrictions or other restrictive covenants or conditions, leases or tenancies whereby rents or profits are reserved to the owner, or other easements or encroachments which do not materially affect the security for the mortgage loan. Nothing herein shall alter or affect the status or priority of municipal liens under R.S.54:5-1 et seq.

(d) Every mortgage shall be certified to be a first lien by an attorney at law of the state in which the real property is located, or certified or guaranteed to be a first lien by a corporation authorized to guarantee titles to real property in such state.

2. Section 21 of P.L.1969, c.257 (C.46:8B-21) is amended to read as follows:

C.46:8B-21 Liens in favor of association; priority.

21. a. The association shall have a lien on each unit for any unpaid assessment 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 and, if authorized by the master deed or bylaws, late fees, fines and reasonable attorney's fees; provided however that an association shall not record a lien in which the unpaid assessment consists solely of late fees. Such lien shall be effective from and after the time of recording in the public records of the county in which the unit is located of a claim of lien stating the description of the unit, the name of the record owner, the amount due and the date when due. Such claim of lien shall include only sums which are due and payable when the claim of lien is recorded and shall be signed and verified by an officer or agent of the association. Upon full payment of all sums secured by the lien, the party making payment shall be entitled to a recordable satisfaction of lien. Except as set forth in subsection b. of this section, all such liens shall be subordinate to any lien for past due and unpaid property taxes, the lien of any mortgage to which the unit is subject and to any other lien recorded prior to the time of recording of the claim of lien.

b. A lien recorded pursuant to subsection a. of this section shall have a limited priority over prior recorded mortgages and other liens, except for municipal liens or liens for federal taxes, to the extent provided in this subsection. This priority shall be limited as follows:

(1) To a lien which is the result of customary condominium assessments as defined herein, the amount of which shall not exceed the aggregate customary condominium assessment against the unit owner for the six-month period prior to the recording of the lien.

(2) With respect to a particular mortgage, to a lien recorded prior to: (a) the receipt by the association of a summons and complaint in an action to foreclose a mortgage on that unit; or (b) the filing with the proper county recording office of a lis pendens giving notice of an action to foreclose a mortgage on that unit.

(3) In the case of more than one association lien being filed, either because an association files more than one lien or multiple associations have filed liens, the total amount of the liens granted priority shall not be greater than the assessment for the six-month period specified in paragraph (1) of this subsection. Priority among multiple filings shall be determined by their date of recording with the earlier recorded liens having first use of the priority given herein.

(4) The priority granted to a lien pursuant to this subsection shall expire on the first day of the 60th month following the date of recording of an association's lien.

(5) A lien of an association shall not be granted priority over a prior recorded mortgage or mortgages under this subsection if a prior recorded lien of the association for unpaid assessments has obtained priority over the

same recorded mortgage or mortgages as provided in this subsection, for a period of 60 months from the date of recording of the lien granted priority.

(6) When recording a lien which may be granted priority pursuant to this act, an association shall notify, in writing, any holder of a first mortgage lien on the property of the filing of the association lien. An association which exercises a good faith effort but is unable to ascertain the identity of a holder of a prior recorded mortgage on the property will be deemed to be in substantial compliance with this paragraph.

For the purpose of this section, a "customary condominium assessment" shall mean an assessment for periodic payments, due the association for regular and usual operating and common area expenses pursuant to the association's annual budget and shall not include amounts for reserves for contingencies, nor shall it include any late charges, penalties, interest or any fees or costs for the collection or enforcement of the assessment or any lien arising from the assessment. The periodic payments due must be due monthly, or no less frequently than quarter-yearly, as may be acceptable to the Federal National Mortgage Association so as not to disqualify an otherwise superior mortgage on the condominium from purchase by the Federal National Mortgage Association as a first mortgage.

c. Upon any voluntary conveyance of a unit, the grantor and grantee of such unit shall be jointly and severally liable for all unpaid assessments pertaining to such unit duly made by the association or accrued up to the date of such conveyance without prejudice to the right of the grantee to recover from the grantor any amounts paid by the grantee, but the grantee shall be exclusively liable for those accruing while he is the unit owner.

d. Any unit owner or any purchaser of a unit prior to completion of a voluntary sale may require from the association a certificate showing the amount of unpaid assessments pertaining to such unit and the association shall provide such certificate within 10 days after request therefor. The holder of a mortgage or other lien on any unit may request a similar certificate with respect to such unit. Any person other than the unit owner at the time of issuance of any such certificate who relies upon such certificate shall be entitled to rely thereon and his liability shall be limited to the amounts set forth in such certificate.

e. If a mortgagee of a first mortgage of record or other purchaser of a unit obtains title to such unit as a result of foreclosure of the first mortgage, such acquirer of title, his successors and assigns shall not be liable for the share of common expenses or other assessments by the association pertaining to such unit or chargeable to the former unit owner which became due prior to acquisition of title as a result of the foreclosure. Any remaining unpaid share of common expenses and other assessments, except assessments derived from late fees or fines, shall be deemed to be common

expenses collectible from all of the remaining unit owners including such acquirer, his successors and assigns.

f. Liens for unpaid assessments may be foreclosed by suit brought in the name of the association in the same manner as a foreclosure of a mortgage on real property. The association shall have the power, unless prohibited by the master deed or bylaws to bid on the unit at foreclosure sale, and to acquire, hold, lease, mortgage and convey the same. Suit to recover a money judgment for unpaid assessments may be maintained without waiving the lien securing the same. Nothing herein shall alter the status or priority of municipal liens under R.S.54:5-1 et seq.

3. R.S.54:5-47 is amended to read as follows:

Certificate of sale; form and content.

54:5-47. The certificate shall be substantially in the following form:

"I, ..., collector of taxes of ..... (name of municipality), hereby certify that on ....., 19....., I sold to ..... for ..... dollars, the lands in the municipality described as ..... on the tax duplicate of the municipality, and assessed thereon to ..... as owner (followed by amplified description if desired). The amount of sale was made up of the following items (followed by the items, including interest and costs). The sale is subject to redemption on repayment of the amount of the sale, together with interest thereon at the rate of ..... per cent per annum from the date of sale, and the costs incurred by the purchaser. The sale is subject only to municipal liens accruing after ..... (insert date of last item of taxes or assessment for which sale is made).

"Witness my hand and seal this ..... day of ....., 19..... (Followed by acknowledgment)."

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

Right of redemption by owner or person having interest.

54:5-54. Except as hereinafter provided, the owner, his heirs, holder of any prior outstanding tax lien certificate, mortgagee, or occupant of land sold for municipal taxes, assessment for benefits pursuant to R.S.54:5-7 or other municipal charges, may redeem it at any time until the right to redeem has been cut off in the manner in this chapter set forth, by paying to the collector, or to the collector of delinquent taxes on lands of the municipality where the land is situate, for the use of the purchaser, his heirs or assigns, the amount required for redemption as hereinafter set forth.

5. R.S.54:5-55 is amended to read as follows:

Delivery of certificate of redemption; record.

54:5-55. The collecting officer on receiving payment in full shall execute and deliver to the person redeeming a certificate of redemption which may be recorded with the register of deeds, or if there is no register, with the county clerk. The county clerk or register, as the case may be, shall, on request, note on the record of the original certificate of sale a reference to the record of the certificate of redemption, and shall be entitled therefor to the same fees as provided respectively for the cancellation of mortgages and for the record of discharges thereof, or, at the option of the person redeeming, the collecting officer shall procure and deliver to the owner the certificate of sale receipted for cancellation by indorsement in the same manner required by law to satisfy or cancel a mortgage, whereupon the record of the certificate of sale shall be canceled by the county clerk or register, as the case may be, in the same manner and for the same fees as in the case of mortgages.

6. R.S.54:5-57 is amended to read as follows:

Notice to purchaser, payment of redemption moneys.

54:5-57. The collecting officer shall at once, on receipt of the redemption money, mail notice thereof to the purchaser, if his address can be ascertained, and shall pay all redemption moneys to him or his assigns on his surrender of the certificate of sale and compliance with the provisions of section 54:5-55 of this title.

7. R.S.54:5-112 is amended to read as follows:

Private sale of real estate acquired for delinquent taxes, assessments by municipality; recording of assignments, service on tax collector.

54:5-112. When a municipality has or shall have acquired title to real estate by reason of its having been struck off and sold to the municipality at a sale for delinquent taxes or assessments, the governing body thereof may, by resolution adopted by a majority thereof by roll call, sell such real estate at private sale to such person and for such sums, not less than the amount of municipal liens charged against the same, except as provided in subsection a. of section 38 of P.L.1996, c.62 (C.55:19-57), as shall seem to be to the best interest of the municipality. Upon the adoption of the resolution and the payment of the consideration as stated therein, the officers of the governing body authorized by resolution shall make, execute, acknowledge and deliver a deed without covenants to the purchaser, which deed shall vest in the purchaser all of the right, title and interest of the municipality in the real

estate therein described. The deed need not contain any recitals, except a statement of the actual consideration. Such sales shall not include real estate, title to which has been perfected by the municipality. Any and all further or additional assignments of the tax sale certificates shall be promptly recorded in the office of the county clerk or register of deeds, as the case may be, of the county wherein the real property is situate, and a photocopy of the recorded assignment shall be served upon the local tax collector by certified mail, return receipt requested. When assignments have not been recorded and served upon the tax collector, the tax collector and the municipality shall be held harmless for the payment of any redemption amounts to the holder of the tax sale certificate as appears on the records of the tax collector.

8. R.S.54:5-113 is amended to read as follows:

Private sale of certificate of tax sale by municipality; recording of assignments, service on tax collector.

54:5-113. When a municipality has or shall have acquired title to real estate by reason of its having been struck off and sold to the municipality at a sale for delinquent taxes and assessments, the governing body thereof may by resolution authorize a private sale of the certificate of tax sale therefor, together with subsequent liens thereon, for not less than the amount of liens charged against such real estate, except as provided in section 2 of P.L.1993, c.113 (C.54:5-113.1) and subsection a. of section 38 of P.L.1996, c.62 (C.55:19-57). The sale shall be made by assignment executed by such officers as may be designated in the resolution. When the total amount of the municipal liens shall, at the time of the proposed sale or assignment, exceed the assessed value of the real estate as of the date of the last sale thereof for unpaid taxes and assessments, the certificates, together with subsequent liens thereon, may be sold and assigned for a sum not less than such assessed value. Any and all further or additional assignments of the tax sale certificates shall be promptly recorded in the office of the county clerk or register of deeds, as the case may be, of the county wherein the real property is situate, and a photocopy of the recorded assignment shall be served upon the local tax collector by certified mail, return receipt requested. When assignments have not been recorded and served upon the tax collector, the tax collector and the municipality shall be held harmless for the payment of any redemption amounts to the holder of the tax sale certificate as appears on the records of the tax collector.

9. Section 4 of P.L.1993, c.325 (C.54:5-113.4) is amended to read as follows:

C.54:5-113.4 Pledge, transfer of tax sale certificates; assignments, recording.

4. Notwithstanding the provisions of any other law, rule or regulation to the contrary, a municipality may assign, pledge or transfer to the New Jersey Economic Development Authority tax sale certificates held by the municipality for property located within its boundaries, together with subsequent liens thereon, as collateral for any bonds or notes issued by the authority by or on behalf of the municipality on the same terms and conditions as set forth in section 2 of P.L.1993, c.113 (C.54:5-113.1) for any purposes permitted by law. For the purposes of this section "municipality" shall include municipalities acting jointly pursuant to section 2 of P.L.1993, c.113 (C.54:5-113.1). Any and all further or additional assignments of the tax sale certificates shall be promptly recorded in the office of the county clerk or register of deeds, as the case may be, of the county wherein the real property is situate, and a photocopy of the recorded assignment shall be served upon the local tax collector by certified mail, return receipt requested. When assignments have not been recorded and served upon the tax collector, the tax collector and the municipality shall be held harmless for the payment of any redemption amounts to the holder of the tax sale certificate as appears on the records of the tax collector.

10. Section 1 of P.L.1941, c.232 (C.54:5-114.1) is amended to read as follows:

C.54:5-114.1 Methods of sale of certificate of tax sale by municipality.

1. In addition to any method now provided by law the governing body of any municipality may sell any certificate of tax sale held by such municipality by one of the following methods, but such sale shall not affect or impair any municipal lien subsequent to the certificate of tax sale:

(a) At public sale to the highest bidder. Such public sale shall be held after public notice of the time and place of sale, stating the description of the several lots and parcels of land covered by the certificate of sale and the name of the owner of the land as contained in the collector's list, together with the total amount required for redemption including all subsequent municipal liens with interest and costs, and stating in substance that the respective certificates of sale, not including any municipal lien subsequent thereto, will be sold to the highest bidder at said public sale, subject to confirmation by the governing body at its next regular meeting after the sale. Copies of the notice shall be set up in five of the most public places in the municipality and a copy of the notice shall be published in a newspaper circulating in the municipality once in each of two calendar weeks preceding the calendar week containing the day appointed for the sale. When the owner's name appears in the list and his post-office address is

known, the collector shall mail to him at that address, postage prepaid, a copy of the notice, but failure to mail the notice shall not invalidate any proceeding hereunder. Such public sale may be adjourned once for a period not exceeding one week without readvertising; or

(b) The governing body may from time to time determine by resolution the certificates of tax sale held by such municipality which such municipality will agree to sell for an amount lower than the amount due on each such certificate of tax sale. After such determination the municipality shall give public notice set up in five of the most public places in such municipality, stating the description of the several lots and parcels of land covered by such certificate of sale and the name of the owner of the land as contained in the collector's list, together with the total amount required for redemption including all subsequent municipal liens with interest and costs, and stating in substance that the municipality will receive bids for any such certificate of sale, not including any municipal liens subsequent thereto, even though such bid be less than the amount due on such certificate of tax sale. Upon the receipt of any bid for any such certificate of sale, not including any municipal liens subsequent thereof, which the governing body may be inclined to accept, the governing body shall give public notice setting forth the amount of the bid for the certificate of sale, not including any municipal liens subsequent thereto, the description of the several lots and parcels of land covered by such certificate of sale, the name of the owner of the land as contained in the collector's list, and also the total amount which would otherwise be required for redemption, and stating in substance that the governing body will accept or reject such bid at a regular meeting of the governing body and setting forth the place, time and date of such regular meeting. A copy of this last-mentioned public notice shall be set up in five of the most public places in the municipality and a copy of the same shall be published in a newspaper circulating in the municipality at least once in the week preceding the date set for the regular meeting of the governing body at which meeting such bid will be passed upon. When the owner's name appears in the list and his post-office address is known, the collector shall mail to him at that address, postage prepaid, a copy of this last-mentioned notice, but failure to mail the notice shall not invalidate any proceeding hereunder. At the regular meeting of the governing body, as contained in said notice, the governing body may accept or reject any such bid as contained in such notice or may at such meeting accept or reject any higher bid which may then be made for said certificate of sale, not including any municipal liens subsequent thereto, by any person.

Any and all assignments of a tax sale certificate purchased pursuant to this section shall be promptly recorded in the office of the county clerk or register of deeds, as the case may be, of the county wherein the real property

is situate, and a photocopy of the recorded assignment shall be served upon the local tax collector by certified mail, return receipt requested. When assignments have not been recorded and served upon the tax collector, the tax collector and the municipality shall be held harmless for the payment of any redemption amounts to the holder of the tax sale certificate as appears on the records of the tax collector.

11. Section 1 of P.L.1943, c.149 (C.54:5-114.2) is amended to read as follows:

C.54:5-114.2 Sale of certificate of tax sale, liens by municipality.

1. The governing body of any municipality may sell any certificate of tax sale including all subsequent municipal liens held by such municipality by one of the following methods:

(a) At public sale to the highest bidder. Such sale shall be held after public notice of the time and place stating the description of the several lots and parcels of land covered by the certificate of sale, and the name of the owner of the land as contained in the collector's list, together with the total amount required for redemption including interest and costs to the date of sale and the amount of subsequent liens with interest, and stating in substance that the respective certificates of sale, including subsequent municipal liens will be sold to the highest bidder at said public sale subject to confirmation by the governing body at its next regular meeting after the sale. Copies of the notice shall be set up in five of the most public places in the municipality, and a copy of the notice shall be published in a newspaper circulating in the municipality once in each of two calendar weeks preceding the calendar week containing the day appointed for the sale. When the owner's name appears on the list and his post-office address is known, the collector shall mail to him at that address, postage prepaid, a copy of the notice, but failure to mail the notice shall not invalidate any proceedings hereunder. Such public sale may be adjourned once for a period not exceeding one month without readvertising; or

(b) The governing body may from time to time determine by resolution the certificates of tax sale including all subsequent liens held by such municipality which such municipality deems advisable to sell for an amount lower than the total amount due, together with interest and costs on the certificate of sale. After such determination the municipality shall give public notice set up in five of the most public places in such municipality, stating the description of the several lots and parcels of land covered by such certificate of sale and subsequent municipal liens and the name of the owner of the land as contained in the collector's list, together with the total amount required for redemption including all subsequent municipal liens with

interest and costs and stating in substance that the municipality will receive bids for any such certificate of tax sale and subsequent municipal liens, even though such bid be less than the total amount due on such certificate of tax sale including all subsequent liens plus interests and costs. Upon the receipt of any bid which the governing body may be inclined to accept, the governing body shall give public notice setting forth the amount of the bid for the certificate of tax sale including subsequent municipal liens together with interest and costs, the description of the several lots and parcels of land covered by such certificate of sale and subsequent municipal liens, the name of the owner of the land as contained in the collector's list and also the total amount which would otherwise be required for redemption to the date of proposed sale and stating in substance that the governing body will accept or reject such bid at a regular meeting of the governing body and setting forth the place, time and date of such regular meeting. A copy of this last-mentioned public notice shall be published in a newspaper circulating in the municipality at least once in the week preceding the date set for the regular meeting of the governing body at which meeting such bid will be passed on. When the owner's name appears in the list and his post-office address is known, the collector shall mail to him at that address, postage prepaid, a copy of this last-mentioned notice, but failure to mail the notice, shall not invalidate any proceeding hereunder. At the regular meeting of the governing body, as contained in said notice, the governing body may accept or reject any such bid as contained in such notice or may at such meeting accept or reject any higher bid which may then be made by any person for said certificate of sale, including subsequent municipal liens.

Any and all assignments of a tax sale certificate purchased pursuant to this section shall be promptly recorded in the office of the county clerk or register of deeds, as the case may be, of the county wherein the real property is situate, and a photocopy of the recorded assignment shall be served upon the local tax collector by certified mail, return receipt requested. When assignments have not been recorded and served upon the tax collector, the tax collector and the municipality shall be held harmless for the payment of any redemption amounts to the holder of the tax sale certificate as appears on the records of the tax collector.

12. Section 3 of P.L.1943, s.149 (C.54:5-114.4) is amended to read as follows:

C.54:5-114.4 Purchasers of tax sale certificates, liens; foreclosure, right of redemption, recording of final judgment; further, additional assignments recorded.

3. Any and all purchasers of the tax sale certificates and subsequent municipal liens purchased, as hereinabove described, must foreclose at their

own expense, the right of redemption, and record the final judgment in the county wherein the land is situate within two years from the date of the confirmation of the sale by the governing body. Any and all further or additional assignments of the tax sale certificates shall be promptly recorded in the office of the county clerk or register of deeds, as the case may be, of the county wherein the real property is situate, and a photocopy of the recorded assignment shall be served upon the local tax collector by certified mail, return receipt requested. When assignments have not been recorded and served upon the tax collector, the tax collector and the municipality shall be held harmless for the payment of any redemption amounts to the holder of the tax sale certificate as appears on the records of the tax collector.

13. This act shall take effect immediately.

Approved August 5, 1997.

CHAPTER 191

AN ACT establishing an osteoporosis prevention and education program in the Department of Health and Senior Services and supplementing Title 26 of the Revised Statutes.

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

C.26:2R-1 Short title.

1. This act shall be known and may be cited as the "Osteoporosis Prevention and Education Program Act."

C.26:2R-2 Definitions relative to "Osteoporosis Prevention and Education Program Act."

2. As used in this act:

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

"Council" means the Interagency Council on Osteoporosis established pursuant to this act.

"Department" means the Department of Health and Senior Services.

"Program" means the osteoporosis prevention and education program established pursuant to this act.

C.26:2R-3 Establishment of osteoporosis prevention and education program.

3. a. The Commissioner of Health and Senior Services shall establish an osteoporosis prevention and education program in the Department of Health

and Senior Services. The purpose of the program is to promote: public awareness of the causes of osteoporosis; options for prevention; the value of early detection; and possible treatments, including the benefits and risks of those treatments. The department may accept, for that purpose, any special grant of money, services, or property from the federal government or any of its agencies, or from any foundation, organization, or medical school.

b. The program shall include the following:

(1) Development of a public education and outreach campaign to promote osteoporosis prevention and education, including, but not limited to, the following subjects:

(a) The cause and nature of the disease;

(b) Risk factors;

(c) The role of hysterectomy;

(d) Prevention of osteoporosis, including nutrition, diet, and physical exercise;

(e) Diagnostic procedures and appropriate indications for their use;

(f) Hormone replacement, including the benefits and risks;

(g) Environmental safety and injury prevention; and

(h) Availability of osteoporosis diagnostic treatment services in the community.

(2) Development of educational materials to be made available for consumers, particularly targeted to high-risk groups, through local boards of health, physicians, other health care providers, including, but not limited to, health maintenance organizations, hospitals, and clinics, and women's organizations.

(3) Development of professional education programs for health care providers to assist them in understanding research findings and the subjects set forth in paragraph (1) of this subsection.

(4) Development and maintenance of a list of current providers of specialized services for the prevention and treatment of osteoporosis. Dissemination of the list shall be accompanied by a description of diagnostic procedures, appropriate indications for their use, and a cautionary statement about the current status of osteoporosis research, prevention, and treatment. The statement shall also indicate that the department does not license, certify, or in any other way approve osteoporosis programs or centers in this State.

C.26:2R-4 Establishment of Interagency Council on Osteoporosis.

4. There is established an Interagency Council on Osteoporosis in the department to advise the commissioner on the development and implementation of the program. The members of the council shall be appointed by the commissioner, and shall include the following: The Director of the

Division of Epidemiology, Environmental and Occupational Health Services and the Assistant Commissioner of Senior Affairs in the department and the Director of the Division on Women in the Department of Community Affairs, as ex officio members, and public members who are representatives of: persons with osteoporosis; women's health organizations; public health educators; experts in bone and osteoporosis research, prevention and treatment; and health care providers, including at least one radiologist, orthopedist, registered professional nurse, physical therapist and nutritionist. The members of the council shall serve without compensation and shall not be reimbursed for any expenses incurred by them in the performance of their duties.

C.26:2R-5 Report to Governor, Legislature.

5. The commissioner shall report to the Governor and the Legislature no later than 18 months after the effective date of this act, and annually thereafter, on the activities and accomplishments of the program.

C.26:2R-6 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 effectuate the purposes of this act.

7. This act shall take effect immediately.

Approved August 6, 1997.

CHAPTER 192

AN ACT concerning patient protections under health benefits plans, supplementing Titles 26, 17 and 34 of the Revised Statutes and Title 17B of the New Jersey Statutes, amending and supplementing P.L.1973, c.337 and amending P.L.1992, c.160.

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

C.26:2S-1 Short title.

1. This act shall be known and may be cited as the "Health Care Quality Act."

C.26:2S-2 Definitions relative to health care quality.

2. As used in sections 2 through 19 of this act:

"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.

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

"Contract holder" means an employer or organization that purchases a contract for services.

"Covered person" means a person on whose behalf a carrier offering the plan is obligated to pay benefits or provide services pursuant to the health benefits plan.

"Covered service" means a health care service provided to a covered person under a health benefits plan for which the carrier is obligated to pay benefits or provide services.

"Department" means the Department of Health and Senior Services.

"Health benefits plan" means a benefits plan which pays or provides hospital and medical expense benefits for covered services, and is delivered or issued for delivery in this State by or through a carrier. Health benefits plan includes, but is not limited to, Medicare supplement coverage and risk contracts to the extent not otherwise prohibited by federal law. For the purposes of this act, health benefits plan shall not include the following plans, policies or contracts: accident only, credit, disability, long-term care, CHAMPUS supplement coverage, coverage arising out of a workers' compensation or similar law, automobile medical payment insurance, personal injury protection insurance issued pursuant to P.L.1972, c.70 (C.39:6A-1 et seq.) or hospital confinement indemnity coverage.

"Health care provider" means an individual or entity which, acting within the scope of its licensure or certification, provides a covered service defined by the health benefits plan. Health care provider includes, but is not limited to, a physician and other health care professionals licensed pursuant to Title 45 of the Revised Statutes, and a hospital and other health care facilities licensed pursuant to Title 26 of the Revised Statutes.

"Independent utilization review organization" means an independent entity comprised of physicians and other health care professionals who are representative of the active practitioners in the area in which the organization will operate and which is under contract with the department to provide medical necessity or appropriateness of services appeal reviews pursuant to this act.

"Managed care plan" means a health benefits plan that integrates the financing and delivery of appropriate health care services to covered persons by arrangements with participating providers, who are selected to participate on the basis of explicit standards, to furnish a comprehensive set of health care services and financial incentives for covered persons to use the participating providers and procedures provided for in the plan.

"Subscriber" means, in the case of a group contract, a person whose employment or other status, except family status, is the basis for eligibility for enrollment by the carrier or, in the case of an individual contract, the person in whose name the contract is issued.

"Utilization management" means a system for reviewing the appropriate and efficient allocation of health care services under a health benefits plan according to specified guidelines, in order to recommend or determine whether, or to what extent, a health care service given or proposed to be given to a covered person should or will be reimbursed, covered, paid for, or otherwise provided under the health benefits plan. The system may include: preadmission certification, the application of practice guidelines, continued stay review, discharge planning, preauthorization of ambulatory care procedures and retrospective review.

C.26:2S-3 Form to be filed by carrier; minimum information required.

3. a. A carrier which offers a health benefits plan to residents of this State on the effective date of this act, shall file a form, as prescribed by the commissioner, with the department within 90 days of the effective date of this act and file a copy of the form with the Department of Banking and Insurance. A carrier authorized to issue health benefits plans in this State after the effective date of this act shall file a form with the department at least 30 days prior to the date the carrier will begin to offer a health benefits plan to residents of this State. The carrier shall file a copy of the form with the Department of Banking and Insurance. A carrier shall notify the department within 10 business days of any change in information provided on the form.

b. The commissioner shall establish a form for carriers which shall request, at a minimum:

(1) the official address and telephone number of the place of business of the carrier; and

(2) a description of the carrier's internal patient appeals process available to covered persons to contest a denial, reduction or termination of benefits, if any.

c. A health maintenance organization which holds a certificate of authority pursuant to P.L.1973, c.337 (C.26:2J-1 et seq.) shall be exempt from the filing requirements of this section but shall comply with the provisions of this act.

A health maintenance organization shall be required to comply with the provisions of P.L.1973, c.337 (C.26:2J-1 et seq.) and any rules and regulations adopted pursuant thereto, except that in the event that the provisions of this act conflict with the provisions of P.L.1973, c.337, the provisions of this act shall supersede the provisions of P.L.1973, c.337.

d. A carrier which issues health benefits plans utilizing a selective contracting arrangement pursuant to section 22 of P.L.1993, c.162 (C.17B:27A-54) shall be required to comply with the provisions of section 22 of P.L.1993, c.162 and any rules and regulations adopted pursuant thereto, except that in the event that the provisions of this act conflict with the provisions of section 22 of P.L.1993, c.162, the provisions of this act shall supersede the provisions of section 22 of P.L.1993, c.162.

C.26:2S-4 Disclosure of terms and conditions in writing to subscriber.

4. A carrier shall disclose in writing to a subscriber, in a manner consistent with the "Life and Health Insurance Policy Language Simplification Act," P.L.1979, c.167 (C.17B:17-17 et seq.), the terms and conditions of its health benefits plan, and shall promptly provide the subscriber with written notification of any change in the terms and conditions prior to the effective date of the change. The carrier shall provide the required information at the time of enrollment and upon request thereafter.

a. The information required to be disclosed pursuant to this section shall include a description of:

(1) covered services and benefits to which the subscriber or other covered person is entitled;

(2) restrictions or limitations on covered services and benefits, including, but not limited to, physical and occupational therapy services, clinical laboratory tests, hospital and surgical procedures, prescription drugs and biologics, radiological examinations and behavioral health services;

(3) financial responsibility of the covered person, including copayments and deductibles;

(4) prior authorization and any other review requirements with respect to accessing covered services;

(5) where and in what manner covered services may be obtained;

(6) changes in covered services or benefits, including any addition, reduction or elimination of specific services or benefits;

(7) the covered person's right to appeal and the procedure for initiating an appeal of a utilization management decision made by or on behalf of the carrier with respect to the denial, reduction or termination of a health care benefit or the denial of payment for a health care service;

(8) the procedure to initiate an appeal through the Independent Health Care Appeals Program established pursuant to this act; and

(9) such other information as the commissioner shall require.

b. The carrier shall file the information required pursuant to this section with the department.

C.26:2S-5 Additional disclosure requirements.

5. a. In addition to the disclosure requirements provided in section 4 of this act, a carrier which offers a managed care plan shall disclose to a subscriber, in writing, in a manner consistent with the "Life and Health Insurance Policy Language Simplification Act," P.L.1979, c.167 (C.17B:17-17 et seq.), the following information at the time of enrollment and annually thereafter:

(1) A current participating provider directory providing information on a covered person's access to primary care physicians and specialists, including the number of available participating physicians, by provider category or specialty and by county. The directory shall include the professional office address of a primary care physician and any hospital affiliation the primary care physician has. The directory shall also provide information about participating hospitals.

The carrier shall promptly notify each covered person prior to the termination or withdrawal from the carrier's provider network of the covered person's primary care physician;

(2) General information about the financial incentives between participating physicians under contract with the carrier and other participating health care providers and facilities to which the participating physicians refer their managed care patients;

(3) The percentage of the carrier's managed care plan's network physicians who are board certified;

(4) The carrier's managed care plan's standard for customary waiting times for appointments for urgent and routine care; and

(5) The availability through the department, upon request of a member of the general public, of independent consumer satisfaction survey results and an analysis of quality outcomes of health care services of managed care plans in the State.

The carrier shall provide a prospective subscriber with information about the provider network, including hospital affiliations, and other information specified in this subsection, upon request.

b. Upon request of a covered person, a carrier shall promptly inform the person:

(1) whether a particular network physician is board certified; and

(2) whether a particular network physician is currently accepting new patients.

c. The carrier shall file the information required pursuant to this section with the department.

C.26:2S-6 Designation of licensed physician as medical director for managed care.

6. a. A carrier which offers a managed care plan or uses a utilization management system in any of its health benefits plans shall designate a licensed physician to serve as medical director. The medical director, or his designee, shall be designated to serve as the medical director for medical services provided to covered persons in the State and shall be licensed to practice medicine in New Jersey.

The medical director shall be responsible for treatment policies, protocols, quality assurance activities and utilization management decisions of the carrier. The treatment policies, protocols, quality assurance program and utilization management decisions of the carrier shall be based on generally accepted standards of health care practice. The quality assurance and utilization management programs shall be in accordance with standards adopted by regulation of the department pursuant to this act.

b. The medical director shall ensure that:

(1) Any utilization management decision to deny, reduce or terminate a health care benefit or to deny payment for a health care service, because that service is not medically necessary, shall be made by a physician. In the case of a health care service prescribed or provided by a dentist, the decision shall be made by a dentist;

(2) A utilization management decision shall not retrospectively deny coverage for health care services provided to a covered person when prior approval has been obtained from the carrier for those services, unless the approval was based upon fraudulent information submitted by the covered person or the participating provider;

(3) In the case of a managed care plan, a procedure is implemented whereby participating physicians and dentists have an opportunity to review and comment on all medical and surgical and dental protocols, respectively, of the carrier;

(4) The utilization management program is available on a 24-hour basis to respond to authorization requests for emergency and urgent services and is available, at a minimum, during normal working hours for inquiries and authorization requests for nonurgent health care services; and

(5) In the case of a managed care plan, a covered person is permitted to: choose or change a primary care physician from among participating providers in the provider network, and, when appropriate, choose a specialist from among participating network providers following an authorized referral, if required by the carrier, and subject to the ability of the specialist to accept new patients.

C.26:2S-7 Review of application for participation.

7. Each application for participation by a licensed health care professional that is submitted to a carrier which offers a managed care plan shall be reviewed by a committee of the carrier that includes appropriate representation of health care professionals with knowledge in the applicant's scope of professional practice.

C.26:2S-8 Establishment of policy governing removal of health care providers.

8. A carrier which offers a managed care plan shall establish a policy governing removal of health care providers from the provider network which includes the following:

a. The carrier shall inform a participating health care provider of the carrier's removal policy at the time the carrier contracts with the health care provider to participate in the provider network, and at each renewal thereof.

b. If a licensed health care professional's participation will be terminated prior to the date of the termination of the contract, the carrier shall provide the health care professional with 90 days' written notice of the termination and notice of a right to a hearing. If requested by the health care professional, the carrier shall provide the reasons for the termination in writing, and shall hold a hearing within 30 days of the date of the request. The hearing shall be conducted by a panel appointed by the carrier, which panel shall be comprised of a minimum of three persons, at least one of whom is a clinical peer in the same discipline and the same or similar specialty as the health care professional being reviewed. The panel shall make a decision that: (1) the health care professional shall be terminated, or (2) the health care professional shall be reinstated or provisionally reinstated, subject to conditions set forth by the panel. The panel's determination shall be in writing and shall be made in a timely manner. Participation in this process shall not be deemed to be an abrogation of the health care professional's legal rights.

The notice required and opportunity for a hearing pursuant to this subsection shall not apply in those cases when the contract expires and is not renewed, the termination is for breach of contract, in the opinion of the medical director, the health care professional represents an imminent danger to an individual patient or the public health, safety or welfare, or there is a determination of fraud.

c. If the carrier finds that a health care professional represents an imminent danger to an individual patient or to the public health, safety or welfare, the medical director shall promptly notify the appropriate professional State licensing board. Notification to the State Board of Medical Examiners shall be subject to the provisions of section 5 of P.L.1989, c.300 (C.45:9-19.5).

C.26:2S-9 Contract terms concerning appropriate medical care.

9. The contract between a participating health care provider and a carrier which offers a managed care plan:

a. Shall state that the health care provider shall not be penalized or the contract terminated by the carrier because the health care provider acts as an advocate for the patient in seeking appropriate, medically necessary health care services;

b. Shall not provide financial incentives to the health care provider for withholding covered health care services that are medically necessary as determined in accordance with section 6 of this act, except that nothing in this subsection shall be construed to limit the use of capitated payment arrangements between a carrier and a health care provider; and

c. Shall protect the ability of a health care provider to communicate openly with a patient about all appropriate diagnostic testing and treatment options.

C.26:2S-10 Offer of point-of-service plan, terms.

10. a. A carrier which offers a managed care plan shall offer a point-of-service plan to every contract holder which would allow a covered person to receive covered services from out-of-network health care providers without having to obtain a referral or prior authorization from the carrier. The point-of-service plan may require that a subscriber pay a higher deductible or copayment and higher premium for the plan, pursuant to limits established by the department, in consultation with the Department of Banking and Insurance, by regulation.

b. A carrier shall provide each subscriber in a plan whose contract holder elects the point-of-service plan, with the opportunity, at the time of enrollment and during the annual open enrollment period, to enroll in the point-of-service plan option. The carrier shall provide written notice of the point-of-service plan to each subscriber in a plan whose contract holder elects the point-of-service plan and shall include in that notice a detailed explanation of the financial costs to be incurred by a subscriber who selects that plan.

c. The requirements of this section shall not apply to a carrier contract which offers a managed care plan that provides health care services to Medicaid recipients pursuant to P.L.1968, c.413 (C.30:4D-1 et seq.), or a federally qualified, nonprofit health maintenance organization.

d. A carrier which offers a managed care plan utilizing a selective contracting arrangement approved in accordance with N.J.A.C.11:4-37.1 et seq. that provides benefits for out-of-network providers shall be deemed to be in compliance with this section.

e. A health maintenance organization affiliated with an insurance company authorized to issue health benefits plans in this State that offers point-of-service benefits exclusively through a point-of-service plan provided by the affiliated insurance company using a selective contracting arrangement approved in accordance with N.J.A.C.11:4-37.1 et seq., shall be deemed to be in compliance with this section if the point-of-service plan is offered pursuant to the requirements of subsections a. and b.of this section.

C.26:2S-11 Independent Health Care Appeals Program.

11. There is established the Independent Health Care Appeals Program in the department.

The purpose of the appeals program is to provide an independent medical necessity or appropriateness of services review of final decisions by carriers to deny, reduce or terminate benefits in the event the final decision is contested by the covered person. The appeal review shall not include any decisions regarding benefits not covered by the covered person's health benefits plan.

a. A covered person may apply to the Independent Health Care Appeals Program for a review of a decision to deny, reduce or terminate a benefit if the person has already completed the carrier's appeals process, if any, and the person contests the final decision by the carrier. The person shall apply to the department within 60 days of the date the final decision was issued by the carrier, in a manner determined by the commissioner.

b. As part of the application, the covered person shall provide the department with:

(1) The name and business address of the carrier;

(2) A brief description of the covered person's medical condition for which benefits were denied, reduced or terminated;

(3) A copy of any information provided by the carrier regarding its decision to deny, reduce or terminate the benefit; and

(4) A written consent to obtain any necessary medical records from the carrier and, in the case of a carrier which offers a managed care plan, any other out-of-network physician the person may have consulted on the matter.

c. The covered person shall pay the department an application processing fee of $25, except that the commissioner may reduce or waive the fee in the case of financial hardship.

C.26:2S-12 Contract to conduct appeal reviews; procedures.

12. a. The commissioner shall contract with one or more independent utilization review organizations in the State that meet the requirements of this act to conduct the appeal reviews. The independent utilization review

organization shall be independent of any carrier. The commissioner may establish additional requirements, including conflict of interest standards, consistent with the purposes of this act that an organization shall meet in order to qualify for participation in the Independent Health Care Appeals Program.

b. The commissioner shall establish procedures for transmitting the completed application for an appeal review to the independent utilization review organization.

c. The independent utilization review organization shall promptly review the pertinent medical records of the covered person to determine the appropriate, medically necessary health care services the person should receive, based on applicable, generally accepted practice guidelines developed by the federal government, national or professional medical societies, boards or associations and any applicable clinical protocols or practice guidelines developed by the carrier. The organization shall complete its review and make its determination within 90 days of receipt of a completed application for an appeal review or within less time, as prescribed by the commissioner.

Upon completion of the review, the organization shall state its findings in writing and make a determination of whether the carrier's denial, reduction or termination of benefits deprived the covered person of medically necessary services covered by the person's health benefits plan. If the organization determines that the denial, reduction or termination of benefits deprived the person of medically necessary covered services, it shall make a recommendation to the covered person and carrier regarding the appropriate, medically necessary health care services the person should receive. Upon receiving the organization's recommendation, the carrier shall promptly notify the covered person and the commissioner about what action the carrier will take with respect to the recommendation. If the covered person is not in agreement with the organization's findings and recommendation or the carrier's action on the recommendation, the person may seek the desired health care services outside of his health benefits plan, at his own expense.

d. If the commissioner determines that a carrier exhibits a pattern of noncompliance with the findings and recommendations of an independent utilization review organization, the commissioner shall review the carrier's utilization management program to ensure that the carrier is in compliance with all relevant State laws and regulations, including utilization management standards. If the commissioner determines that the carrier is in violation of patient rights and other applicable regulations, the commissioner may impose such penalties and sanctions on the carrier, as provided by regulation, as the commissioner deems appropriate.

e. The commissioner shall require the independent utilization review organization to establish procedures to provide for an expedited review of a carrier's denial, reduction or termination of a benefit decision when a delay in receipt of the service could seriously jeopardize the health or well-being of the covered person.

f. The covered person's medical records provided to the Independent Health Care Appeals Program and the independent utilization review organization and the findings and recommendations of the organization made pursuant to this act are confidential and shall be used only by the department, the organization and the affected carrier for the purposes of this act. The medical records and findings and recommendations shall not otherwise be divulged or made public so as to disclose the identity of any person to whom they relate, and shall not be included under materials available to public inspection pursuant to P.L.1963, c.73 (C.47:1A-1 et seq.).

g. The commissioner shall establish a reasonable, per case reimbursement schedule for the independent utilization review organization.

h. The cost of the appeal review shall be borne by the carrier pursuant to a schedule of fees established by the commissioner.

C.26:2S-13 Immunity from civil liability for participants in Independent Health Care Appeals Program.

13. a. An employee of the department who participates in the Independent Health Care Appeals Program shall not be liable in any action for damages to any person for any action taken within the scope of his function in the Independent Health Care Appeals Program. The Attorney General shall defend the person in any civil suit and the State shall provide indemnification for any damages awarded.

b. The carrier that is the subject of a review shall not be liable in any action for damages to any person for any action taken to implement a recommendation of the independent utilization review organization pursuant to this act.

C.26:2S-14 Report to Legislature, Governor.

14. The commissioner shall report every six months to the Senate and General Assembly standing reference committees on health and insurance and to the Governor on the status of the Independent Health Care Appeals Program. The report shall include a summary of the number of reviews conducted and medical specialties affected, a summary of the findings and recommendations made by the independent utilization review organization, any actions taken by the commissioner against a carrier pursuant to subsection d. of section 12 of this act and any other information and recommendations deemed appropriate by the commissioner.

C.26:2S-15 Compliance with department reporting requirements.

15. a. A carrier which offers a managed care plan shall comply with department reporting requirements with respect to quality outcomes measures of health care services and independent consumer satisfaction surveys.

b. The department shall make available to members of the general public, upon request, the results of the independent consumer satisfaction survey and the analysis of quality outcomes measures of health care services provided by managed care plans in the State, prepared by the department.

C.26:2S-16 Violations, penalties.

16. a. A carrier that violates any provision of this act shall be liable to a civil penalty of not less than $250 and not greater than $10,000 for each day that the carrier is in violation of the act if reasonable notice in writing is given of the intent to levy the penalty and, at the discretion of the commissioner, the carrier has 30 days, or such additional time as the commissioner shall determine to be reasonable, to remedy the condition which gave rise to the violation, and fails to do so within the time allowed. The penalty shall be collected by the commissioner in the name of the State in a summary proceeding in accordance with "the penalty enforcement law," N.J.S.2A:58-1 et seq.

b. (1) The commissioner or the Commissioner of Banking and Insurance may issue an order directing a carrier or a representative of a carrier to cease and desist from engaging in any act or practice in violation of the provisions of this act.

(2) Within 20 days after service of the order of cease and desist, the respondent may request a hearing on the question of whether acts or practices in violation of this act have occurred. The hearing shall be conducted pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.) and judicial review shall be available as provided therein.

c. In the case of any violation of the provisions of this act, if the commissioner elects not to issue a cease and desist order, or in the event of noncompliance with a cease and desist order issued pursuant to subsection b. of this section, the commissioner may institute a proceeding to obtain injunctive relief in accordance with the applicable Court Rules.

C26:2S-17 Recommendations for legislative action.

17. The commissioner and the Commissioner of Banking and Insurance shall develop recommendations for legislative action to address the issue of regulating health care or managed care entities that seek to contract directly

with employers or other purchasers on a risk-assuming basis. The recommendations shall identify the type of health care or managed care entities and the scope of activities of these entities that should be subject to regulation by the State. In preparing the recommendations, the commissioners shall consider the current State statutory and regulatory requirements for health maintenance organizations and insurance companies issuing health benefits plans in the State, as well as federal legislation and laws and court rulings to determine how these health care and managed care entities that assume risk should be regulated.

The commissioners shall report their recommendations to the Senate and General Assembly standing reference committees on health and insurance and to the Governor within one year of the effective date of this act.

C.34:11A-14 Notification to employees by employers with self-funded health plans.

18. An employer who provides a comprehensive self-funded health benefits plan to his employees or their dependents in this State shall annually, and upon request of an employee at other times during the year, notify his employees that they are covered by a self-insured plan that is not subject to regulation by the State of New Jersey, and specify which mandated health insurance benefits, established by statute, are not covered by the self-insured plan. The Commissioner of Health and Senior Services shall notify the Commissioner of Labor of any health insurance mandates enacted into law, and the Commissioner of Labor shall notify employers in a timely manner of the health insurance mandates subject to the provisions of this section.

C.26-2S-18 Enforcement; rules, regulations.

19. The commissioner shall enforce the provisions of this act.

Within six months of the effective date of this act, in consultation with the Commissioner of Banking and Insurance, the commissioner 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 act. The regulations shall establish consumer protection and quality standards governing carriers which offer a managed care plan or use a utilization management system that are consistent with the standards governing health maintenance organizations in the State.

The regulations shall include standards for: a quality management program; provider participation in a network; adequacy of the provider network with respect to the scope and type of health care benefits provided by the carrier, the geographic service area covered by the provider network and access to medical specialists, when appropriate; utilization management as required in this act; a covered person complaint system; a patient appeals

system as required in this act; the establishment of consumer rights of covered persons; carrier disclosure as required in this act; and outcomes and data reporting requirements as required in this act.

C.26:2J-18.1 Examination of HMO by Commissioner of Banking and Insurance.

20. The Commissioner of Banking and Insurance may conduct an examination of a health maintenance organization as often as he deems necessary in order to protect the interests of providers, contract holders, members, and the residents of this State. An organization shall make its relevant books and records available for examination by the Commissioner of Banking and Insurance, and retain its records in accordance with a schedule established by the Commissioner of Banking and Insurance by regulation. The reasonable expenses of the examination shall be borne by the organization being examined. In lieu of such examination, the Commissioner of Banking and Insurance may accept the report of an examination made by the commissioner of another state.

C.17B:26-2.1n Applicability of Health Care Quality Act.

21. Notwithstanding the provisions of chapter 26 of Title 17B of the New Jersey Statutes to the contrary, no policy shall be delivered, issued, executed or renewed on or after the effective date of this act unless the policy meets the requirements of P.L.1997, c.192 (C.26:2S-1 et al.) and regulations adopted thereto. The provisions of this section shall apply to all policies in which the insurer has reserved the right to change the premium.

C.17B:27-46.1q Applicability of Health Care Quality Act.

22. Notwithstanding the provisions of chapter 27 of Title 17B of the New Jersey Statutes to the contrary, no policy shall be delivered, issued, executed or renewed on or after the effective date of this act unless the policy meets the requirements of P.L.1997, c.192 (C.26:2S-1 et al.) and regulations adopted thereto. The provisions of this section shall apply to all policies in which the insurer has reserved the right to change the premium.

C.17B:27A-19.5 Applicability of Health Care Quality Act.

23. Notwithstanding the provisions of P.L.1992, c.162 (C.17B:27A-17 et seq.) to the contrary, no policy or contract shall be delivered, issued, executed or renewed on or after the effective date of this act unless the policy or contract meets the requirements of P.L.1997, c.192 (C.26:2S-1 et al.) and regulations adopted thereto. The provisions of this section shall apply to all policies or contracts in which the carrier has reserved the right to change the premium.

C.17B:27A-7.3 Applicability of Health Care Quality Act.

24. Notwithstanding the provisions of P.L.1992, c.161 (C.17B:27A-2 et seq.) to the contrary, no policy or contract shall be delivered, issued, executed or renewed on or after the effective date of this act unless the policy or contract meets the requirements of P.L.1997, c.192 (C.26:2S-1 et al.) and regulations adopted thereto. The provisions of this section shall apply to all policies or contracts in which the carrier has reserved the right to change the premium.

C.17:48-6r Applicability of Health Care Quality Act.

25. Notwithstanding the provisions of P.L.1938, c.366 (C.17:48-1 et seq.) to the contrary, no individual or group contract shall be delivered, issued, executed or renewed on or after the effective date of this act unless the contract meets the requirements of P.L.1997, c.192 (C.26:2S-1 et al.) and regulations adopted thereto. The provisions of this section shall apply to all contracts in which the hospital service corporation has reserved the right to change the premium.

C.17:48A-7p Applicability of Health Care Quality Act.

26. Notwithstanding the provisions of P.L.1940, c.74 (C.17:48A-1 et seq.) to the contrary, no individual or group contract shall be delivered, issued, executed or renewed on or after the effective date of this act unless the contract meets the requirements of P.L.1997, c.192 (C.26:2S-1 et al.) and regulations adopted thereto. The provisions of this section shall apply to all contracts in which the medical service corporation has reserved the right to change the premium.

C.17:48E-35.15 Applicability of Health Care Quality Act.

27. Notwithstanding the provisions of P.L.1985, c.236 (C.17:48E-1 et seq.) to the contrary, no individual or group contract shall be delivered, issued, executed or renewed on or after the effective date of this act unless the contract meets the requirements of P.L.1997, c.192 (C.26:2S-1 et al.) and regulations adopted thereto. The provisions of this section shall apply to all contracts in which the health service corporation has reserved the right to change the premium.

C.26:2J-4.16 Applicability of Health Care Quality Act.

28. Notwithstanding the provisions of P.L.1973, c.337 (C.26:2J-1 et seq.) to the contrary, a certificate of authority to establish and operate a health maintenance organization in this State shall not be issued or continued on or after the effective date of this act unless the health maintenance organization meets the requirements of P.L.1997, c.192 (C.26:2S-1 et al.) and regulations adopted thereto. 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.

29. Section 24 of P.L.1973, c. 337 (C.26:2J-24) is amended to read as follows:

C.26:2J-24 Administrative penalty; enforcement.

24. a. The commissioner may, in lieu of suspension or revocation of a certificate of authority under section 18 hereof, levy an administrative penalty in an amount not less than $250 nor more than $10,000 for each day that the health maintenance organization is in violation of P.L.1973, c.337 (C.26:2J-1 et seq.), if reasonable notice in writing is given of the intent to levy the penalty and, at the discretion of the commissioner, the health maintenance organization has 30 days, or such additional time as the commissioner shall determine to be reasonable, to remedy the conditions which gave rise to the violation, and fails to do so within the time allowed. Any such penalty may be recovered in a summary proceeding pursuant to "the penalty enforcement law," N.J.S.2A:58-1 et seq.

b. Any person who violates this act is a disorderly person and shall be prosecuted and punished pursuant to the "disorderly persons law," subtitle 12 of Title 2A of the New Jersey Statutes.

c. (1) If the commissioner or the Commissioner of Banking and Insurance shall for any reason have cause to believe that any violation of this act has occurred or is threatened, the commissioner or Commissioner of Banking and Insurance may give notice to the health maintenance organization and to the representatives, or other persons who appear to be involved in such suspected violation, to arrange a conference with the alleged violators or their authorized representatives for the purpose of attempting to ascertain the facts relating to such suspected violation, and, in the event it appears that any violation has occurred or is threatened, to arrive at an adequate and effective means of correcting or preventing such violation.

(2) Proceedings under this subsection c. shall not be governed by any formal procedural requirements, and may be conducted in such manner as the commissioner or the Commissioner of Banking and Insurance may deem appropriate under the circumstances.

d. (1) The commissioner or the Commissioner of Banking and Insurance may issue an order directing a health maintenance organization or a representative of a health maintenance organization to cease and desist from engaging in any act or practice in violation of the provisions of this act.

(2) Within 20 days after service of the order of cease and desist, the respondent may request a hearing on the question of whether acts or practices in violation of this act have occurred. Such hearings shall be

conducted pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.) and judicial review shall be available as provided therein.

e. In the case of any violation of the provisions of this act, if the commissioner elects not to issue a cease and desist order, or in the event of noncompliance with a cease and desist order issued pursuant to subsection d. of this section, the commissioner may institute a proceeding to obtain injunctive relief, in accordance with the applicable Court Rules.

30. Section 12 of P.L.1992, c.160 (C.26:2H-18.62) is amended to read as follows:

C.26:2H-18.62 Use of hospital and other health care initiatives monies.

12. a. The monies in the hospital and other health care initiatives account are appropriated for the establishment of a program which will assist hospitals and other health care facilities in the underwriting of innovative and necessary health care services and provide funding for public or private health care programs, which may include any program funded pursuant to section 25 of P.L.1991, c.187 (C.26:2H-18.47), managed care regulation and oversight pursuant to P.L.1997, c.192 (C.26:2S-1 et al.), and for such other programs that the commissioner deems necessary or appropriate to carry out the provisions of section 5 of P.L.1992, c.160 (C.26:2H-18.55).

The commissioner shall develop equitable regulations regarding eligibility for and access to the financial assistance, within six months of the effective date of this act.

b. Such funds as may be necessary shall be transferred by the department from the fund to the Division of Medical Assistance and Health Services in the Department of Human Services for payment to disproportionate share hospitals.

c. Notwithstanding any law to the contrary, each hospital whose revenue cap was established by the Hospital Rate Setting Commission in 1993 pursuant to P.L.1992, c.160 (C.26:2H-18.51 et al.) shall pay.53% of its total operating revenue to the department for deposit in the Health Care Subsidy Fund, except that the amount to be paid by a hospital in a given year shall be prorated by the department so as not to exceed the $40 million limit set forth in this subsection. The hospital shall make monthly payments to the department beginning July 1, 1993, except that the total amount paid into the Health Care Subsidy Fund plus interest shall not exceed $40 million per year. The commissioner shall determine the manner in which the payments shall be made.

For the purposes of this subsection, "total operating revenue" shall be defined by the department in accordance with financial reporting requirements established pursuant to N.J.A.C.8:31B-3.3.

d. The monies paid by the hospitals shall be credited to the hospital and other health care initiatives account.

31. This act shall take effect on the 180th day after enactment.

Approved August 8, 1997.

CHAPTER 193

AN ACT concerning ketamine hydrochloride and amending P.L.1970, c.226.

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

1. 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 commissioner 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 commissioner pursuant to section 3d., 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) Methyprylon

(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 commissioner may by regulation except any compound, mixture, or preparation containing any stimulant or depressant substance listed in subsections a. and b. 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.

2. This act shall take effect immediately.

Approved August 8, 1997.

CHAPTER 194

AN ACT concerning certain dangerous substances and certain sexual assaults and amending and supplementing various sections of the statutory law.

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

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

Sexual assault.

2C:14-2. Sexual assault. a. An actor is guilty of aggravated sexual assault if he commits an act of sexual penetration with another person under any one of the following circumstances:

(1) The victim is less than 13 years old;

(2) The victim is at least 13 but less than 16 years old; and

(a) The actor is related to the victim by blood or affinity to the third degree, or

(b) The actor has supervisory or disciplinary power over the victim by virtue of the actor's legal, professional, or occupational status, or

(c) The actor is a foster parent, a guardian, or stands in loco parentis within the household;

(3) The act is committed during the commission, or attempted commission, whether alone or with one or more other persons, of robbery, kidnapping, homicide, aggravated assault on another, burglary, arson or criminal escape;

(4) The actor is armed with a weapon or any object fashioned in such a manner as to lead the victim to reasonably believe it to be a weapon and threatens by word or gesture to use the weapon or object;

(5) The actor is aided or abetted by one or more other persons and the actor uses physical force or coercion;

(6) The actor uses physical force or coercion and severe personal injury is sustained by the victim;

(7) The victim is one whom the actor knew or should have known was physically helpless, mentally defective or mentally incapacitated.

Aggravated sexual assault is a crime of the first degree.

b. An actor is guilty of sexual assault if he commits an act of sexual contact with a victim who is less than 13 years old and the actor is at least four years older than the victim.

c. An actor is guilty of sexual assault if he commits an act of sexual penetration with another person under any one of the following circumstances:

(1) The actor uses physical force or coercion, but the victim does not sustain severe personal injury;

(2) The victim is on probation or parole, or is detained in a hospital, prison or other institution and the actor has supervisory or disciplinary power over the victim by virtue of the actor's legal, professional or occupational status;

(3) The victim is at least 16 but less than 18 years old and:

(a) The actor is related to the victim by blood or affinity to the third degree; or

(b) The actor has supervisory or disciplinary power over the victim; or

(c) The actor is a foster parent, a guardian, or stands in loco parentis within the household;

(4) The victim is at least 13 but less than 16 years old and the actor is at least four years older than the victim.

Sexual assault is a crime of the second degree.

2. N.J.S.2C:14-3 is amended to read as follows:

Aggravated criminal sexual contact; criminal sexual contact.

a. An actor is guilty of aggravated criminal sexual contact if he commits an act of sexual contact with the victim under any of the circumstances set forth in 2C:14-2a. (2) through (7).

Aggravated criminal sexual contact is a crime of the third degree.

b. An actor is guilty of criminal sexual contact if he commits an act of sexual contact with the victim under any of the circumstances set forth in section 2C:14-2c. (1) through (4).

Criminal sexual contact is a crime of the fourth degree.

C.2C:35-5.2 Manufacturing, etc. gamma hydroxybutyrate; penalties.

3. a. Except as authorized by P.L.1970, c.226 (C.24:21-1 et seq.), it shall be a crime of the second degree for any person knowingly or purposely to manufacture, distribute or dispense, or to possess or have under his control with intent to manufacture, distribute or dispense gamma hydroxybutyrate.

b. Notwithstanding the provisions of N.J.S.2C:43-3 or any other law, a fine of up to $150,000.00 may be imposed upon a person who violates this section.

C.2C:35-10.2 Possession, etc. of gamma hydroxybutyrate; penalties.

4. a. It is a crime of the third degree for any person, knowingly or purposely, to obtain, or to possess, gamma hydroxybutyrate unless the substance was obtained directly, or pursuant to a valid prescription or order form from a practitioner, while acting in the course of his professional practice, or except as otherwise authorized by P.L.1970, c.226 (C.24:21-1 et seq.).

b. Notwithstanding the provisions of N.J.S.2C:43-3 or any other law, a fine of up to $100,000.00 may be imposed upon a person who violates this section.

C.2C:35-5.3 Manufacturing, etc. flunitrazepam; penalties.

5. a. Except as authorized by P.L.1970, c.226 (C.24:21-1 et seq.), it is unlawful for any person knowingly or purposely to manufacture, distribute or dispense, or to possess or have under his control with intent to manufacture, distribute or dispense flunitrazepam.

b. A person who violates subsection a. of this section with respect to flunitrazepam in a quantity of one gram or more is guilty of a crime of the first degree and, notwithstanding the provisions of N.J.S.2C:43-3 or any other law, a fine of up to $250,000.00 may be imposed upon the person.

c. A person who violates subsection a. of this section with respect to flunitrazepam in a quantity of less than one gram is guilty of a crime of the second degree and, notwithstanding the provisions of N.J.S.2C:43-3 or any other law, a fine of up to $150,000.00 may be imposed upon the person.

C.2C:35-10.3 Possession, etc. of flunitrazepam; penalties.

6. a. It is a crime of the third degree for any person, knowingly or purposely, to obtain, or to possess, flunitrazepam, unless the substance was

obtained directly, or pursuant to a valid prescription or order form from a practitioner, while acting in the course of his professional practice, or except as otherwise authorized by P.L.1970, c.226 (C.24:21-1 et seq.).

b. Notwithstanding the provisions of N.J.S.2C:43-3 or any other law, a fine of up to $100,000.00 may be imposed upon a person who violates this section.

C.52:17B-4.5 Training program for law enforcement officers on substances used to facilitate sexual assaults.

7. a. The Department of Law and Public Safety shall establish and maintain a suitable training program for law enforcement officers regarding the use of narcotics, anesthetics, intoxicants, and other substances which could be used to facilitate sexual assault.

b. The Department shall adopt, pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.) rules and regulations necessary to implement this act.

8. This act shall take effect immediately.

Approved August 8, 1997.

CHAPTER 195

AN ACT providing for the issuance of certain license plates for the purpose of assisting in the support and funding of projects and programs at Liberty State Park, and supplementing chapter 3 of Title 39 of the Revised Statutes.

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

C.39:3-27.91 Definitions relative to Liberty State park license plates.

1. As used in this act:

"Commissioner" means the Commissioner of Environmental Protection;

"Department" means the Department of Environmental Protection;

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

"Division" means the Division of Motor Vehicles in the Department of Transportation;

"Fund" means the "Liberty State Park License Plate Fund" created pursuant to section 4 of this act.

C.39:3-27.92 Liberty State Park license plates, issuance.

2. The Director of the Division of Motor Vehicles shall, upon proper application therefor, issue Liberty State Park license plates for any motor vehicle owned or leased and registered in the State. In addition to the registration number and other markings or identification otherwise prescribed by law, a Liberty State Park license plate shall display words or a slogan and an emblem indicating support for, or an interest in, Liberty State Park. The words or slogan and emblem shall be chosen by the director; however, the director shall solicit, in conjunction with the Legislature, input from the general public on the design of the plate and shall review the submissions prior to choosing the design. Issuance of Liberty State Park license plates in accordance with this section shall be subject to the provisions of chapter 3 of Title 39 of the Revised Statutes, except as hereinafter otherwise specifically provided.

C.39:3-27.93 Application, annual fee.

3. a. Application for issuance of a Liberty State Park license plate shall be made to the division on forms and in a manner as may be prescribed by the director. In order to be deemed complete, an application shall be accompanied by a fee of $50 payable to the division, which fee shall be in addition to all fees otherwise required by law for the registration of the motor vehicle.

b. The annual fee for the registration certificate of a motor vehicle that has been issued a Liberty State Park license plate pursuant to the provisions of this act shall include in each year subsequent to the year of issuance a fee in the amount of $10, which fee shall be in addition to all fees otherwise required by law for the renewal of the registration of the motor vehicle and shall be collected by the division and deposited in the Liberty State Park License Plate Fund created pursuant to section 4 of this act.

C.39:3-27.94 Liberty State Park License Plate Fund.

4. There is created in the Department of Environmental Protection a special non-lapsing fund to be known as the "Liberty State Park License Plate Fund." There shall be deposited in the fund the amount collected from all license plate fees collected pursuant to section 3 of this act, less the amounts necessary to reimburse the division for administrative costs pursuant to section 5 of this act. Monies deposited in the fund shall be dedicated for support and funding of projects and programs at Liberty State Park. Monies deposited in the fund shall be held in interest-bearing accounts in public depositories as defined pursuant to section 1 of P.L.1970, c.236 (C.17:9-41), and may be invested or reinvested in such securities as are approved by the State Treasurer. Interest or other income earned on

monies deposited in the fund, and any monies which may be appropriated or otherwise become available for the purposes of the fund, shall be credited to and deposited in the fund for use as set forth in this act.

C.39:3-27.95 Reimbursement to division; average cost per license plate.

5. a. Prior to the deposit of license plate fees collected pursuant to section 3 of this act into the fund, amounts thereof as are necessary shall be used to reimburse the division for all costs reasonably and actually incurred, as stipulated by the director, for:

(1) producing, issuing, renewing, and publicizing the availability of Liberty State Park license plates; and

(2) any initial fees, in an amount conferred as necessary to the commissioner, collected from the issuance of Liberty State Park license plates to be allocated to the division to pay the cost of any computer programming changes that may be necessary to implement the Liberty State Park license plate program established by this act.

b. The director shall annually certify to the commissioner the average cost per license plate incurred in the immediately preceding year by the division in producing, issuing, renewing, and publicizing the availability of Liberty State Park license plates. The annual certification of the average cost per license plate shall be approved by the Joint Budget Oversight Committee, or its successor.

c. In the event that the average cost per license plate as certified by the director and approved by the Joint Budget Oversight Committee, or its successor, is greater than the $50 application fee established in subsection a. of section 3 of this act in two consecutive fiscal years, the director may discontinue the issuance of Liberty State Park license plates.

C.39:3-27.96 Notices to eligible motorists.

6. The director shall notify eligible motorists of the opportunity to obtain Liberty State Park license plates by including a notice with all motor vehicle registration renewals, and by posting appropriate posters or signs in all division facilities and offices, as may be provided by the department. The notices, posters, and signs shall be designed by the commissioner. The designs shall be subject to the approval of the director, and the commissioner shall supply the division with the notices, posters, and signs to be circulated or posted by that division.

C.39:3-27.97 Interagency memorandum of agreement.

7. The commissioner, the director, and the State Treasurer shall develop and enter into an interagency memorandum of agreement setting forth the procedures to be followed by the departments and the division in carrying out their respective responsibilities under this act.

8. This act shall take effect on the 180th day after enactment, but the Commissioner of Environmental Protection, the State Treasurer, and the Director of the Division of Motor Vehicles may take such anticipatory acts in advance of that date as may be necessary for the timely implementation of this act upon the effective date thereof.

Approved August 13, 1997.

CHAPTER 196

AN ACT requiring a study of rail passenger service.

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

1. The New Jersey Transit Corporation shall study the feasibility and cost of instituting rail passenger service from the township of Weehawken in the county of Hudson to the borough of Northvale in the county of Bergen, making use of existing rail freight lines or rights-of-way with stops at intermediate points.

The study shall include, but not be limited to, an examination of the cost of using or modifying existing rail freight lines or rights-of-way for both conventional and light rail passenger service, with particular reference to the Northern Running Track and intersecting or connecting lines, the feasibility and cost of entering into an agreement with the Consolidated Rail Corporation for the use of the existing rail freight lines or rights-of-way, the location and cost of stations at the proposed intermediate stops, the impact on existing bus services and the projected costs and benefits of the proposed line compared with the costs and benefits of such bus services. The study shall be completed not more than six months following the effective date of this act.

2. This act shall take effect immediately.

Approved August 13, 1997.

CHAPTER 197

AN ACT appropriating $5,856,000 from the "Green Acres, Clean Water, Farmland and Historic Preservation Bond Act of 1992," P.L.1992, c.88, to provide loans for dam restoration and inland waters projects.

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

1. a. There is appropriated to the Department of Environmental Protection from the "1992 Dam Restoration and Clean Water Trust Fund," established pursuant to section 26 of the "Green Acres, Clean Water, Farmland and Historic Preservation Bond Act of 1992," P.L.1992, c.88, the sum of $5,856,000 for the purpose of providing loans to assist local government units, and private lake associations or similar organizations or owners of private dams, as co-applicants with local government units, to meet the costs of dam restoration projects or inland waters projects. This sum shall include administrative costs and a contingency project category to fund additional projects utilizing, in part, monies appropriated by law for other approved projects but unexpended due to project cancellation, withdrawal, or cost savings, and shall be allocated as follows:

Project	Loan Recipient	Amount
Ravine Lake Dam	The Ravine Association	$ 400,000
Cupsaw Lake Dam	Cupsaw Lake Improvement Association	$ 350,000
Pleasant Valley Lake Dam	Pleasant Valley Country Club	$ 1,830,881
Crandon Lake Dam	Crandon Lakes Country Club	$ 400,000
Packanack Lake Dam	Township of Wayne	$ 950,000
Sylvan Lake Dam	Township of Burlington	$ 1,115,200
Administrative		$ 292,800
Contingency		$ 517,119

b. Any unexpended funds from the projects listed in subsection a. of this section shall be added to the contingency project category listed in that subsection to fund loans for the following dam restoration or inland waters projects: East Lake Dam (Cumberland county); Lindys Lake Dam (Lindys Lake Association); Lower Mount Glen Lake Dam (Mount Glen Lakes Association); Upper Erskine Lake Dam (Erskine Lakes Property Owners Association); New Jersey No Name Dam No. 40 (Township of West Milford); Crystal Spring Lake Dam (Borough of Ramsey); Speedwell Dam (Town of Morristown); and Shackamaxon Dam (Shackamaxon Golf and Country Club).

Any unexpended funds remaining after completion of the projects listed in this subsection shall be returned to the "1992 Dam Restoration and Clean Water Trust Fund" for reappropriation to fund additional projects authorized by law.

c. Any unexpended funds from the projects listed in P.L.1997, c.16 for dam restoration and inland waters projects may be used to fund dam

restoration and inland waters projects listed in subsections a. and b. of this section.

d. Any transfer of any funds or project sponsor, or change in project site, listed in subsection a. or b. of this section shall require the approval of the Joint Budget Oversight Committee or its successor.

2. The expenditures of sums appropriated by this act are subject to the provisions and conditions of P.L.1992, c.88.

3. This act shall take effect immediately.

Approved August 13, 1997.

CHAPTER 198

AN ACT to provide a special charter for the Town of Boonton in the county of Morris.

WHEREAS, The Mayor and the Board of Aldermen of the Town of Boonton, in the county of Morris have petitioned the Legislature for the passage of a special law to provide a new charter for the town, as proposed by the town, and pursuant to Article IV, Section VII, paragraph 10 of the Constitution of 1947 in accordance with the procedure prescribed by P.L.1948, c.199 (C.1:6-10 et seq.); and

WHEREAS, Notice of intention to apply for the passage of the special law has been duly published and the original of the petition together with a duly certified copy of the ordinance authorizing the filing of the same has been presented and filed; now, therefore,

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

1. The charter of the Town of Boonton is set forth as follows:

Article I
General

Section I-1. a. The inhabitants of the Town of Boonton are hereby continued as a body politic and corporate in law as heretofore constituted and established. The governing body of the Town of Boonton shall be known by the name of "the Mayor and Board of Aldermen of the Town of Boonton in the county of Morris" and the boundaries of the town shall be and remain as heretofore established by law.

b. The Town of Boonton shall have full power to sue and be sued and have a corporate seal.

Section I-2. a. The mayor shall be elected by the voters of the municipality at large and shall serve for a term of three years.

b. The Board of Aldermen shall consist of six members, two elected at large, and one elected from each of four wards, and they shall serve for a term of three years. Following adoption of this charter, members of the governing body shall serve for the following initial terms: the Mayor shall serve for three years, one Alderman-at-large member shall serve for two years and one Alderman-at-large shall serve for one year; two Aldermen elected from wards shall serve for two years and two Aldermen elected from wards shall serve for one year. The length of the respective term of each Alderman of the first governing body shall be determined by lot at the organization of the governing body immediately following the election. Thereafter, the term of each member shall be three years.

c. The annual election for town officers shall be held at the same time and places as the general election. No person shall be permitted to vote at any such election unless he is an actual resident of the election district in which he offers his vote.

Section I-3. a. The mayor and aldermen shall constitute the governing body of the Town of Boonton. They shall hold an annual meeting on the first day of January at twelve o'clock noon, or during the first seven days of January in any year.

b. The mayor shall be chairman of the Board of Aldermen and shall preside at all meetings of the Board of Aldermen.

c. At their annual meeting, the aldermen shall, by a vote of a majority of their number, elect a president of the board, who shall preside at their meetings when the mayor does not preside. The president of the Board of Aldermen shall hold office for one year and until the next annual meeting. In the absence of both the mayor and president, the remaining aldermen may elect one of their own to act as chairman until either the mayor or the president is able to preside.

d. The Board of Aldermen shall appoint the times of meetings and determine and establish the rules of its own proceedings.

e. A majority of the Board of Aldermen shall constitute a quorum for the transaction of business, but a smaller number may meet and adjourn from day to day.

f. The mayor or any two aldermen may call for a special meeting by written notice to each of the members, served personally or left at the member's usual place of residence at least twenty-four hours before the time appointed for the meeting. No other business than that specified in the call for the special meeting shall be discussed or transacted.

g. No officer who has obtained tenure by any provision of any law shall be affected by the adoption of this charter.

Section I-4. Subject to the provisions of other general law, the Board of Aldermen shall have full power to exercise all powers of local government in such manner as it may determine.

Section I-5. a. The mayor shall be designated as the "Mayor of the Town of Boonton" in all official documents and instruments of every kind, and shall sign all ordinances, warrants, bonds, notes, contracts and all other official documents and instruments by said title.

b. The mayor shall be the head of the municipal government.

c. The mayor shall have all those powers placed in the mayor by general law.

d. The mayor shall be known as the chairman of the Board of Aldermen, preside at all its meetings and possess all the powers of a member of the Board of Aldermen.

e. Every ordinance adopted by the Board of Aldermen shall be presented to the mayor within five days after its passage, Sundays excepted, by the town clerk. The mayor shall, within ten days after receiving the ordinance, either approve it by affixing his signature thereto or return it to the Board of Aldermen by delivering it to the clerk together with a statement setting forth his objections thereto. No ordinance shall take effect without the mayor's approval, unless the mayor fails to return the ordinance to the Board of Aldermen, as prescribed above, or unless the Board of Aldermen upon consideration of the ordinance following its return, shall, by a vote of two-thirds of all members of the Board of Aldermen, resolve to override the veto.

f. No ordinance shall be passed except by a vote of at least four affirmative votes.

Section I-6. a. The Board of Aldermen shall be the legislative body of the municipality.

b. The Board of Aldermen may, subject to general law and the provisions of this act:

(1) Pass, adopt, amend and repeal any ordinance or, where permitted, any resolution for any purpose required for the government of the municipality or for the accomplishment of any public purpose for which the municipality is authorized to act under general law;

(2) Control and regulate the finances of the municipality and raise money by borrowing and taxation;

(3) Create such offices and positions as it may deem necessary. The officers appointed shall perform the duties required by law and the ordinances of the Board of Aldermen. Other than the town attorney, engineer, building inspector, clerk, tax collector and tax assessor, these

officers shall serve at the pleasure of the Board of Aldermen. The town attorney, engineer, clerk, tax collector and tax assessor shall serve for terms as provided in chapter 9 of Title 40A of the New Jersey Statutes;

(4) Investigate any activity of the municipality;

(5) Remove any officer of the municipality, other than those officers excepted by law, for cause; and

(6) Override a veto of the mayor by a two-thirds majority of all the members of the Board of Aldermen.

c. The Board of Aldermen shall have all the executive responsibilities of the municipality not placed, by general law or this charter, in the office of the mayor.

d. The Board of Aldermen may, by ordinance, appoint such subordinate officers as it may deem necessary, except that candidates for appointment to the offices of the municipal clerk, the tax assessor and the tax collector shall be nominated by the mayor.

e. Every officer appointed pursuant to this section shall hold office during his official term and until his successor shall have been duly appointed and qualified.

Section I-7. a. An administrator shall be appointed pursuant to N.J.S.40A:9-136 and shall have the following powers and duties:

(1) Serve as the chief administrative officer of the Town and be responsible to the governing body as a whole for the proper and efficient administration of the business affairs of the Town. The administrator's duties and responsibilities shall relate to the general management of all Town business, except those duties and responsibilities conferred upon other Town officials by State statute, other applicable laws, rules and regulations promulgated by State and county agencies, judicial authority or ordinances of the Town. Except for the purpose of inquiry, the governing body and its members shall deal with the administrative service solely through the administrator, and neither the governing body nor any member thereof shall give orders to any subordinates of the administrator either publicly or privately;

(2) Supervise and direct the business activities of all departments including the direction of central purchasing and the employment and replacement of personnel as may be required in all departments;

(3) Serve as the personnel officer of the Town and as such hire and promote employees of the Town subsequent to satisfactory completion of the probationary period and advance employees to the next step, and when he deems it necessary or advisable for the betterment of the Town, suspend or discharge employees, subject to the applicable provisions of civil service laws and regulations and Town ordinances. The administrator shall report

at the next regular meeting of the governing body any action taken by authority of this subsection;

(4) Prepare and submit to the governing body before the close of the fiscal year, or at such times as the governing body shall determine, a proposed budget for the next fiscal year and an explanatory budget message. In preparing the proposed budget, the Administrator, or an officer designated by him, shall obtain from the head of each department, agency, board or officer, estimates of revenues and expenditures and other supporting data as he requests. The Administrator shall review the estimates and may revise them before submitting the proposed budget to the governing body;

(5) Be responsible for the administration of the budget after its adoption by the governing body and the implementation of the work programs contained in the budget;

(6) Execute and enforce the laws of the State and ordinances and resolutions of the Town as the governing body may prescribe;

(7) Attend all meetings of the governing body and other committees as directed, with a right to take part in the discussion and receive notice of all regular and special meetings of the governing body and advisory committees;

(8) Prepare the workshop agenda for each meeting of the governing body and supply facts pertinent thereto and deliver same to the governing body no later than the evening preceding the workshop;

(9) Keep the governing body informed as to the conduct of Town affairs, submit periodic reports, either in writing or orally, on the condition of the Town finances and such other reports, either in writing or orally, as the governing body shall request, and make such recommendations to the governing body as he deems necessary and advisable for the welfare of the Town;

(10) Submit to the governing body, as soon as possible after the close of the fiscal year, a complete written report on the administrative activities of the Town for the preceding year;

(11) See that the provisions of all franchises, leases, permits and privileges granted by the Town are complied with;

(12) Recommend the employment of experts and consultants to perform work and render advice in connection with the operation of the dedicated utilities or work projects in the Town subject to approval by the governing body;

(13) Attend to the letting of contracts, in compliance with applicable law, and supervise the performance and faithful execution of the same except insofar as such duties are expressly imposed upon some other Town officer or official statute;

(14) See that all money owed to the Town is promptly paid, and that proper proceedings are taken for the security and collection of all Town claims;

(15) Review and recommend all bills and vouchers for payment prior to final approval by the governing body;

(16) Receive copies of all general and official correspondence addressed to the Town and refer same to the appropriate officer or department for disposition and reply;

(17) Receive all complaints regarding services or personnel of the Town. The Administrator, or an officer designated by him, shall investigate and dispose of the complaints and shall keep a written record of each complaint and when and what action was taken in response thereto and provide the governing body with a copy when requested to do so;

(18) Maintain a continuing review and analysis of budget operations, work programs and costs of municipal services;

(19) At the request of the governing body, study and analyze the duties and responsibilities of any appointed official and department of the Town, submitting his report relating thereto to the governing body for such further action as the governing body may deem advisable; and

(20) Keep the governing body informed as to federal aid projects, State aid projects and any other aid programs for which the Town may qualify.

b. The Board of Aldermen shall, by ordinance, adopt an administrative code. The administrative code shall restate the major provisions of the town's charter and the general law supplementing the charter. The administrative code shall set forth the manner in which the Board of Aldermen shall perform its duties. The administrative code shall also set forth the titles of the principal municipal officers, how the officers are appointed, how they are organized into departments, boards, commissions, and other agencies; whom they supervise; by whom they are supervised; what powers they have; and what procedures should be followed to carry on the activities of the town government. The administrative code shall not grant any power or authority, or authorize any procedure, unless such power, or authority or procedure is authorized implicitly by the wording of the charter or general law or derived by reasonable implication therefrom.

c. The Board of Aldermen may create such advisory councils to the municipality as it may choose, including councils for the functions absorbed by it of any heretofore existing board, commission or district.

Section I-8. Whenever in this charter, in describing or referring to any person, party, matter or thing, any word importing the masculine gender is used, the same shall be understood to include and to apply to females as well as males.

Article II
Succession in Government

Section II-1. The schedule of installation of the new charter shall take the following course:

The first election of officers under this charter shall take place at the 1998 general election.

The charter shall take effect at 12 o'clock noon on January 1 next following the first election of officers.

Section II-2. Upon the effective date of this charter any other charter and its amendments and supplements theretofore applicable to the municipality shall be superseded. All ordinances and resolutions of the municipality to the extent that they are not inconsistent with the provisions of this charter shall remain in full force and effect until modified or repealed as provided by law.

Section II-3. At 12 o'clock noon on the effective date of this charter, all offices then existing in the town shall be abolished and the terms of all elected and appointed officers shall immediately cease and determine; provided, that nothing in this section shall be construed to abolish the office or terminate the term of office of any member of the board of education, trustees of the free public library, commissioners of a local housing authority, municipal court judge or of any official or employee now protected by any tenure of office law, or of any policeman, fireman, teacher, principal or school superintendent whether or not protected by tenure of office law. Nothing herein contained shall affect the tenure of office of any person holding any position or office coming within the provisions of Title 11A, Civil Service, of the New Jersey Statutes, as it applies to said officers and employees. If the municipal clerk has, prior to the effective date of this charter, acquired a protected tenure of office pursuant to law, then he shall become the first municipal clerk under this charter.

Provision for officers and for the organization and administration of the municipal government under this charter may be made by resolution pending the adoption of ordinances, but any such resolution shall expire not later than 30 days after the effective date of this charter.

2. All proceedings of the Mayor and Board of Aldermen of the Town of Boonton, county of Morris, relating to this act, and to the petition of the Legislature for the passage of a special act, and the time and manner of publication of notice of intention to apply therefor, are ratified, confirmed and validated.

3. This act shall take effect upon the adoption of an ordinance of the Mayor and Board of Aldermen of the Town of Boonton for the purpose of adopting the same.

Approved August 13, 1997.

CHAPTER 199

AN ACT providing workers' compensation for certain volunteers and amending R.S.34:15-10, R.S.34:15-43, R.S.34:15-75 and N.J.S.59:1-3.

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

1. R.S.34:15-10 is amended to read as follows:

Employment of minors.

34:15-10. In the employment of minors, this article shall be presumed to apply unless the notice be given by or to the parent or guardian of the minor. If the injured employee at the time of the accident or compensable occupational disease is a minor under 14 years of age employed in violation of the labor law or a minor between 14 and 18 years of age employed, permitted or suffered to work without an employment certificate or special permit if required by law or at an occupation prohibited at the minor's age by law, a compensation or death benefit shall be payable to the employee or his dependents which shall be double the amount payable under the schedules provided in R.S.34:15-12 and R.S.34:15-13.

The possession of such duly issued employment certificate shall be conclusive evidence for an employer that the minor has reached the age certified to therein and no extra compensation shall be payable to any minor engaged in an employment allowed by the law for the age and sex certified to in such certificate. If the certificate presented by the employee as one issued to that person shall have been really issued to another child and the real age of the employee shall be such that employment in any capacity or in the particular capacity the employee was employed by the employer was prohibited and if the employer shall show to the satisfaction of the Division of Workers' Compensation that the employer accepted the certificate in good faith as having been issued to the employee and could not have, despite reasonable diligence, discovered the fraud, in such event no extra compensation shall be paid to the employee illegally employed.

The employer alone and not the insurance carrier shall be liable for the extra compensation or death benefit which is over and above the amount of

the compensation or death benefit provided under R.S.34:15-12 or R.S.34:15-13. Any provision in an insurance policy undertaking to relieve an employer from the liability for the extra compensation or extra death benefit shall be void.

Nothing in this chapter contained shall deprive an infant under the age of 18 years of the right or rights now existing to recover damages in a common law or other appropriate action or proceeding for injuries received by reason of the negligence of his or her master.

Nothing in this section regarding the payment of a compensation or death benefit in double the amount payable under the schedules provided in R.S.34:15-12 and R.S.34:15-13 shall apply to: members of a junior firemen's auxiliary established pursuant to N.J.S.40A:14-95; employees, of the age of 18 years or under, employed in summer camps operated by the Boy Scouts of America, the Girl Scouts of America, the Knights of Columbus, the Young Men's Christian Association, the Young Women's Christian Association, the Young Men's Hebrew Association, or any domestic corporation organized solely for religious or charitable purposes; student-learners employed in a cooperative vocational education program approved by the State Board of Education; persons, 18 years of age or younger, participating, under the supervision of the Palisades Interstate Park Commission, in volunteer programs in that part of the Palisades Interstate Park located in New Jersey; or persons, 18 years of age or younger, doing volunteer work for the Division of Parks and Forestry, the Division of Fish, Game and Wildlife, the New Jersey Natural Lands Trust or the New Jersey Historic Trust, as authorized by the Commissioner of Environmental Protection.

2. R.S.34:15-43 is amended to read as follows:

Compensation for injury in line of duty.

34:15-43. Every officer, appointed or elected, and every employee of the State, county, municipality or any board or commission, or any other governing body, including boards of education, and governing bodies of service districts, individuals who are under the general supervision of the Palisades Interstate Park Commission and who work in that part of the Palisades Interstate Park which is located in this State, and also each and every member of a volunteer fire company doing public fire duty and also each and every active volunteer, first aid or rescue squad worker, including each and every authorized worker who is not a member of the volunteer fire company within which the first aid or rescue squad may have been created, doing public first aid or rescue duty under the control or supervision of any commission, council, or any other governing body of any municipality, any

board of fire commissioners of such municipality or of any fire district within the State, or of the board of managers of any State institution, every county fire marshal and assistant county fire marshal, every special, reserve or auxiliary policeman doing volunteer public police duty under the control or supervision of any commission, council or any other governing body of any municipality, every emergency management volunteer doing emergency management service for the State and any person doing volunteer work for the Division of Parks and Forestry, the Division of Fish, Game and Wildlife, the New Jersey Natural Lands Trust or the New Jersey Historic Trust, as authorized by the Commissioner of Environmental Protection, who may be injured in line of duty shall be compensated under and by virtue of the provisions of this article and article 2 of this chapter (R.S.34:15-7 et seq.). No former employee who has been retired on pension by reason of injury or disability shall be entitled under this section to compensation for such injury or disability; provided, however, that such employee, despite retirement, shall, nevertheless, be entitled to the medical, surgical and other treatment and hospital services as set forth in R.S.34:15-15.

Benefits available under this section to emergency management volunteers and volunteers participating in activities of the Division of Parks and Forestry, the Division of Fish, Game and Wildlife, the New Jersey Natural Lands Trust or the New Jersey Historic Trust, shall not be paid to any claimant who has another single source of injury or death benefits that provides the claimant with an amount of compensation that exceeds the compensation available to the claimant under R.S.34:15-1 et seq.

As used in this section, the terms "doing public fire duty" and "who may be injured in line of duty," as applied to members of volunteer fire companies, county fire marshals or assistant county fire marshals, and the term "doing public first aid or rescue duty," as applied to active volunteer first aid or rescue squad workers, shall be deemed to include participation in any authorized construction, installation, alteration, maintenance or repair work upon the premises, apparatus or other equipment owned or used by the fire company or the first aid or rescue squad, participation in any authorized public drill, showing, exhibition, fund raising activity or parade, and to include also the rendering of assistance in case of fire and, when authorized, in connection with other events affecting the public health or safety, in any political subdivision or territory of another state of the United States or on property ceded to the federal government while such assistance is being rendered and while going to and returning from the place in which it is rendered.

Also, as used in this section, "doing public police duty" and "who may be injured in line of duty" as applied to special, reserve or auxiliary policemen, shall be deemed to include participation in any authorized public

drill, showing, exhibition or parade, and to include also the rendering of assistance in connection with other events affecting the public health or safety in the municipality, and also, when authorized, in connection with any such events in any political subdivision or territory of this or any other state of the United States or on property ceded to the federal government while such assistance is being rendered and while going to and returning from the place in which it is rendered.

As used in this section, the terms "doing emergency management service" and "who may be injured in the line of duty" as applied to emergency management volunteers mean participation in any activities authorized pursuant to P.L.1942, c.251 (C.App. A:9-33 et seq.), except that the terms shall not include activities engaged in by a member of an emergency management agency of the United States Government or of another state, whether pursuant to a mutual aid compact or otherwise.

Every member of a volunteer fire company shall be deemed to be doing public fire duty under the control or supervision of any such commission, council, governing body, board of fire commissioners or fire district or board of managers of any State institution within the meaning of this section, if such control or supervision is provided for by statute or by rule or regulation of the board of managers or the superintendent of such State institution, or if the fire company of which he is a member receives contributions from, or a substantial part of its expenses or equipment are paid for by, the municipality, or board of fire commissioners of the fire district or if such fire company has been or hereafter shall be designated by ordinance as the fire department of the municipality.

Every active volunteer, first aid or rescue squad worker, including every authorized worker who is not a member of the volunteer fire company within which the first aid or rescue squad may have been created, shall be deemed to be doing public first aid or rescue duty under the control or supervision of any such commission, council, governing body, board of fire commissioners or fire district within the meaning of this section if such control or supervision is provided for by statute, or if the first aid or rescue squad of which he is a member or authorized worker receives or is eligible to receive contributions from, or a substantial part of its expenses or equipment are paid for by, the municipality, or board of fire commissioners of the fire district, or if such first aid or rescue squad has been or hereafter shall be designated by ordinance as the first aid or rescue squad of the municipality.

As used in this section and in R.S.34:15-74, the term "authorized worker" shall mean and include, in addition to an active volunteer fireman and an active volunteer first aid or rescue squad worker, any person performing any public fire duty or public first aid or rescue squad duty, as

the same are defined in this section, at the request of the chief or acting chief of a fire company or the president or person in charge of a first aid or rescue squad for the time being.

Nothing herein contained shall be construed as affecting or changing in any way the provisions of any statute providing for sick, disability, vacation or other leave for public employees or any provision of any retirement or pension fund provided by law.

3. R.S.34:15-75 is amended to read as follows:

Compensation for injury, death provided for certain volunteers.

34:15-75. Compensation for injury and death, either or both, of any volunteer fireman, county fire marshal, assistant county fire marshal, volunteer first aid or rescue squad worker, volunteer driver of any municipally-owned or operated ambulance, forest fire warden or forest fire fighter employed by the State of New Jersey, member of a board of education, special reserve or auxiliary policeman doing volunteer public police duty under the control or supervision of any commission, council or any other governing body of any municipality, emergency management volunteer doing emergency management service, or any volunteer worker for the Division of Parks and Forestry, the Division of Fish, Game and Wildlife, the New Jersey Natural Lands Trust or the New Jersey Historic Trust, shall be based upon a weekly salary or compensation conclusively presumed to be received by such person in an amount sufficient to entitle him, or, in the event of his death, his dependents, to receive the maximum compensation by this chapter authorized.

4. N.J.S.59:1-3 is amended to read as follows:

Definitions.

59:1-3. Definitions. As used in this subtitle:

"Employee" includes an officer, employee, or servant, whether or not compensated or part-time, who is authorized to perform any act or service; provided, however, that the term does not include an independent contractor.

"Employment" includes office; position; employment; or service, under the supervision of the Palisades Interstate Park Commission, in a volunteer program in that part of the Palisades Interstate Park located in New Jersey, as an emergency management volunteer or as a volunteer doing work for the Division of Parks and Forestry, the Division of Fish, Game and Wildlife, the New Jersey Natural Lands Trust or the New Jersey Historic Trust, as authorized by the Commissioner of Environmental Protection.

"Enactment" includes a constitutional provision, statute, executive order, ordinance, resolution or regulation.

"Injury" means death, injury to a person, damage to or loss of property or any other injury that a person may suffer that would be actionable if inflicted by a private person.

"Law" includes enactments and also the decisional law applicable within this State as determined and declared from time to time by the courts of this State and of the United States.

"Public employee" means an employee of a public entity, and includes: a person participating, under the supervision of the Palisades Interstate Park Commission, in a volunteer program in that part of the Palisades Interstate Park located in New Jersey; a volunteer doing work for the Division of Parks and Forestry, the Division of Fish, Game and Wildlife, the New Jersey Natural Lands Trust or the New Jersey Historic Trust, as authorized by the Commissioner of Environmental Protection; and any person retained by the public defender to serve as an arbitrator, mediator, or in such similar capacity. "Public employee" does not include any independent contractors or other individuals, agencies, or entities not established in or employed by the Office of the Public Defender designated to provide protection and advocacy services to indigent mental hospital admittees or persons with a developmental disability as the term is defined in section 3 of P.L.1977, c.82 (C.30:6D-3).

"Public entity" includes the State, and any county, municipality, district, public authority, public agency, and any other political subdivision or public body in the State. "Public entity" does not include any independent contractors or other individuals, agencies, or entities not established in or employed by the Office of the Public Defender designated to provide protection and advocacy services to indigent mental hospital admittees or persons with a developmental disability as the term is defined in section 3 of P.L.1977, c.82 (C.30:6D-3).

"State" shall mean the State and any office, department, division, bureau, board, commission or agency of the State, but shall not include any such entity which is statutorily authorized to sue and be sued. "State" also means the Palisades Interstate Park Commission, but only with respect to employees, property and activities within the State of New Jersey.

"Statute" means an act adopted by the Legislature of this State or by the Congress of the United States.

5. This act shall take effect on the 30th day following enactment.

Approved August 14, 1997.

CHAPTER 200

AN ACT concerning information to be maintained by the State Board of Examiners and supplementing chapter 6 of Title 18A of the New Jersey Statutes.

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

C.18A:16-1.3 Dismissal for cause of non-tenured, certificated employee, notice to State Board.

1. A board of education shall notify the State Board of Examiners whenever a non-tenured, certificated employee is dismissed for cause, and the State board shall maintain a list containing the name and Social Security number of the employee and the reason for the dismissal for cause. A board of education or the superintendent of a school district or the chief school administrator of a nonpublic school may submit to the State board the name and Social Security number of a person who has applied for a position in the district or nonpublic school, and the State board shall indicate to the board or superintendent or chief school administrator of the nonpublic school whether the person has been previously dismissed for cause and the reason for the dismissal. This section shall not apply to a school board employee whose contract is not renewed.

Any non-tenured, certificated employee who submits a false name or Social Security number to a board of education is deemed to be in violation of N.J.S.2C:28-3.

2. This act shall take effect immediately.

Approved August 14, 1997.

CHAPTER 201

AN ACT concerning increased penalties for transmitting sexually transmitted diseases and amending N.J.S.2C:34-5.

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

1. N.J.S.2C:34-5 is amended to read as follows:

Diseased person committing an act of sexual penetration.

2C:34-5. Diseased person committing an act of sexual penetration.

a. A person is guilty of a crime of the fourth degree who, knowing that he or she is infected with a venereal disease such as chancroid, gonorrhea, syphilis, herpes virus, or any of the varieties or stages of such diseases, commits an act of sexual penetration without the informed consent of the other person.

b. A person is guilty of a crime of the third degree who, knowing that he or she is infected with human immune deficiency virus (HIV) or any other related virus identified as a probable causative agent of acquired immune deficiency syndrome (AIDS), commits an act of sexual penetration without the informed consent of the other person.

2. This act shall take effect immediately.

Approved August 14, 1997.

CHAPTER 202

AN ACT concerning the tuition of certain pupils and amending P.L.1979, c.207.

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

1. 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 foster homes shall be the district in which the foster parents reside. If a child in a foster 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 foster 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, 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 et seq.). 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 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 the appropriate T&E amount and any appropriate additional cost factor for special education pursuant to section 19 of P.L.1996, c.138 (C.18A:7F-19) to the school district in which the child is enrolled.

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 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.

2. This act shall take effect immediately.

Approved August 14, 1997.

CHAPTER 203

AN ACT limiting the jurisdiction of the Board of Public Utilities over certain consumer owned water companies and supplementing chapter 2 of Title 48 of the Revised Statutes.

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

C.48:2-13.2 Limited jurisdiction of Board of Public Utilities over certain nonpublicly-owned, nonprofit water companies.

1. The provisions of any law, rule, regulation or order to the contrary notwithstanding, with respect to a nonpublicly-owned, nonprofit water company which is exclusively owned and controlled by the consumers it serves, and provided that a majority of the entire membership of the association which controls the water company approves, the Board of Public Utilities shall not exercise any jurisdiction or control over the rates, charges or operations of the company; and the approval of the board shall not be required to authorize or validate any mortgage or encumbrance of real property, or the issuance or execution of any evidence of indebtedness by the company, except that the board shall retain its jurisdiction to determine disputes concerning the territory served or to be served by the company.

2. This act shall take effect immediately.

Approved August 14, 1997.

CHAPTER 204

AN ACT concerning foreign judgments 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:49A-25 Short title.

1. This act shall be known and may be cited as the "Uniform Enforcement of Foreign Judgments Act."

C.2A:49A-26 "Foreign judgment" defined.

2. In this act "foreign judgment" means any judgment, decree, or order of a court of the United States or of any other court which is entitled to full faith and credit in this State.

C.2A:49A-27 Filing of copy of foreign judgment.

3. A copy of any foreign judgment authenticated in accordance with an act of Congress or the statutes of this State may be filed in the office of the Clerk of the Superior Court of this State. The clerk shall treat the foreign judgment in the same manner as a judgment of the Superior Court

of this State. A judgment so filed has the same effect and is subject to the same procedures, defenses and proceedings for reopening, vacating, or staying as a judgment of a Superior Court of this State and may be enforced in the same manner.

C.2A:49A-28 Filing of affidavit; mailing of notice to judgment debtor.

4. a. At the time of the filing of the foreign judgment, the judgment creditor or his lawyer shall make and file with the Clerk of the Superior Court an affidavit setting forth the name and last known post office address of the judgment debtor, and the judgment creditor. The affidavit shall further set forth whether the time to appeal the foreign judgment has expired and whether the court of origin has granted a stay of execution. In addition, in the case of a judgment entered by default, the affidavit shall so state and shall set forth the expiration date under the rules of the court of origin for vacating the default.

b. Promptly upon the filing of the foreign judgment and the affidavit, the clerk shall mail notice of the filing of the foreign judgment to the judgment debtor at the address given and shall make a note of the mailing in the docket. The notice shall include the name and post office address of the judgment creditor and the judgment creditor's lawyer, if any, in this State. In addition, the judgment creditor may mail a notice of the filing of the judgment to the judgment debtor and may file proof of mailing with the clerk. Lack of mailing notice of filing by the clerk shall not affect the enforcement proceedings if proof of mailing by the judgment creditor has been filed.

c. No execution or other process for enforcement of a foreign judgment filed under this act shall issue until 14 days after the date the judgment is filed.

C.2A:49A-29 Appeal, stay of execution, enforcement.

5. a. If the judgment debtor shows the Superior Court that an appeal from the foreign judgment is pending or will be taken, or that a stay of execution has been granted, the court shall stay enforcement of the foreign judgment until the appeal is concluded, the time for appeal expires, or the stay of execution expires or is vacated, upon proof that the judgment debtor has furnished security for the satisfaction of the judgment required by the state in which it was rendered.

b. If the judgment debtor shows the Superior Court any ground upon which enforcement of a judgment of the Superior Court would be stayed, the Superior Court shall stay enforcement of the foreign judgment for an appropriate period, upon requiring the same security for satisfaction of the judgment which is required in this State.

C.2A:49A-30 Fees for filing foreign judgment.

6. Any person filing a foreign judgment shall pay to the Clerk of the Superior Court the fees required pursuant to N.J.S.22A:2-29 for actions taken with respect to judgments. Fees for docketing, transcription or other enforcement proceedings shall be as provided for judgments of the Superior Court in accordance with N.J.S.22A:2-29.

C.2A:49A-31 Right unimpaired.

7. The right of a judgment creditor to bring an action to enforce his judgment instead of proceeding under this act remains unimpaired.

C.2A:49A-32 Construction of act relative to consumer loans.

8. Nothing in this act shall be construed to require the enforcement of any foreign judgment which is based on a consumer loan containing any provision prohibited by the provisions of the "New Jersey Licensed Lenders Act," P.L.1996, c.157 (C.17:11C-1 et seq.).

C.2A:49A-33 Uniformity of interpretation, construction.

9. This act shall be so interpreted and construed as to effectuate its general purpose to make uniform the law of those states which enact it.

10. This act shall take effect immediately.

Approved August 14, 1997.

CHAPTER 205

AN ACT concerning additional death benefit coverage for members of the Judicial Retirement System and supplementing P.L.1973, c.140 (C.43:6A-1 et seq.).

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

C.43:6A-17.1 Additional death benefit for members of Judicial Retirement System.

1. a. Each member of the retirement system on the effective date of P.L.1997, c.205 (C.43:6A-17.1) and each person who thereafter becomes a member will be eligible to purchase the additional death benefit coverage hereinafter described, provided the member selects such coverage within one year after that effective date or after the effective date of membership, whichever date is later.

b. A person becoming a member of the retirement system after the effective date of P.L.1997, c.205 (C.43:6A-17.1) who on the date of

becoming a member is less than 60 years of age shall automatically be covered for such additional death benefit coverage from the first day of membership on which the person is actively at work and performing all regular duties at the customary place of employment. Such automatic coverage shall continue during the member's first year of membership, and during that year the member shall make contributions as fixed by the retirement system. Additional death benefit coverage for the member shall continue in effect after the first year of membership on the continuance of payment of the required contributions therefor.

c. A person becoming a member of the retirement system after the effective date of P.L.1997, c.205 (C.43:6A-17.1) who on the date of becoming a member is 60 or more years of age may, within one year from the date of membership, elect to purchase such additional death benefit coverage, provided that the member furnishes satisfactory evidence of insurability and on the date of such election is actively at work and performing all regular duties at the customary place of employment.

d. Notwithstanding other provisions of this section relating to the amount of death benefit applicable to a member who has acquired or shall acquire additional death benefit coverage, the death benefit payable in the event of death occurring on or after the effective date of P.L.1997, c.205 (C.43:6A-17.1) and during the first year of membership shall be based upon the member's annual base salary. The effective date of coverage of any person electing to purchase additional death benefit coverage pursuant to the provisions of subsection a. or c. of this section shall be the first day of the month immediately following the date of such election unless evidence of insurability is required as a condition of such election in which event the effective date of coverage shall be the first day of the month which immediately follows the later of (1) the date of such election, or (2) the date such evidence is determined to be satisfactory.

e. The State House Commission shall establish schedules of contributions to be made by the members who elect to purchase the additional death benefit coverage. Such contributions shall be so computed that the contributions made by or on behalf of all covered members in the aggregate shall be sufficient to provide for the cost of the benefits provided under this section. Such schedules of contributions shall be subject to adjustment from time to time by the commission, as the need may appear.

f. Upon the receipt of proper proofs of the death in service of any such member while covered for the additional death benefit coverage there shall be paid to such person, if living, as the member shall have nominated by written designation duly executed and filed with the retirement system, otherwise to the executor or administrator of the member's estate, an amount equal to one and one-half times the compensation received by the member

in the last year of creditable service or some lesser amount as may be provided by the retirement system and elected to purchase by the member.

g. The contributions of a member for the additional death benefit coverage shall be deducted from the member's compensation, but if there is no compensation from which such contributions may be deducted it shall be the obligation of the member to make such contributions directly to the retirement system or as directed by the State House Commission.

h. Any other provision of P.L.1973, c.140 (C.43:6A-1 et seq.) notwithstanding, the contributions of a member for the additional death benefit coverage under this section shall not be returnable to the member or the member's beneficiary in any manner, or for any reason whatsoever, nor shall any contributions made for the additional death benefit coverage be included in any annuity payable to any such member or beneficiary.

i. A member who has elected to purchase the additional death benefit coverage provided by this section may file with the retirement system, and alter from time to time during the member's lifetime as desired, a duly attested nomination of the payee of the death benefit provided under this section. Such member may also file with the retirement system, and alter from time to time during the member's lifetime as desired, a request directing payment of said benefit in one sum or in equal annual installments over a period of years or as a life annuity. Any such nomination or request shall be made in writing on a form satisfactory to the retirement system and shall be effective upon receipt by the retirement system. Upon the death of such member, a beneficiary to whom a benefit is payable in one sum may elect to receive the amount payable in equal annual installments over a period of years or as a life annuity. If more than one beneficiary is nominated and the member has not specified their respective interests, the beneficiaries shall share equally. If any beneficiary predeceases the member, the interest of that beneficiary shall terminate and shall be shared equally by such of the beneficiaries as survive the member unless the member has made written request to the contrary in the beneficiary nomination. Any amounts due for which there is no beneficiary at the death of the member or beneficiary shall be payable to the estate of the member or beneficiary.

j. All other provisions of this section notwithstanding, this section and the benefits provided under this section shall not come into effect until a required percentage of the members shall have applied for the additional death benefit coverage under this section. This required percentage shall be fixed by the State House Commission. Applications for such additional death benefit coverage shall be submitted to the secretary of the commission in such manner and upon such forms as the commission shall provide.

2. This act shall take effect immediately.

Approved August 14, 1997.

CHAPTER 206

AN ACT concerning the investment of moneys held by the Superior Court and amending N.J.S.2A:15-73.

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

1. N.J.S.2A:15-73 is amended to read as follows:

Investment of moneys brought into Superior Court.

2A:15-73. The chief justice may cause any moneys brought into the Superior Court or remaining on deposit therein to be invested (a) in the bonds and other securities of the United States, (b) in interest-bearing bonds of such character and description as are or may be lawful investments for moneys deposited with savings banks of this State, (c) in bonds secured by mortgages which shall be a first lien upon improved real estate situate in this State worth at least double the amount loaned thereon, (d) in programs as approved by the State Investment Council which are managed by the Division of Investment and in the New Jersey Cash Management Fund established pursuant to section 1 of P.L.1977, c.281 (C.52:18A-90.4), or (e) in any combination thereof. For the purpose of making such investments, moneys remaining to the credit of different persons or causes may be commingled. The moneys so deposited or invested, and the securities in which the same may be invested, shall be from time to time accounted for, invested, transferred, reinvested, or otherwise disposed of, as the chief justice shall deem reasonable and proper; and the interest and income derived from such investments, after deducting expenses, losses and reserves for the protection thereof, shall be apportioned to the several parties entitled thereto at such rate as the chief justice shall from time to time determine.

2. This act shall take effect immediately.

Approved August 14, 1997.

CHAPTER 207

AN ACT concerning gross income tax treatment of certain members of the Armed Forces, amending N.J.S.54A:9-16.

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

1. N.J.S.54A:9-16 is amended to read as follows:

Armed forces relief provisions.

54A:9-16. Armed forces relief provisions. (a) Time to be disregarded. In the case of an individual serving in the Armed Forces of the United States, or serving in support of such armed forces, in an area designated by the President of the United States by executive order as a "combat zone," or by federal statute as a "qualified hazardous duty area," at any time during the period designated by the President by executive order or by federal statute as the period of combatant activities in such zone or area, or hospitalized outside the State as a result of injury received while serving in such an area during such time, the period of service in such area, plus the period of continuous hospitalization outside the State attributable to such injury, and the next 180 days thereafter, shall be disregarded in determining, under this act, in respect of the income tax liability (including any interest, penalty, or addition to the tax) of such individual.

(1) Whether any of the following acts was performed within the time prescribed therefor:

(A) Filing any return of income tax (except withholding tax);

(B) Payment of any income tax (except withholding tax) or any installment thereof or of any other liability to the State, in respect thereof;

(C) Filing a petition with the director for credit or refund or for redetermination of a deficiency, or application for review of a decision rendered by the director;

(D) Allowance of a credit or refund of income tax;

(E) Filing a claim for credit or refund of income tax;

(F) Assessment of income tax;

(G) Giving or making any notice or demand for the payment of any income tax, or with respect to any liability to the State in respect of income tax;

(H) Collection, by the director, by levy or otherwise of the amount of any liability in respect of income tax;

(I) Bringing suit by the State, or any officer, on its behalf, in respect of any liability in respect of income tax; and

(J) Any other act required or permitted under this act or specified in regulations prescribed under this section by the director.

(2) The amount of any credit or refund (including interest).

(b) Action taken before ascertainment of right to benefits. The assessment or collection of the tax imposed by this act or of any liability to the State in respect of such tax, or any action or proceeding by or on behalf of the State in connection therewith, may be made, taken, begun, or prosecuted in accordance with law, without regard to the provisions of subsection (a), unless prior to such assessment, collection, action, or proceeding it is ascertained that the person concerned is entitled to the benefits of subsection (a).

(c) Members of armed forces dying in action. In the case of any person who dies during an induction period while in active service as a member of the Armed Forces of the United States, if such death occurred while serving in a combat zone or a qualified hazardous duty area during a period of combatant activities in such zone or area, as described in subsection (a), or as a result of wounds, disease or injury incurred while so serving, the tax imposed by this act shall not apply with respect to the taxable year in which falls the date of death, or with respect to any prior taxable year ending on or after the first day served in a combat zone, and no return shall be required in behalf of such person or such person's estate for such year, and the tax of any such taxable year which is unpaid at the date of death, including interest, additions to tax and penalties, if any, shall not be assessed and, if assessed, the assessment shall be abated and, if collected, shall be refunded to the legal representative of the estate if one has been appointed and has qualified, or, if no legal representative has been appointed or has qualified, to the surviving spouse.

2. This act shall take effect immediately and apply to taxable years beginning on or after January 1, 1996.

Approved August 14, 1997.

CHAPTER 208

AN ACT concerning consent for treatment for persons with developmental disabilities and amending P.L.1969, c.181.

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

1. Section 1 of P.L.1969, c.181 (C.30:4-7.1) is amended to read as follows:

C.30:4-7.1 Provision for health, safety, and welfare of incompetent patients, residents.

1. It is hereby declared to be the public policy of this State to make maximum provision for the health, safety and welfare of incompetent patients and residents in State and county institutions for the mentally ill and developmentally disabled, for developmentally disabled residents in community-based alternate living arrangements in the State or in private facilities both in and outside the State, and for inmates under age 18 in State and county penal and correctional institutions, by permitting the chief executive officer of such institution or the regional administrator of a Division of Developmental Disabilities community services region to consent to the utilization of appropriate medical, psychiatric, surgical and dental treatment for such patients, inmates and residents where prescribed by a licensed physician or dentist as provided for herein.

2. Section 2 of P.L.1969, c.181 (C.30:4-7.2) is amended to read as follows:

C.30:4-7.2 Consent for treatment for certain patients, inmates, residents, or juveniles.

2. The chief executive officer of a State or county institution for the mentally ill or developmentally disabled, of a State or county penal or correctional institution, of a juvenile facility or detention center, or the regional administrator of a Division of Developmental Disabilities community services region is hereby authorized to give consent for medical, psychiatric, surgical or dental treatment to incompetent patients, inmates or juveniles under age 18, or residents, hospitalized, confined or placed by the Division of Developmental Disabilities in community-based alternate living arrangements in the State or in private facilities both in and outside the State, under circumstances where it appears that

(a) Such patients, inmates, juveniles or residents, because of incompetency or nonage, are legally prevented from giving consent to such treatment, and

(b) Either:

(i) there is no parent or guardian known to such officer or administrator, after reasonable inquiry, who is competent to give consent for the treatment of patients, inmates under the age of 18 or residents, or

(ii) where a parent or guardian, after reasonable notice of the proposed treatment and a request for consent, and prior to the date fixed in such notice for the rendering of said treatment, refuses or neglects to execute and submit to such officer or administrator a writing expressing either the grant or denial of such consent, and

(c) Where a licensed physician, psychiatrist, surgeon or dentist certifies that the treatment to be performed is essential and beneficial to the general health and welfare of such patient, inmate or resident, or will improve his opportunity for recovery or prolong or save his life.

3. Section 3 of P.L.1969, c.181 (C.30:4-7.3) is amended to read as follows:

C.30:4-7.3 Authority to consent to emergency treatment.

3. In a case certified by a licensed physician, surgeon, psychiatrist or dentist to be one of grave emergency and to require immediate surgical intervention or other treatment in order to prevent the death of, or serious consequences to such patient, inmate or resident, the chief executive officer or regional administrator is hereby authorized to consent to such medical, psychiatric, surgical or dental treatment to such patient, inmate or resident as recommended and prescribed by such certification.

4. Section 4 of P.L.1969, c.181 (C.30:4-7.4) is amended to read as follows:

C.30:4-7.4 Notice of required treatment to parent, guardian.

4. Notice of required treatment shall be given to a parent or guardian of such patient, inmate, juvenile or resident by certified mail to the last known address with a request for consent, and such notice shall contain sufficient information to indicate the precise nature of the illness and the proposed treatment and the date same will be performed, and shall be sent at least 10 days in advance of the date recommended for such treatment unless the case is one certified to be emergent, as provided hereinabove, in which case the parent or guardian shall be given the maximum advance notice possible under the circumstances. For the purposes of this act, such notice shall be deemed reasonable notice.

5. Section 5 of P.L.1969, c.181 (C.30:4-7.5) is amended to read as follows:

C.30:4-7.5 Exemption from personal liability for chief executive officer, regional administrator.

5. Under all of the foregoing circumstances, the chief executive officer or regional administrator, granting such consent in the exercise of his discretion, upon the recommendation contained in the medical, psychiatric, surgical or dental certification, shall be exempt from personal liability in the performance of such public duty.

6. Section 6 of P.L.1969, c.181 (C.30:4-7.6) is amended to read as follows:

C.30:4-7.6 Construction of act relative to healing by prayer.

6. Nothing herein shall be so construed as to give authority to the chief executive officer of any institution or the regional administrator of a Division of Developmental Disabilities community services region to supervise, regulate or control the remedial care or treatment of individual patients, inmates or residents who are adherents of any well recognized church or religious denomination which subscribes to the art of healing by prayer and the principles of which are opposed to medical treatment.

7. This act shall take effect immediately.

Approved August 18, 1997.

CHAPTER 209

AN ACT concerning the enrollment of members and employees of the Council on Local Mandates in the Public Employees' Retirement System and amending P.L.1996, c.24.

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

1. Section 10 of P.L.1996, c.24 (C.52:13H-10) is amended to read as follows:

C.52:13H-10 Council plan, rules, staffing.

10. The council shall establish, and revise from time to time, a plan for its organization and may incur expenses within the limits of funds available to it. The council may adopt rules governing its procedures. The council shall employ, pursuant to Title 11A of the New Jersey Statutes, such clerical and secretarial staff as it deems necessary. In addition, each member of the council may employ one professional employee who shall directly serve the member for a period not to exceed one year. Upon completion of one year of service a professional employee shall not again be employed in that capacity by any member of the council. Professional employees of the council shall be deemed confidential employees for purposes of the "New Jersey Employer-Employee Relations Act," P.L.1941, c.100 (C.34:13A-1 et seq.). Employees and members of the council shall be enrolled in the Public Employees' Retirement System, except that no person who has been granted a pension or retirement allowance for any cause other than vesting or deferred retirement under any pension fund or retirement system

established under any law of this State prior to commencing service as an employee or member of the council shall be eligible on the basis of that service for enrollment or membership in the Public Employees' Retirement System. The council may employ legal counsel, on a temporary basis, to represent it in any proceeding to which it is a party. The council may contract for the services of other professional, technical and operational personnel and consultants as may be necessary for the performance of its responsibilities under this act. Nothing contained in this section shall be construed as authorizing the council to employ an executive director, director, or other permanent employee, other than permanent secretarial or clerical personnel.

2. This act shall take effect immediately.

Approved August 18, 1997.

CHAPTER 210

AN ACT concerning the establishing of housing authority police forces in certain municipalities, supplementing chapter 14 of Title 40A of the New Jersey Statutes and amending N.J.S.2C:39-6.

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

C.40A:14-146.19 Establishment of housing authority police force by certain municipalities.

1. The governing body of every city of the first class having a population of more than 270,000 inhabitants, according to the 1990 federal decennial census, may, by ordinance, establish a housing authority police force to patrol the grounds, buildings, and other areas and facilities of the municipal housing authority.

The ordinance shall provide for the maintenance, regulation and control of the force either as a separate department or as a division or unit of the municipal police force; a line of authority relating to the force's police function; the promulgation and adoption of rules and regulations by the appropriate authority designated in N.J.S.40A:14-118 for the government of the force and the discipline of its members; the appointment of such members, officers and personnel as the governing body may deem necessary; the fixing of their compensation; the prescription of their powers, functions and duties; and such other matters as the governing body shall deem necessary for the effective government and operation of the force. If the housing authority police force is established as a separate department, the appropriate authority for the force shall be the same as the appropriate

authority designated for the police force established pursuant to N.J.S.40A:14-118.

Notwithstanding any other provision of law to the contrary, housing authority police officers appointed pursuant to this act shall be deemed regular law enforcement officers.

The funding for the establishment and maintenance of a housing authority police force in accordance with an ordinance enacted pursuant to this section shall be provided by the municipal housing authority. The housing authority may request from the governing body of the municipality reimbursement for a portion of the costs associated with appointing, training, and compensating a housing authority police force established under the provisions of this section. The governing body may decide, but shall not be required, to reimburse the housing authority in the amount requested or in any other lesser amount the governing body may choose.

C.40A:14-146.20 Requirements for appointment as housing authority police officer.

2. No person may be appointed as a housing authority police officer pursuant to section 1 of P.L.1997, c.210 (C.40A:14-146.19) unless that person:

a. Is a resident of this State;

b. Is able to read, write and speak the English language and has a high school diploma or its equivalent;

c. Is sound in body and of good health;

d. Is of good moral character and has not been convicted of any offense involving dishonesty or which would make him unfit to perform the duties of the office; and

e. Has successfully undergone the same psychological testing that is required of all full-time police officers in the municipality.

C.40A:14-146.21 Training requirements for housing authority police officer.

3. a. A person appointed as a police officer for a housing authority police force pursuant to section 1 of P.L.1997, c.210 (C.40A:14-146.19) shall within one year of the date of his appointment successfully complete a basic police training course at a school approved and authorized by the Police Training Commission. The training requirements set forth in this subsection may be waived by the Police Training Commission for a person appointed as a housing authority police officer who demonstrates to the commission's satisfaction that the person has successfully completed a police training course conducted by any federal, State or other public or private agency the requirements of which are substantially equivalent to the requirements of that at a school approved by the commission.

b. A housing authority police officer, who shall have successfully completed the basic police training course for police officers at a school

approved by the Police Training Commission, shall have all the powers conferred by law on police officers in the enforcement of the laws of this State or municipal ordinances, including the power to apprehend offenders.

c. Any person appointed as a housing authority police officer, who at any time prior to his appointment had served as a duly qualified, fully-trained, full-time law enforcement officer in any municipality of this State and who was separated from that prior service in good standing, shall be eligible to serve as a housing authority police officer consistent with guidelines promulgated by the Police Training Commission. The training requirements set forth in subsection a. of this section may be waived by the commission with regard to any person described in this subsection who is appointed as a housing authority police officer.

C.40A:14-146.22 Wearing of nameplate, metallic shield; exception.

4. Each housing authority police officer, when on duty, except when employed as a detective, shall wear in plain view a name plate and a metallic shield or device, in a style prescribed by the municipality, with the words: "(Name of municipality) Housing Authority Police."

C.40A:14-146.23 Immunity from tort liability; benefits.

5. Notwithstanding any other provisions of law to the contrary, housing authority police officers appointed pursuant to this act shall have all the immunities from tort liability and shall have all the pension, relief, disability, workers' compensation, insurance and other benefits enjoyed by regular law enforcement officers while performing their duties.

6. 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 ranger, 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 correction 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.

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) An officer of the 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) A person who has not been convicted of a crime under the laws of this State or under the laws of another state or the United States, and who is employed as a full-time security guard for a nuclear power plant under the license of the Nuclear Regulatory Commission, while in the actual performance of his official duties;

(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 Bureau of Parole in the Department of Corrections 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; or

(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.

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 signalling 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 five 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 less than 70 years of age, 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; or a full-time federal law enforcement officer 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, within six months after retirement, 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; and

(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 reapplication 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.

7. This act shall take effect immediately.

Approved August 18, 1997.

CHAPTER 211

AN ACT concerning the approval and filing of maps and amending P.L.1960, c.141 and P.L.1969, c.257.

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

1. Section 2 of P.L.1960, c.141 (C.46:23-9.10) is amended to read as follows:

C.46:23-9.10 Definitions.

2. Definitions. As used in this act:

a. "Map" means a map, plat, condominium plan, right of way parcel maps of the State, county or municipality, chart, or survey of lands presented for approval to the proper authority as hereinafter defined or presented for filing in accordance with the provisions of this act, but does not mean a map, plat or sketch required to be filed or recorded under the provisions of P.L.1957, c.130 (C.48:3-17.2).

b. "Municipal Engineer" means the official licensed professional engineer appointed by the proper authority of the municipality wherein the territory shown on a map is situate.

c. The term "Professional Engineer" within the intent of this act shall mean a person, who is qualified to practice professional engineering and as attested by his license as a professional engineer as provided by subsection a. of section 2 of P.L.1938, c.342 (C.45:8-28).

d. The term "Land Surveyor" as used in this act shall mean a person who is qualified to practice land surveying, and as attested by his license as a land surveyor as provided by subsection d. of section 2 of P.L.1938, c.342 (C.45:8-28).

e. "Proper authority" means the chief legislative body of a municipality or any other agencies to whom the authority for the approval of maps may be duly designated by ordinance.

f. "Right of way parcel map" means any right of way property parcel map of the State, county or municipality which shows highways, roads or street takings and any associated easements.

g. "Entire tract" means all of the property that is being subdivided including lands remaining after subdivision.

h. "Condominium plan" means a survey of the condominium property in sufficient detail to show and identify common elements, each unit and their respective locations and appropriate dimensions, which shall be filed in accordance with the requirements of section 3 of P.L.1960, c.141 (C.46:23-9.11). A condominium plan shall bear a certification by a land surveyor, professional engineer or architect authorized and qualified to practice in this State setting forth that the plan constitutes a correct representation of the improvements described.

2. Section 3 of P.L.1960, c.141 (C.46:23-9.11) is amended to read as follows:

C.46:23-9.11 Requirements for approval.

3. Requirements for Approval.

All subdivision plats, both major and where required minor, right of way parcel maps of the State, county or municipality, shall be filed in accordance with the provisions of P.L.1960, c.141 (C.46:23-9.9 et seq.). Right of way parcel maps shall meet the requirements of subsections a. through d., subsections f. through i., subsection m. and paragraph 12 of subsection r. of this section. Minor subdivision maps shall meet the requirements of subsections a. through i., and k. through q., and subsection j. except for the outside tract line monuments, and paragraph 13 of subsection r. of this section.

A condominium plan shall be filed in accordance with the requirements of subsections a. through c., subsections f. through i., and subsection m. of this section.

No map requiring approval by law or that is to be approved for filing with a county recording officer, shall be approved by the proper authority unless it shall conform to the following requirements:

a. It shall be clearly and legibly drawn, and where required endorsed and presented either as an original drawing in black ink on translucent tracing cloth, translucent mylars at least 4 mils thick or its equivalent, of good quality, with signatures in ink, or as an equivalent reproduction on photographic fixed line mylar 4 mils thick with signatures in black ink or its

equivalent and shall be accompanied by a cloth print or photographic fixed line mylar 4 mils thick duplicate thereof.

b. It shall be one of six standard sizes namely, 8 1/2" x 13", 30" x 42", 24" x 36", 11" x 17", 18" x 24" or 15" x 21" as measured from cutting edges. If one sheet is not of sufficient size to contain the entire territory, the map may be divided into sections to be shown on separate sheets of equal sizes, with references on each sheet to the adjoining sheets.

c. It shall show the scale, which shall be inches to feet and be large enough to contain legibly written data on the dimensions, bearings and all other details of the boundaries, and it shall also show the graphic scale.

d. It shall show the dimensions, square footage of each lot to the nearest square foot or nearest one hundredth of an acre, bearings and curve data to include the radius, delta angle, length of arc, chord distance and chord bearing sufficient to enable the definite location of all lines and boundaries shown thereon, including public easements and areas dedicated for public use. Non-tangent curves and non-radial lines shall be labeled. Right of way parcel maps shall show bearings, distances and curve data for the right of way or the center line or base line and ties to right of way lines if from a base line.

e. Where lots are shown thereon, those in each block shall be numbered consecutively. In municipalities where tax maps exist, block and lot designations shall conform therewith, if the municipal regulations so require. In counties which have adopted or shall adopt the local or block system of indices pursuant to sections 46:24-1 to 46:24-22 of the Revised Statutes, it shall have delineated and shown thereon the block boundary or boundaries and designations established by the board of commissioners of land records of such counties respecting the territory intended to be shown on such map.

f. The reference meridian used for bearings on the map shall be shown graphically. The coordinate base, either assumed or based on the New Jersey Plane Coordinate System, shall be shown on the plat. A minimum of three corners distributed around the tract shall indicate the coordinate values.

g. All municipal boundary lines crossing or adjacent to the territory intended to be shown shall be shown and designated.

h. All natural and artificial watercourses, streams, shorelines and water boundaries and encroachment lines shall be shown. On right of way parcel maps all easements that affect the right of way shall be shown and dimensioned, including but not limited to slope easements and drainage.

i. All permanent easements shall be shown and dimensioned including but not limited to sight right easements and utility easements.

j. The map shall clearly show all monumentation as required by this act, including monuments found, monuments set, and monuments to be set. An indication shall be made where monumentation found has been reset. The outside tract line monuments of the original tract prior to any sectionalizing shall be set prior to the filing of the map and a certification added pursuant to subsection n. of this section. For purposes of this subsection "found corners" shall be considered monuments.

k. It shall conform to such other technical design controls as may be required by the provisions of local ordinances, including but not limited to minimum street widths, minimum lot areas and minimum yard dimensions and should be shown as a chart on the plat.

l. The name of the subdivision, name of the last property owner or owners, municipality and county shall be shown.

m. The date of the survey shall be shown and the map shall be in accordance with the minimum survey detail requirements as promulgated by the State Board of Professional Engineers and Land Surveyors.

n. There shall be endorsed thereon a certificate of a land surveyor, as follows:

I hereby certify that to the best of my knowledge and belief this map and land survey dated ..... meets the minimum survey detail requirements as promulgated by the State Board of Professional Engineers and Land Surveyors and has been made under my supervision, and complies with the provisions of "the map filing law" and that the outbound monuments as shown have been found or set.

(Include the following, if applicable)

I do further certify that the monuments as designated and shown hereon have been set.

.....

Licensed Professional Land Surveyor and No.

(Affix Seal)

If the land surveyor who prepares the map is different than the land surveyor who prepared the outbound survey, the following two certificates shall be added in lieu of the certificate above.

I hereby certify to the best of my knowledge information and belief that this land survey dated ..... has been made under my supervision and meets the minimum survey detail requirements, promulgated by the State Board of Professional Engineers and Land Surveyors and that the outbound monuments as shown have been found or set.

.....

Licensed Professional Land Surveyor and No.

(Affix seal)

I hereby certify that this map has been made under my supervision and complies with the provisions of the "map filing law."

(Including the following if applicable)

I do further certify that the monuments as designated and shown hereon have been set.

.....

Licensed Professional Land Surveyor and No.

(Affix seal)

If interior monuments are to be set at a later date, the following requirements and endorsement shall be shown on the map.

The interior monuments shown on this map shall be set within an appropriate time limit as provided for in the "Municipal Land Use Law," P.L.1975, c.291 (C.40:55D-1 et seq.) or local ordinance.

I certify that a bond has been given to the municipality, guaranteeing the future setting of the monuments shown on this map and so designated.

.....

Municipal Clerk

If the map is a right of way parcel map the project surveyor need only to certify that the monuments have been set or will be set.

o. There shall be endorsed thereon a certificate of the municipal engineer as follows:

I have carefully examined this map and to the best of my knowledge and belief find it conforms with the provisions of "the map filing law" resolution of approval and the municipal ordinances and requirements applicable thereto.

.....

Municipal Engineer

(Affix Seal)

p. There shall be submitted to the proper authority an affidavit setting forth the names and addresses of all the record title owners of the lands subdivided by said map and the consent in writing of all such owners to the approval of such map shall be required.

q. If the map shows streets, avenues, roads, lanes or alleys, there shall be endorsed thereon a certificate by the municipal clerk that the municipal body has approved such streets, avenues, roads, lanes or alleys, except where such map is prepared and presented for filing by the State of New Jersey or any of its agencies. The map shall show all of the street names as approved by the municipality.

r. Monuments are required on one side of the right of way only and shall be of metal detectable durable material at least 30 inches long. The top and bottom shall be a minimum of 4 inches square; if concrete, however it may be made of other durable metal detectable material specifically

designed to be permanent, as approved by the State Board of Professional Engineers and Land Surveyors. All monuments shall include the identification of the professional land surveyor or firm. They shall be firmly set in the ground so as to be visible at the following control points; provided that in lieu of installation of the interior monuments, the municipality may accept bond with sufficient surety in form and amount to be determined by the governing body, conditioned upon the proper installation of said monuments upon the completion of the grading of the streets and roads shown on the map.

(1) At each intersection of the outside boundary of the whole tract, with the right-of-way line of any side of an existing street.

(2) At the intersection of the outside boundary of the whole tract with the right-of-way line on one side of a street being established by the map under consideration.

(3) At one corner formed by the intersection of the right-of-way lines of any two streets at a T-type intersection.

(4) At any two corners formed by the right-of-way lines of any two streets in an "X" or "Y" type intersection.

(5) If the right-of-way lines of two streets are connected by a curve at an intersection, monuments shall be as stipulated in (3) and (4) of this subsection at one of the following control points:

(a) The point of intersection of the prolongation of said lines.

(b) The point of curvature of the connecting curve or,

(c) The point of tangency of the connecting curve.

(6) At the beginning and ending of all tangents on one side of any street.

(7) At the point of compound curvature or point of reversed curvature where either curve has a radius equal to or greater than 100 feet. Complete curve data as indicated in subsection d. of this section shall be shown on both sides.

(8) At intermediate points in the sidelines of a street between 2 adjacent street intersections in cases where the street deflects from a straight line or the line of sight between the adjacent intersections is obscured by a summit or other obstructions which are impractical to remove. This requirement may necessitate the setting of additional monuments at points not mentioned above. Bearings and distances between the monuments or coordinate values shall be indicated.

(9) In cases where it is impossible to set a monument at any of the above designated points, a nearby reference monument shall be set and its relation to the designated point shall be clearly designated on the map; or the plate on the reference monument shall be stamped with the word "offset" and its relation to the monument shown on the filed map.

(10) In areas where permanency of monuments may be better insured by off-setting the monuments from the property line, the municipal engineer may authorize such procedure; provided, that proper instrument sights may be obtained and complete off-set data is recorded on the map.

(11) By the filing of a map in accordance with the provisions of "the map filing law," reasonable survey access to the monuments is granted, which shall not restrict in any way the use of the property by the landowner.

(12) On right of way parcel maps, the monuments shall be set at the points of curvature, points of tangency, points of reverse curvature and points of compound curvature or the control base line or center line, if used, and be intervisible with a second monument.

(13) On minor subdivisions a monument shall be set at each intersection of an outside boundary of the newly created lot(s) with the right of way line of any side of an existing street.

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

C.46:8B-8 Creation, establishment of condominium.

8. A condominium may be created and established by recording in the office of the county recording officer of the county wherein the land is located a master deed executed and acknowledged by all owners or the lessees setting forth the matters required by section 9 of P.L.1969, c.257 (C.46:8B-9) and section 3 of P.L.1960, c.141 (C.46:23-9.11). The provisions of the "Condominium Act," P.L.1969, c.257 (C.46:8B-1 et seq.) shall apply solely to real property of interests therein which have been subjected to the terms of P.L.1969, c.257 as provided in this section.

4. Section 9 of P.L.1969, c.257 (C.46:8B-9) is amended to read as follows:

C.46:8B-9 Master deed, contents.

9. The master deed shall set forth, or contain exhibits setting forth the following matters:

(a) A statement submitting the land described in the master deed to the provisions of the "Condominium Act," P.L.1969, c.257 (C.46:8B-1 et seq.).

(b) A name, including the word "condominium" or followed by the words "a condominium," by which the property shall thereafter be identified.

(c) A legal description of the land.

(d) A survey of the condominium property in sufficient detail to show and identify common elements, each unit and their respective locations and approximate dimensions. The plans shall bear a certification by a land

New Jersey State Library

surveyor, professional engineer or architect authorized and qualified to practice in this State setting forth that the plans constitute a correct representation of the improvements described. The survey and plans shall constitute a condominium plan as defined in section 2 of P.L.1960, c.141 (C.46:23-9.10).

(e) An identification of each unit by distinctive letter, name or number so that each unit may be separately described thereafter by such identification.

(f) A description of the common elements and limited common elements, if any.

(g) The proportionate undivided interests in the common elements and limited common elements, if any, appurtenant to each unit. These interests shall in each case be stated as percentages aggregating 100%.

(h) The voting rights of unit owners.

(i) Bylaws.

(j) A method of amending and supplementing the master deed, which shall require the recording of any amendment or supplement in the same office as the master deed before it shall become effective.

(k) The name and nature of the association and if the association is not incorporated, the name and residence address, within this State of the person designated as agent to receive service of process upon the association.

(l) The proportions or percentages and manner of sharing common expenses and owning common surplus.

(m) Any other provisions, not inconsistent with the "Condominium Act," P.L.1969, c.257 (C.46:8B-1 et seq.), as may be desired, including but not limited to restrictions or limitations upon the use, occupancy, transfer, leasing or other disposition of any unit (provided that any restriction or limitation shall be otherwise permitted by law) and limitations upon the use of common elements.

5. This act shall take effect immediately.

Approved August 18, 1997.

CHAPTER 212

AN ACT concerning municipal contracts with private firms for the collection of municipal court fines, costs, surcharges and penalties and amending P.L.1983, c.208.

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

1. Section 1 of P.L.1983, c.208 (C.40:48-5a) is amended to read as follows:

C.40:48-5a Contract for collection services between municipality, private entity.

1. The governing body of any municipality may enter into contract with a private agency or firm for the purpose of collecting delinquent fines, costs, surcharges and other penalties that are owed to or required to be collected by the municipality as a result of any municipal court matter, including, but not limited to parking violation fines and motor vehicle violation fines. Any such contract shall be made and awarded pursuant to the provisions of the "Local Public Contracts Law," P.L.1971, c. 198 (C.40A:11-1 et seq.).

2. This act shall take effect immediately.

Approved August 18, 1997.

CHAPTER 213

AN ACT concerning the standard for parole release and amending P.L.1979, c.441.

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

1. Section 9 of P.L.1979, c.441 (C.30:4-123.53) is amended to read as follows:

C.30:4-123.53 Release of inmate.

9. a. An adult inmate shall be released on parole at the time of parole eligibility, unless information supplied in the report filed pursuant to section 10 of P.L.1979, c.441 (C. 30:4-123.54) or developed or produced at a hearing held pursuant to section 11 of P.L.1979, c.441 (C.30:4-123.55) indicates by a preponderance of the evidence that the inmate has failed to cooperate in his or her own rehabilitation or that there is a reasonable expectation that the inmate will violate conditions of parole imposed pursuant to section 15 of P.L.1979, c.441 (C.30:4-123.59) if released on parole at that time. In reaching such determination, the board panel or board shall state on the record the reasons therefor.

b. A juvenile inmate shall be released on parole when it shall appear that the juvenile, if released, will not cause injury to persons or substantial injury to property.

2. Section 12 of P.L.1979, c.441 (C.30:4-123.56) is amended to read as follows:

C.30:4-123.56 Schedule of future parole eligibility dates; statement of denial.

12. a. The board shall develop a schedule of future parole eligibility dates for adult inmates denied release at their eligibility date. In developing such schedule, particular emphasis shall be placed on the severity of the offense for which he was denied parole and on the characteristics of the offender, such as, but not limited to, the prior criminal record of the inmate and the need for continued incapacitation of the inmate.

b. If the release on the eligibility date is denied, the board panel which conducted the hearing shall refer to the schedule published pursuant to subsection a., and include in its statement denying parole notice of the date of future parole consideration. If such date differs from the date otherwise established by the schedule, the board panel shall include particular reasons therefor. The future parole eligibility date shall not be altered to take into account remissions of sentence for good behavior and diligent application to work and other assignments; provided however, the future parole eligibility date may be altered pursuant to section 8 of P.L.1979, c. 441 (C.30:4-123.52).

c. An inmate shall be released on parole on the new parole eligibility date unless information filed pursuant to a procedure identical to that set forth in section 10 of P.L.1979, c.441 (C.30:4-123.54) indicates by a preponderance of the evidence that the inmate has failed to cooperate in his or her own rehabilitation or that there is a reasonable expectation that the inmate will violate conditions of parole imposed pursuant to section 15 of P.L.1979, c.441 (C.30:4-123.59) if released on parole at that time. The determination of whether the inmate shall be released on the new parole eligibility date shall be made pursuant to the procedure set forth in section 11 of P.L.1979, c.441 (C.30:4-123.55) and this section.

3. This act shall take effect immediately.

Approved August 18, 1997.

CHAPTER 214

AN ACT concerning medical parole and supplementing and amending P.L.1979, c.441.

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

C.30:4-123.51c "Terminal condition, disease or syndrome," defined; medical parole conditions.

1. a. (1) For the purpose of this section, "terminal condition, disease or syndrome" means a prognosis by the licensed physicians designated by the Commissioner of Corrections pursuant to subsection b. of this section that an inmate has six months or less to live.

(2) Except as otherwise provided in paragraph (3) of this subsection, the appropriate board panel may release on medical parole any inmate serving any sentence of imprisonment who has been diagnosed pursuant to subsection b. of this section as suffering from a terminal condition, disease or syndrome and is found by the appropriate board panel to be so debilitated or incapacitated by the terminal condition, disease or syndrome as to be permanently physically incapable of committing a crime if released on parole. Notwithstanding any provision of P.L.1979, c.441 (C.30:4-123.45 et seq.) to the contrary, the appropriate board panel may release any such inmate at any time during the term of the sentence. An inmate placed on parole pursuant to this section shall be subject to custody, supervision and conditions as provided in section 15 of P.L.1979, c.441 (C.30:3-123.59) and shall be subject to sanctions for a violation of a condition of parole as provided in sections 16 through 21 of P.L.1979, c.441 (C.30:4-123.60 through 30:4-123.65).

(3) No inmate serving any sentence for a violation of N.J.S.2C:11-3; N.J.S.2C:11-4; N.J.S.2C:13-1; subsection a. of N.J.S.2C:14-2; N.J.S.2C:15-1 in which the inmate, while in the course of committing the theft, attempted to kill another, or purposely inflicted or attempted to inflict serious bodily injury, or was armed with or used or threatened the immediate use of a deadly weapon; subsection a. of N.J.S.2C:17-1; or N.J.S.2C:24-4 or an attempt to commit any of these offenses shall be eligible for the medical parole authorized under paragraph (2) of this section.

b. A medical diagnosis that an inmate is suffering from a terminal condition, disease or syndrome shall be made by two licensed physicians designated by the Commissioner of Corrections. The diagnosis shall include, but not be limited to:

(1) a description of the terminal condition, disease or syndrome;

(2) a prognosis concerning the likelihood of recovery from the terminal condition, disease or syndrome;

(3) a description of the inmate's physical incapacity; and

(4) a description of the type of ongoing treatment that would be required if the inmate were released on medical parole.

c. A request for a medical diagnosis to determine whether an inmate is eligible for a medical parole under this section may be submitted to the appropriate board panel by the Commissioner of Corrections, the adminis-

trator or superintendent of a correctional facility; the inmate; a member of the inmate's family or the inmate's attorney. The request shall be submitted in a manner and form prescribed by the board.

d. At least five working days prior to commencing its review of a request for a medical parole, the appropriate board panel shall notify the appropriate sentencing court; county prosecutor or, if the matter was prosecuted by the Attorney General, the Attorney General; and any victim or member of the family of a victim entitled to notice relating to a parole or the consideration of a parole under the provisions of P.L.1979, c.441 (C.30:4-123.45 et seq.). The notice shall be given in the manner prescribed by the board and shall contain all such information and documentation relating to the medical diagnosis prepared pursuant to subsection b. of this section as the board shall deem appropriate and necessary.

Upon receipt of the notice, the sentencing court; county prosecutor or Attorney General, as the case may be; the victim or member of the family of the victim, as the case may be, shall have 10 working days to review the notice and submit comments to the appropriate board panel. If a recipient of the notice does not submit comments within that 10-day period following the receipt of the notice, the panel may presume that the recipient does not wish to submit comments and proceed with its consideration of the request for medical parole. Any comments provided by a recipient shall be delivered to the appropriate board panel in the same manner or by the same method as notice was given by the panel to that recipient.

The information contained in any notice given by a panel pursuant to this subsection and the contents of any comments submitted by a recipient in response thereto shall be confidential and shall not be disclosed to any person who is not authorized to receive or review that information or those comments.

Notice given under the provisions of this subsection shall be in lieu of any other notice of parole consideration required under P.L.1979, c.441 (C.30:4-123.45 et seq.).

Nothing in this subsection shall be construed to impair any party's right to be heard pursuant to P.L.1979, c.441 (C.30:4-123.45 et seq.).

e. The appropriate board panel shall conduct its review of a request for medical parole as expeditiously as possible.

The appropriate board panel shall provide written notice of its decision to the sentencing court; the county prosecutor or Attorney General, as the case may be; and any victim or member of a victim' s family given notice pursuant to subsection d. of this section.

f. Whenever an inmate is granted medical parole pursuant to this section, the appropriate board shall require, as a condition precedent to release, that the inmate's release plan include:

(1) identification of a community sponsor;

(2) verification of the availability of appropriate medical services sufficient to meet the treatment requirements identified pursuant to paragraph (4) of subsection b. of this section; and

(3) verification of appropriate housing which may include, but need not be limited to, a hospital, hospice, nursing home facility or other housing accommodation suitable to the inmate's medical condition, disease or syndrome.

g. In addition to any conditions imposed pursuant to section 15 of P.L.1979, c.441 (C.30:4-123.59), as a condition of release on medical parole, the appropriate board panel may require an inmate to submit to periodic medical diagnoses by a licensed physician.

h. If, after review of a medical diagnosis required under the provisions of subsection g. of this section, the appropriate board panel determines that a parolee released on medical parole is no longer so debilitated or incapacitated by a terminal condition, disease or syndrome as to be physically incapable of committing a crime, the parolee shall be returned to confinement in an appropriate facility designated by the Commissioner of Corrections.

A decision to return the parolee to confinement pursuant to this subsection shall be rendered only after a hearing by the appropriate board panel or by a hearing officer designated by the chairman of the board. Nothing in this subsection shall be construed to limit the authority of the board, an appropriate board panel or any parole officer to address a violation of a condition of parole pursuant to sections 16 through 21 of P.L.1979, c.441 (C.30:4-123.60 through 30:4-123.65).

i. The denial of a request for medical parole or the return of a parolee to confinement under the provisions of subsection h. of this section shall not preclude that inmate from being considered for parole pursuant to subsection a. of section 7 of P.L.1979, c.441 (C.30:4-123.51).

2. 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 through 45) 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 N.J.S.2C:44-1(f).

e. Each adult inmate sentenced to the Adult Diagnostic and Treatment Center, Avenel, shall become primarily eligible for parole upon recommendation by the special classification review board pursuant to N.J.S.2C:47-5, except that no such inmate shall become primarily eligible prior to the expiration of any mandatory or fixed minimum term imposed pursuant to N.J.S.2C:14-6.

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 N.J.S.2C:1-1(b) 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 or N.J.S.2C:47-5 to the contrary, a person sentenced to imprisonment pursuant to paragraph (2) or (3) 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 anytime.

3. This act shall take effect immediately.

Approved August 19, 1997.

CHAPTER 215

AN ACT establishing a parole advisory board and supplementing chapter 4 of Title 30 of the Revised Statutes.

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

C.30:4-123.47a Parole Advisory Board, established.

1. There is hereby established a Parole Advisory Board in, but not of, the Bureau of Parole. Notwithstanding the allocation of the board within the

bureau, the bureau or any employee thereof shall not exercise any control over the board. The advisory board shall consist of 23 members. It shall include in its membership the Chief of the Bureau of Parole in the Department of Corrections or his designee, who shall serve ex officio; one member representing each of the following organizations and groups, who shall be appointed by the Governor: the State Parole Board, the Department of Corrections, the Department of Health and Senior Services, the Department of Law and Public Safety, Office of the Governor, the Administrative Office of the Courts, the Victims of Crime Compensation Board, the New Jersey Chapter of the American Correctional Association, the County Prosecutors Association of New Jersey, the Sheriffs' Association of New Jersey, the New Jersey Wardens Association, the New Jersey State Association of Chiefs of Police, the American Parole and Probation Association, Governor's Council on Alcoholism and Drug Abuse, the community at large, treatment providers, victims' rights groups and former inmates who have successfully completed parole. Two members of the Senate, who shall not be of the same political party and who shall serve during their terms of office, shall be appointed by the President of the Senate. Two members of the General Assembly, who shall not be of the same political party and who shall serve during their terms of office, shall be appointed by the Speaker of the General Assembly.

Members of the board shall be appointed with the advice and consent of the Senate, and serve a term of three years, except for the initial gubernatorial appointees, six of whom shall serve for two years and six of whom shall serve for four years. Each member shall serve for the term of appointment and until a successor is appointed. A member may be reappointed to the board. 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 serve a term of appointment for the unexpired term only. All vacancies shall be filled in the same manner as the original appointments. Any appointed member of the board, except the legislative members, may be removed from the board by the Governor, for cause, after a hearing, and may be suspended by the Governor pending the completion of the hearing. Legislative members may be removed for cause by the leader of their respective houses. Motions and resolutions may be adopted by the board at a board meeting by an affirmative vote of not less than 12 members.

Members of the board shall serve without compensation but shall be entitled to reimbursement for actual expenses of serving on the board, to the extent that funds are available for this purpose.

The board shall organize as soon as possible after the appointment of its members. The members shall select a chair from among their number.

C.30:4-123.47b Duties of advisory board.

2. It shall be the duty of the advisory board to review and comment on supervision issues, the development and implementation of drug and alcohol treatment programs for parolees, and any other issues as requested by the Commissioner of Corrections, taking into consideration research conducted by the Bureau of Parole. The board shall sponsor conferences with criminal justice administrators and community members, including treatment providers, in order to educate all interested parties in the importance of relapse prevention and treatment for specialized cases, and to address issues such as lowering costs, developing protocols for confidentiality, identifying the type and amount of treatment that should be available, and promoting community involvement in the reintegration process. The advisory board may make recommendations to the Commissioner of Corrections, the Parole Board, the Legislature and the Governor in these matters.

The advisory board shall meet at least semiannually and may hold hearings at any place or places it shall designate during the sessions or recesses of the Legislature. The Bureau of Parole shall have primary responsibility for providing staff services and other necessary support to the board. The board may also request the assistance and services of the employees of any State, county or municipal department, board, bureau, commission, task force or agency as it may require and as may be available to it for its purposes. The board may, within the limits of funds appropriated or otherwise made available to it for its purposes, employ stenographic and clerical assistants and incur travel and miscellaneous expenses necessary for the performance of its duties.

3. This act shall take effect immediately.

Approved August 19, 1997.

CHAPTER 216

AN ACT concerning preparole and presentence reports and amending and supplementing P.L.1979, c.441 and N.J.S.2C:44-6.

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

1. Section 10 of P.L.1979, c.441 (C.30:4-123.54) is amended to read as follows:

C.30:4-123.54 Preparole report.

10. a. At least 120 days but not more than 180 days prior to the parole eligibility date of each adult inmate, a report concerning the inmate shall be filed with the appropriate board panel, by the staff members designated by the superintendent or other chief executive officer of the institution in which the inmate is held.

b. (1) The report filed pursuant to subsection a. shall contain preincarceration records of the inmate, including any history of civil commitment, any disposition which arose out of any charges suspended pursuant to N.J.S.2C:4-6 including records of the disposition of those charges and any acquittals by reason of insanity pursuant to N.J.S.2C:4-1, state the conduct of the inmate during the current period of confinement, include a complete report on the inmate's social and physical condition, include an investigation by the Bureau of Parole of the inmate's parole plans, and present information bearing upon the likelihood that the inmate will commit a crime under the laws of this State if released on parole. The report shall also include a complete psychological evaluation of the inmate in any case in which the inmate was convicted of a first or second degree crime involving violence and:

(a) the inmate has a prior acquittal by reason of insanity pursuant to N.J.S.2C:4-1 or had charges suspended pursuant to N.J.S.2C:4-6; or

(b) the inmate has a prior conviction for murder pursuant to N.J.S.2C:11-3, aggravated sexual assault or sexual assault pursuant to N.J.S.2C:14-2, kidnapping pursuant to N.J.S.2C:13-1, endangering the welfare of a child which would constitute a crime of the second degree pursuant to N.J.S.2C:24-4, or stalking which would constitute a crime of the third degree pursuant to P.L.1992, c.209 (C.2C:12-10); or

(c) the inmate has a prior diagnosis of psychosis.

The inmate shall disclose any information concerning any history of civil commitment.

(2) At the time of sentencing, the prosecutor shall notify any victim injured as a result of a crime of the first or second degree or the nearest relative of a murder victim of the opportunity to present a statement for the parole report to be considered at the parole hearing or to testify to the parole board concerning his harm at the time of the parole hearing. Each victim or relative shall be responsible for notifying the board of his intention to submit such a statement and to provide an appropriate mailing address.

The report may include a statement concerning the continuing nature and extent of any physical harm or psychological or emotional harm or

trauma suffered by the victim, the extent of any loss of earnings or ability to work suffered by the victim and the continuing effect of the crime upon the victim's family. At the time public notice is given that an inmate is being considered for parole pursuant to this section, the board shall also notify any victim or nearest relative who has previously contacted the board of the availability to provide a statement for inclusion in the parole report or to present testimony at the parole hearing.

The board shall notify such person at his last known mailing address.

c. A copy of the report filed pursuant to subsection a. of this section, excepting those documents which have been classified as confidential pursuant to rules and regulations of the board or the Department of Corrections, shall be served on the inmate at the time it is filed with the board panel. The inmate may file with the board panel a written statement regarding the report, but shall do so within 105 days prior to the primary parole eligibility date.

d. Upon receipt of the public notice pursuant to section 1 of P.L.1979, c.441 (C.30:4-123.45), a county prosecutor may request from the parole board a copy of the report on any adult inmate prepared pursuant to subsection a. of this section, which shall be expeditiously forwarded to the county prosecutor by the parole board by mail, courier, or other means of delivery. Upon receipt of the report, the prosecutor has 10 working days to review the report and notify the parole board of the prosecutor's comments, if any, or notify the parole board of the prosecutor's intent to provide comments. If the county prosecutor does not provide comments or notify the parole board of the prosecutor's intent to provide comments within the 10 working days, the parole board may presume that the prosecutor does not wish to provide comments and may proceed with the parole consideration. Any comments provided by a county prosecutor shall be delivered to the parole board by the same method by which the county prosecutor received the report. The confidentiality of the contents in a report which are classified as confidential shall be maintained and shall not be disclosed to any person who is not authorized to receive or review a copy of the report containing the confidential information.

e. Any provision of this section to the contrary notwithstanding, the board shall by rule or regulation modify the scope of the required reports and time periods for rendering such reports with reference to county penal institutions.

2. N.J.S.2C:44-6 is amended to read as follows:

Procedure on sentence; presentence investigation and report.

2C:44-6. Procedure on Sentence; Presentence Investigation and Report.

a. The court shall not impose sentence without first ordering a presentence investigation of the defendant and according due consideration to a written report of such investigation when required by the Rules of Court. The court may order a presentence investigation in any other case.

b. The presentence investigation shall include an analysis of the circumstances attending the commission of the offense, the defendant's history of delinquency or criminality, family situation, financial resources, including whether or not the defendant is an enrollee or covered person under a health insurance contract, policy or plan, debts, including any amount owed for a fine, assessment or restitution ordered in accordance with the provisions of Title 2C, employment history, personal habits, the disposition of any charge made against any codefendants, the defendant's history of civil commitment, any disposition which arose out of charges suspended pursuant to N.J.S.2C:4-6 including the records of the disposition of those charges and any acquittal by reason of insanity pursuant to N.J.S.2C:4-1, and any other matters that the probation officer deems relevant or the court directs to be included. The defendant shall disclose any information concerning any history of civil commitment. The report shall also include a medical history of the defendant and a complete psychological evaluation of the defendant in any case in which the defendant is being sentenced for a first or second degree crime involving violence and:

(1) the defendant has a prior acquittal by reason of insanity pursuant to N.J.S.2C:4-1 or had charges suspended pursuant to N.J.S.2C:4-6; or

(2) the defendant has a prior conviction for murder pursuant to N.J.S.2C:11-3, aggravated sexual assault or sexual assault pursuant to N.J.S.2C:14-2, kidnapping pursuant to N.J.S.2C:13-1, endangering the welfare of a child which would constitute a crime of the second degree pursuant to N.J.S.2C:24-4, or stalking which would constitute a crime of the third degree pursuant to P.L.1992, c.209 (C.2C:12-10); or

(3) the defendant has a prior diagnosis of psychosis.

The court, in its discretion and considering all the appropriate circumstances, may waive the medical history and psychological examination in any case in which a term of imprisonment including a period of parole ineligibility is imposed. In any case involving a conviction of N.J.S.2C:24-4, endangering the welfare of a child; N.J.S.2C:18-3, criminal trespass, where the trespass was committed in a school building or on school property; section 1 of P.L.1993, c.291 (C.2C:13-6), attempting to lure or entice a child with purpose to commit a criminal offense; section 1 of P.L.1992, c.209 (C.2C:12-10), stalking; or N.J.S.2C:13-1, kidnapping, where the victim of the offense is a child under the age of 18, the investigation shall include a report on the defendant's mental condition.

The presentence report shall also include a report on any compensation paid by the Victims of Crime Compensation Board as a result of the commission of the offense and, in any case where the victim chooses to provide one, a statement by the victim of the offense for which the defendant is being sentenced. The statement may include the nature and extent of any physical harm or psychological or emotional harm or trauma suffered by the victim, the extent of any loss to include loss of earnings or ability to work suffered by the victim and the effect of the crime upon the victim's family. The probation department shall notify the victim or nearest relative of a homicide victim of his right to make a statement for inclusion in the presentence report if the victim or relative so desires. Any such statement shall be made within 20 days of notification by the probation department.

The presentence report shall specifically include an assessment of 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, disability, ill-health, or extreme youth, or was for any other reason substantially incapable of exercising normal physical or mental power of resistance.

c. If, after the presentence investigation, the court desires additional information concerning an offender convicted of an offense before imposing sentence, it may order any additional psychological or medical testing of the defendant.

d. Disclosure of any presentence investigation report or psychiatric examination report shall be in accordance with law and the Rules of Court, except that information concerning the defendant's financial resources shall be made available upon request to the Victims of Crime Compensation Board or to any officer authorized under the provisions of section 3 of P.L.1979, c.396 (C.2C:46-4) to collect payment on an assessment, restitution or fine and that information concerning the defendant's coverage under any health insurance contract, policy or plan shall be made available, as appropriate to the Commissioner of the Department of Corrections and to the chief administrative officer of a county jail in accordance with the provisions of P.L.1995, c.254 (C.30:7E-1 et al.).

e. The court shall not impose a sentence of imprisonment for an extended term unless the ground therefor has been established at a hearing after the conviction of the defendant and on written notice to him of the ground proposed. The defendant shall have the right to hear and controvert the evidence against him and to offer evidence upon the issue.

f. (Deleted by amendment, P.L.1986, c.85).

C.30:4-123.54a Inmate liable for cost of psychological evaluation; rules, regulations.

3. a. An inmate who is required to submit to a psychological evaluation pursuant to the provisions of section 10 of P.L.1979, c.441 (C.30:4-123.54) shall be liable for the cost of such evaluation. If the inmate is an enrollee or a covered person under a health insurance contract, policy or plan, the State shall file a claim with the health insurance contract, policy or plan for a reimbursement of the costs of the psychological evaluation. The claim shall be filed in accordance with the rules and regulations promulgated pursuant to subsection b. of this section. The reimbursement authorized under this section shall be payable to the State Treasurer and shall be used exclusively for the purpose of defraying the costs incurred by the State for the psychological evaluation.

b. The Commissioner of the Department of Banking and Insurance, 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 section.

c. In the event that an inmate is not covered under a health insurance contract, policy or plan, or if the inmate's insurance contract, policy or plan does not fully cover the costs of the psychological evaluation, the State may file a lien for any unpaid amounts due and payable on any and all property and income to which the inmate shall have or may acquire an interest. Any lien filed shall be in accordance with the rules and regulations promulgated pursuant to subsection b. of this section.

C.2C:44-6.1 Defendant liable for cost of psychological evaluation; rules, regulations.

4. a. A defendant who is required to submit to a psychological evaluation pursuant to the provisions of N.J.S.2C:44-6 shall be liable for the cost of such evaluation. If the defendant is an enrollee or a covered person under a health insurance contract, policy or plan, the Administrative Office of the Courts shall file a claim with the health insurance contract, policy or plan for a reimbursement of the costs of the psychological evaluation. The claim shall be filed in accordance with the rules and regulations promulgated pursuant to subsection b. of this section. The reimbursement authorized under this section shall be payable to the Administrative Office of the Courts and shall be used exclusively for the purpose of defraying the costs incurred for the psychological evaluation.

b. The Commissioner of the Department of Banking and Insurance, 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 section.

c. In the event that a defendant is not covered under a health insurance contract, policy or plan, or if the defendant's insurance contract, policy or

plan does not fully cover the costs of the psychological evaluation, a lien may be filed for any unpaid amounts due and payable on any and all property and income to which the defendant shall have or may acquire an interest. Any lien filed shall be in accordance with the rules and regulations promulgated pursuant to subsection b. of this section.

5. This act shall take effect immediately.

Approved August 19, 1997.

CHAPTER 217

AN ACT concerning the parole decision making process and amending P.L.1979, c.441.

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

1. Section 10 of P.L.1979, c.441 (C.30:4-123.54) is amended to read as follows:

C.30:4-123.54 Report prior to parole eligibility date.

10. a. At least 120 days but not more than 180 days prior to the parole eligibility date of each adult inmate, a report concerning the inmate shall be filed with the appropriate board panel, by the staff members designated by the superintendent or other chief executive officer of the institution in which the inmate is held.

b. (1) The report filed pursuant to subsection a. shall contain preincarceration records of the inmate, including any history of civil commitment, any disposition which arose out of any charges suspended pursuant to N.J.S.2C:4-6 including records of the disposition of those charges and any acquittals by reason of insanity pursuant to N.J.S.2C:4-1, state the conduct of the inmate during the current period of confinement, include a complete report on the inmate's social and physical condition, include an investigation by the Bureau of Parole of the inmate's parole plans, and present information bearing upon the likelihood that the inmate will commit a crime under the laws of this State if released on parole. The report shall also include a complete psychological evaluation of the inmate in any case in which the inmate was convicted of a first or second degree crime involving violent and:

(a) the inmate has a prior acquittal by reason of insanity pursuant to N.J.S.2C:4-1 or had charges suspended pursuant to N.J.S.2C:4-6; or

(b) the inmate has a prior conviction for murder pursuant to N.J.S.2C:11-3, aggravated sexual assault or sexual assault pursuant to N.J.S.2C:14-2, kidnapping pursuant to N.J.S.2C:13-1, endangering the welfare of a child which would constitute a crime of the second degree pursuant to N.J.S.2C:24-4, or stalking which would constitute a crime of the third degree pursuant to P.L.1992, c.209 (C.2C:12-10); or

(c) the inmate has a prior diagnosis of psychosis.

The inmate shall disclose any information concerning any history of civil commitment.

The preincarceration records of the inmate contained in the report shall include any psychological reports prepared in connection with any court proceedings.

(2) At the time of sentencing, the prosecutor shall notify any victim injured as a result of a crime of the first or second degree or the nearest relative of a murder victim of the opportunity to present a statement for the parole report to be considered at the parole hearing or to testify to the parole board concerning his harm at the time of the parole hearing. Each victim or relative shall be responsible for notifying the board of his intention to submit such a statement and to provide an appropriate mailing address.

The report may include a statement concerning the continuing nature and extent of any physical harm or psychological or emotional harm or trauma suffered by the victim, the extent of any loss of earnings or ability to work suffered by the victim and the continuing effect of the crime upon the victim's family. At the time public notice is given that an inmate is being considered for parole pursuant to this section, the board shall also notify any victim or nearest relative who has previously contacted the board of the availability to provide a statement for inclusion in the parole report or to present testimony at the parole hearing.

The board shall notify such person at his last known mailing address.

c. A copy of the report filed pursuant to subsection a. of this section, excepting those documents which have been classified as confidential pursuant to rules and regulations of the board or the Department of Corrections, shall be served on the inmate at the time it is filed with the board panel. The inmate may file with the board panel a written statement regarding the report, but shall do so within 105 days prior to the primary parole eligibility date.

d. Upon receipt of the public notice pursuant to section 1 of P.L.1979, c.441 (C.30:4-123.45), a county prosecutor may request from the parole board a copy of the report on any adult inmate prepared pursuant to subsection a. of this section, which shall be expeditiously forwarded to the county prosecutor by the parole board by mail, courier, or other means of delivery. Upon receipt of the report, the prosecutor has 10 working days to

review the report and notify the parole board of the prosecutor's comments, if any, or notify the parole board of the prosecutor's intent to provide comments. If the county prosecutor does not provide comments or notify the parole board of the prosecutor's intent to provide comments within the 10 working days, the parole board may presume that the prosecutor does not wish to provide comments and may proceed with the parole consideration. Any comments provided by a county prosecutor shall be delivered to the parole board by the same method by which the county prosecutor received the report. The confidentiality of the contents in a report which are classified as confidential shall be maintained and shall not be disclosed to any person who is not authorized to receive or review a copy of the report containing the confidential information.

e. Any provision of this section to the contrary notwithstanding, the board shall by rule or regulation modify the scope of the required reports and time periods for rendering such reports with reference to county penal institutions.

2. Section 8 of P.L.1979, c.441 (C.30:4-123.52) is amended to read as follows:

C.30:4-123.52 Increase or decrease of parole eligibility date, written statement to inmate, psychological evaluation.

8. a. If the appropriate board panel determines that an adult inmate has seriously or persistently violated specifically defined institutional rules or has engaged in conduct indictable in nature while incarcerated, the inmate's parole eligibility date may be increased pursuant to a schedule developed by the board. In developing such schedule, particular emphasis shall be placed on the severity of the inmate's conduct. The board shall deduct from the scheduled penalty any loss of commutation time imposed by the Department of Corrections pursuant to R.S. 30:4-140.

b. If the appropriate board panel determines that an adult inmate has made exceptional progress, as evidenced by documented participation and progress in institutional or community educational, training or other programs, the inmate's parole eligibility date may be decreased, except that no parole eligibility date shall be set below the primary parole eligibility date without the consent of the sentencing court, which need not conduct a hearing and in no case shall a parole eligibility date be set below any judicial or statutory mandatory minimum term, including any parole eligibility date set pursuant to section 23 of this act.

c. The appropriate board panel shall annually monitor the progress of each adult inmate and provide the inmate with a written statement of any changes in his parole eligibility.

d. At any time while an inmate is committed to the custody of the Commissioner of Corrections, the appropriate board panel or the Parole Board may require, as often as it deems necessary, that inmate to undergo an in-depth preparole psychological evaluation conducted by a psychologist employed by the Parole Board or, where appropriate after consultation with the Department of Corrections, by a psychologist at the Adult Diagnostic and Treatment Center, to provide current and accurate information to assess the inmate's suitability for parole.

e. Prior to the parole eligibility date of each adult inmate, an objective risk assessment shall be performed by board staff. The risk assessment, which shall be in a form prescribed by the board pursuant to rule and regulation, shall consist of both static and dynamic factors which may assist the board panel in determining whether the inmate shall be certified for parole and, if paroled, the level of supervision the parolee may require. In addition to the information otherwise gathered for and incorporated in the pre-parole report, the assessment shall include evaluations of the inmate's ability to function independently, the inmate's educational and employment background, the inmate's family and marital history, and such other information and factors as the board may deem appropriate and necessary.

3. Section 11 of P.L.1979, c.441 (C.30:4-123.55) is amended to read as follows:

C.30:4-123.55 Review of reports, risk assessment, inmate's statement; certification, denial of parole; hearing.

11. a. Prior to the parole eligibility date of each adult inmate, a designated hearing officer shall review the reports required by section 10 of P.L.1979, c.441 (C.30:4-123.54), and shall determine whether there is a basis for denial of parole in the preparole report, any risk assessment prepared in accordance with the provisions of subsection e. of section 8 of P.L.1979, c.441 (C.30:4-123.52), or the inmate's statement, or an indication, reduced to writing, that additional information providing a basis for denial of parole would be developed or produced at a hearing. If the hearing officer determines that there is no basis in the preparole report, the risk assessment, or the inmate's statement for denial of parole and that there is no additional relevant information to be developed or produced at a hearing, he shall at least 60 days prior to the inmate's parole eligibility date recommend in writing to the assigned member of the board panel that parole release be granted.

b. If the assigned member of the board panel or in the case of an inmate sentenced to a county penal institution, the assigned member concurs in the hearing officer's recommendation, he shall certify parole release pursuant to section 15 of P.L.1979, c.441 (C.30:4-123.59) as soon as

practicable after the eligibility date and so notify the inmate and the board. In the case of an inmate sentenced to a county penal institution the board shall certify parole release or deny parole as provided by this section, except with regard to time periods for notice and parole processing which are authorized by or otherwise adopted pursuant to subsection g. of section 7 of P.L.1979, c.441 (C.30:4-123.51). If the designated hearing officer does not recommend release on parole or if the assigned member does not concur in a recommendation of the designated hearing officer in favor of release, then the parole release of an inmate in a county penal institution shall be treated under the provisions of law otherwise applicable to an adult inmate. In the case of an inmate sentenced to a county penal institution, the performance of public service for the remainder of the term of the sentence shall be a required condition of parole, where appropriate.

c. If the hearing officer or the assigned member determines that there is a basis for denial of parole, or that a hearing is otherwise necessary, the hearing officer or assigned member shall notify the appropriate board panel and the inmate in writing of his determination, and of a date for a parole consideration hearing. The board panel shall notify the victim of the crime, if the crime for which the inmate is incarcerated was a crime of the first or second degree, or the victim's nearest relative if the crime was murder, as appropriate, who was previously contacted by the board and who has indicated his intention to the board to testify at the hearing, of the opportunity to testify or submit written statements at the hearing. Said hearing shall be conducted by the appropriate board panel at least 30 days prior to the eligibility date. At the hearing, which shall be informal, the board panel shall receive as evidence any relevant and reliable documents or in person testimony, including that of the victim of the crime or the members of the family of a murder victim if the victim or a family member so desires. If a victim of a crime or the relative of a murder victim chooses not to testify personally at the hearing, the victim or relative may elect to present testimony to a senior hearing officer designated by the board panel. The senior hearing officer shall prepare a report or a transcript of the testimony for presentation to the board panel at the hearing. All such evidence not classified as confidential pursuant to rules and regulations of the board or the Department of Corrections shall be disclosed to the inmate and the inmate shall be permitted to rebut such evidence and to present evidence on his own behalf. The decision of the board panel shall be based solely on the evidence presented at the hearing.

d. At the conclusion of the parole consideration hearing, the board panel shall either (1) certify the parole release of the inmate pursuant to section 15 of this act as soon as practicable after the eligibility date and so notify the inmate and the board, or (2) deny parole and file with the board

within 30 days of the hearing a statement setting forth the decision, the particular reasons therefor, except information classified as confidential pursuant to rules and regulations of the board or the Department of Corrections, a copy of which statement shall be served upon the inmate together with notice of his right to appeal to the board.

e. Upon request by the hearing officer or the inmate, the time limitations contained in section 10 of P.L.1979, c.441 (C.30:4-123.54) and this section may be waived by the appropriate board panel for good cause.

f. Notwithstanding the provision of any other law to the contrary, if an inmate incarcerated for murder is recommended for parole by the assigned board member or the appropriate board panel, parole shall not be certified until a majority of the full parole board, after conducting a hearing, concurs in that recommendation. The board shall notify the victim's family of that hearing and family members shall be afforded the opportunity to testify in person or to submit written statements. The provisions of this subsection shall not apply to an inmate who has his parole revoked and is returned to custody pursuant to the provisions of section 19 of P.L.1979, c.441 (C.30:4-123.63).

4. This act shall take effect immediately; except that notwithstanding the provisions of subsection e. of section 8 of P.L.1979, c.441 (C.30:4-123.52), no objective risk assessment shall be required until the first day of the sixth month following enactment.

Approved August 19, 1997.

CHAPTER 218

AN ACT concerning parole and amending of P.L.1979, c.441.

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

1. 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 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.3251 et seq.). A parolee, except those under the Witness Security Reform Act, shall remain under the supervision of the Bureau of Parole of the Department of Corrections or the Juvenile Justice Commission, as appropriate, in accordance with the rules of the board.

b. 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 requirement 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. 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.

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. The assigned parole officer shall provide assistance to the parolee in obtaining employment, education or vocational training or in meeting other obligations.

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 Bureau of Parole 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.

2. This act shall take effect immediately, and be applicable to inmates who become eligible for parole after the effective date.

Approved August 19, 1997.

CHAPTER 219

AN ACT concerning the State Parole Board and amending P.L.1979, c.441.

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

1. Section 3 of P.L.1979, c.441 (C.30:4-123.47) is amended to read as follows:

C.30:4-123.47 State parole board.

3. a. There is hereby created and established within the Department of Corrections a State Parole Board which shall consist of a chairman, eight associate members and one alternate board member. The chairman, associate members and alternate board member shall be appointed by the Governor with the advice and consent of the Senate from qualified persons with training or experience in law, sociology, criminal justice, juvenile justice or related branches of the social sciences. Members of the board and the alternate board member shall be appointed for terms of six years and the terms of their successors shall be calculated from the expiration of the incumbent's term. Members shall serve until their successors are appointed and have qualified.

The Governor shall designate a vice-chairman from among the associate members. The vice-chairman shall assume the duties of the chairman when the chairman is absent or otherwise incapable of performing his duties, or, in the case of removal or a permanent incapacity, until the qualification of a successor chairman appointed by the Governor.

The alternate board member shall assume the duties of an associate member only when the associate member is removed, incapacitated or assumes the duties of the chairman, and shall perform those duties only until the associate resumes his duties, or, in the case of removal or a permanent incapacity, the qualification of a successor appointed by the Governor.

b. Any vacancy occurring in the membership of the board, otherwise than by expiration of term, shall be filled in the same manner as one occurring by expiration of term, but for the unexpired term only. In the event that any member of the board shall be rendered incapable of performing his duties and the alternate board member is incapable of performing that associate's duties, either because the alternate board member has assumed the duties of another associate or is otherwise rendered incapable of performing the associate's duties, the Governor shall appoint a qualified person to act in his stead during the period of his

incapacity. Any member of the board, including the alternate board member, may be removed from office by the Governor for cause.

c. The members of the board shall devote their full time to the performance of their duties and be compensated pursuant to section 2 of P.L.1974, c.55 (C.52:14-15.108). The alternate member shall be entitled to compensation. The amount of such compensation shall be determined by multiplying the rate an associate member would be paid on a per diem basis times the number of days the alternate board member actually performed the duties of an associate member in accordance with the provisions of this section.

d. At the time of appointment, the Governor shall designate two associate members of the board to serve on a panel on juvenile commitments. The remaining six associate members of the board shall be appointed by the Governor to panels on adult sentences. The chairman of the board shall assign four of the associate members so appointed to two panels on prison sentences, and the remaining two associate members so appointed to a panel on young adult sentences. The chairman of the board shall be a member of each panel. Nothing provided herein shall prohibit the chairman from reassigning any member appointed to a panel on adult sentences to facilitate the efficient function of the board. The alternate board member may assume, in accordance with the provisions of this section, the duties of any associate member, regardless of whether that associate member serves on a panel on juvenile commitments or panels on adult sentences either as a member of a panel on prison sentences or a panel on young adult sentences.

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

Approved August 19, 1997.

CHAPTER 220

AN ACT concerning loan, grant and scholarship assistance to attend postsecondary institutions 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:71-106 Verification of compliance with "Military Selective Service Act."

1. A student who is subject to the provisions of the "Military Selective Service Act," 50 U.S.C. App. 453, shall not be eligible to receive any State-funded loan, grant, or scholarship for attendance at any postsecondary institution without verification of compliance with the requirements of that act. Verification of compliance shall be satisfied as follows:

a. for a student who uses the Free Application for Federal Student Aid or its equivalent to receive financial aid, verification of military selective service compliance provided under the federal "Higher Education Act of 1965," Pub.L.89-329 (20 U.S.C. s.1001 et seq.) shall be satisfactory;

b. for a student who does not use the Free Application for Federal Student Aid or its equivalent, the institution or agency awarding the financial aid shall not disburse the aid until provided proof, as specified by regulations, that the student has complied with the requirements of the "Military Selective Service Act."

C.18A:71-107 Rules, regulations.

2. The Office of Student Assistance shall adopt rules and regulations pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), which are necessary to carry out the provisions of this act.

3. This act shall take effect immediately and the provisions of section 1 shall apply to the 1997-98 academic year and thereafter.

Approved August 20, 1997.

CHAPTER 221

AN ACT appropriating moneys to the Department of Environmental Protection for the purpose of making zero interest loans to local government units to finance a portion of the cost of construction of wastewater treatment system 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 "Wastewater Treatment Fund - State Revolving Fund Accounts" (hereinafter referred to as the "State Revolving Fund Accounts") contained within the "Wastewater Treatment Fund" and established

pursuant to section 1 of P.L.1988, c.133 an amount equal to the Federal fiscal year 1997 capitalization grant made available to the State for wastewater treatment system 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 Act").

(2) There is appropriated to the Department of Environmental Protection any fees and penalties received pursuant to the "Marine Protection, Research, and Sanctuaries Act of 1972," (33 U.S.C. s.1401 et seq.), and any amendatory and supplementary acts thereto, as may be deposited in the State Revolving Fund Accounts.

(3) 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).

(4) There is appropriated to the Department of Environmental Protection the sum of $10,000,000 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).

Any such amounts shall be for the purpose of making zero interest loans, to the extent sufficient funds are available, to local government units to finance a portion of the cost of construction of wastewater treatment system 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 "Water Quality Act of 1987" (33 U.S.C. s.1251 et seq.), the "Marine Protection, Research, and Sanctuaries Act of 1972," and any amendatory and supplementary acts thereto, the "Green Acres, Clean Water, Farmland and Historic Preservation Bond Act of 1992," and State law.

b. The department is authorized to make zero interest loans to the local government units for the wastewater treatment system projects listed in sections 2 and 3 of this act 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 also authorized to make zero interest loans to the local government units for the wastewater treatment system 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 or section 1 of P.L.1996, c.85, including amounts resulting from the low bid

building cost or 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 and section 6 of P.L.1996, c.85, and from any repayments of loans from the "Wastewater Treatment Fund" or amounts deposited therein during State fiscal year 1997 pursuant to the provisions of section 16 of P.L.1985, c.329, including any State Revolving Fund Accounts contained within the "Wastewater Treatment Fund."

2. a. The department is authorized to expend funds for the purpose of making a supplemental zero interest loan to the local government unit listed below for the following wastewater treatment system projects:

Project No.	**Local Government Unit**	**Estimated Allowable Project Cost**
881-01-1	Hawthorne Borough	$300,000
	TOTAL	$300,000

b. The loan authorized in this section shall be made for the difference between the allowable loan amount required by this project based upon low bid building costs or final building costs pursuant to section 6 of this act and the loan amount certified by the commissioner in State fiscal year 1995 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 loan authorized in this section shall be made to the local government unit listed, up to the individual amount indicated and in the priority stated, to the extent sufficient funds are available, except as the project fails to meet the requirements of section 4 of this act.

c. The zero interest loan for the project authorized in this section shall have priority over projects listed in section 3 of this act.

3. The following wastewater treatment system projects shall be known and may be cited as the "State Fiscal Year 1998 Project Priority List":

Project Number	**Project Name**	**Estimated Allowable Project Cost**
437-07	New Brunswick City	$ 1,450,000
958-02	Gloucester City	$ 1,400,000
927-02	Hammonton Town	$ 2,150,000
809-06	Atlantic County UA	$ 1,500,000

518-03	Buena Borough MUA	$ 950,000
818-04	Burlington County BCF	$ 5,200,000
700-07	Northwest Bergen County UA	$ 3,450,000
437-09	New Brunswick City	$ 1,000,000
336-01	Camden City	$ 800,000
640-05	Camden County MUA	$ 2,700,000
667-01	Ventnor City	$ 350,000
663-02	North Wildwood City	$ 1,100,000
361-01	Roseland Borough	$ 100,000
367-01	Merchantville Borough	$ 650,000
437-10	New Brunswick City	$ 2,750,000
433-09	Woodbridge Township	$ 650,000
703-04	Florham Park SA	$ 500,000
923-01	Hackensack City	$ 1,400,000
706-03	Washington Borough	$ 6,600,000
526-05	Harrison Township	$ 300,000
498-01	Mine Hill Township	$ 850,000
700-08	Northwest Bergen County UA	$ 1,900,000
945-06	Old Bridge Township MUA	$ 1,450,000
834-01	Nutley Township/Clifton City	$ 3,950,000
921-03	Millville City	$ 2,650,000
378-01	Bergenfield Borough	$ 950,000
809-07	Atlantic County UA	$ 3,750,000
706-04	Washington Borough	$ 1,050,000
362-02	Harrison Township	$ 1,250,000
665-01	Longport Borough	$ 850,000
536-04	East Windsor Township	$ 500,000
374-01	Cresskill Borough	$ 250,000
901-03	Highlands Borough	$ 650,000
504-03	Stanhope Borough	$ 150,000
	TOTAL	$55,200,000

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.1985, c.329 or P.L.1992, c.88 and any rules and regulations adopted pursuant thereto;

b. The loan amount shall not exceed 50% of the allowable project cost of the wastewater treatment system;

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 Wastewater Treatment Trust pursuant to P.L.1997, c.222; except that this requirement shall not apply to Project No. S340927-02 (Town of Hammonton), for which a loan has been made by the trust pursuant to P.L.1992, c.37 for both phases of this local government unit's wastewater treatment system project;

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.1997, c.222 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 list and authorization for the making of loans pursuant to sections 2 and 3 of this act shall expire on July 1, 1998, and any local government unit 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 local government units pursuant to sections 2 and 3 of this act based upon low bid building costs or 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, 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.1985, c.329 or P.L.1992, c.88 and any rules and regulations adopted by the commissioner pursuant thereto.

8. The Department of Environmental Protection shall provide general technical assistance to any local government unit requesting assistance regarding wastewater treatment system 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, and prior to repayment to the "1992 Wastewater Treatment Fund" pursuant to the provisions of section 28 of P.L.1992, c.88, repayments of loans made pursuant to this act may be utilized by the New Jersey Wastewater Treatment Trust established pursuant to P.L.1985, c.334 (C.58:11B-1 et seq.) 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 law, to the extent necessary to secure repayment of trust bonds issued to finance loans approved pursuant to P.L.1997, c.222, 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 local government units 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 and prior to repayment to the "1992 Wastewater Treatment Fund" pursuant to the provisions of section 28 of P.L.1992, c.88, 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 or P.L.1996, c.85, and P.L.1997, c.221 to secure repayment of trust bonds issued to finance loans approved pursuant to P.L.1995, c.218, P.L.1996, c.87 or P.L.1997, c.222, 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 trust bond repayment or administrative fee payment deficiencies, the trust shall repay such sums to the department for deposit into the "Wastewater Treatment Fund" or the "1992 Wastewater Treatment Fund," as appropriate, from amounts received by or on behalf of the trust from local government units causing any such deficiency.

10. The Commissioner of Environmental Protection is authorized to enter into a capitalization grant agreement as may be required pursuant to the Federal Act.

11. a. The Director of the Division of Budget and Accounting in the Department of the Treasury is directed to transfer to the "Wastewater Treatment Fund" the entire sum of money, if any, appropriated to the Department of Environmental Protection for "Public Wastewater Facilities" in the "State Aid" section of P.L.1997, c.131. The sum transferred to the "Wastewater Treatment Fund" pursuant to this section is appropriated to the New Jersey Wastewater Treatment Trust established pursuant to P.L.1985, c.334 (C.58:11B-1 et seq.). The trust shall deposit all or a portion of this sum as it may deem necessary and appropriate into one or more reserve funds established pursuant to section 11 of P.L.1985, c.334 (C.58:11B-11). These reserve funds shall include reserve funds constituted collectively as a water pollution control revolving fund for the purposes of the Federal Act and shall be known as the Trust Reserve Fund - State Revolving Fund Accounts; except that the trust shall not establish the Trust Reserve Fund - State Revolving Fund Accounts prior to the execution of a capitalization grant agreement entered into by the Commissioner of Environmental Protection pursuant to section 10 of this act.

b. Any portion of the sum appropriated to the trust pursuant to subsection a. of this section or subsection a. of section 11 of P.L.1989, c.189, subsection a. of section 11 of P.L.1990, c.99, subsection a. of section 11 of P.L.1991, c.325, subsection a. of section 11 of P.L.1992, c.38, subsection a. of section 11 of P.L.1993, c.193, subsection a. of section 11 of P.L.1994, c.106, subsection a. of P.L.1995, c.219 or subsection a. of section 11 of P.L.1996, c.85, plus any net earnings received from the investment or deposit of such moneys by the trust not required by the trust to establish reserve funds as provided in this section, shall be returned to the "Wastewater Treatment Fund" and placed in any account therein as determined by the commissioner to be used by the department for making zero interest loans to local government units to finance a portion of the cost of the wastewater treatment system projects listed in sections 2 and 3 of this act up to the individual amounts indicated and in the priority stated, except as any such amount may be reduced by the commissioner pursuant to section 6 of this act or if a project fails to meet the requirements of section 4 of this act; and except that the commissioner shall certify to the chairman of the trust that such funds are needed for zero interest loans before any transfer is made. In the event that the commissioner fails to make this certification, the unexpended balance not devoted to establishing reserve funds shall remain with the trust but shall not be expended by the trust until such expenditure is authorized pursuant to P.L.1985, c.334 (C.58:11B-1 et seq.).

12. There is appropriated to the New Jersey Wastewater Treatment 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 State Revolving Fund Accounts contained within the "Wastewater Treatment Fund" or the "1992 Wastewater Treatment Fund," 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); except that the certification shall not be made with respect to the State Revolving Fund Accounts prior to the execution of a capitalization grant agreement entered into by the commissioner pursuant to section 10 of this act.

13. This act shall take effect immediately.

Approved August 20, 1997.